

CHAPTER 325

SOCIAL SERVICES

HOUSE BILL 93-1015

BY REPRESENTATIVES Pankey, Anderson, Armstrong, Benavidez, Lawrence, Morrison, Reeser, Rupert, and Taylor;
also SENATORS Mendez, Bishop, Feeley, Gallagher, Groff, Mares, Martinez, Peterson, Traylor, and Weissmann.

AN ACT

CONCERNING THE IMPLEMENTATION OF A STATEWIDE FAMILY PRESERVATION PROGRAM.

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

SECTION 1. Article 5.5 of title 26, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

ARTICLE 5.5
Family Preservation

26-5.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO FAMILY PRESERVATION ACT".

26-5.5-102. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) MAINTAINING A FAMILY STRUCTURE TO THE GREATEST DEGREE POSSIBLE IS ONE OF THE FUNDAMENTAL GOALS THAT ALL STATE AGENCIES MUST OBSERVE, AND THE STATE'S INTERVENTION IN FAMILY DYNAMICS SHOULD NOT EXCEED THAT WHICH IS NECESSARY TO RECTIFY THE CAUSE FOR INTERVENTION;

(b) OUT-OF-HOME PLACEMENT IS OFTEN THE MOST EXPENSIVE AND DISRUPTIVE METHOD OF PROVIDING SERVICES TO TROUBLED FAMILIES;

(c) IT IS BECOMING INCREASINGLY DIFFICULT TO ATTRACT FOSTER PARENTS FOR THE NUMBER OF CHILDREN PLACED OUT OF THE HOME;

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

(d) THE PRINCIPLE OF APPROPRIATE STATE INTERVENTION IS A CORNERSTONE OF FAMILY PRESERVATION SERVICES. SUCH SERVICES, WHEN PROPERLY TARGETED AND ADMINISTERED, PROVIDE STATES WITH AN OPPORTUNITY TO INITIATE THE SYSTEMIC REFORM OF CHILDREN, YOUTH, AND FAMILIES PUBLIC SERVICES BY PROVIDING SERVICES THAT ARE FAMILY-FOCUSED, OUTCOME-DRIVEN, AND COST-EFFICIENT;

(e) FAMILY PRESERVATION PROGRAMS IMPLEMENTED IN OTHER STATES, SUCH AS THE "HOMEBUILDER'S" MODEL IN THE STATE OF WASHINGTON, HAVE RESULTED IN IMPROVED FAMILY-FUNCTIONING RATES. PLACEMENT PREVENTION RATES OF UP TO EIGHTY-EIGHT PERCENT HAVE BEEN REPORTED IN SOME OF THE THIRTY-ONE STATES THAT HAVE INITIATED SOME FORM OF A FAMILY PRESERVATION PROGRAM;

(f) A STATEWIDE FAMILY PRESERVATION PROGRAM MAY BE FINANCED TO PROVIDE INTENSIVE SERVICES FOR FAMILIES WHERE A CHILD IS AT RISK OF AN OUT-OF-HOME PLACEMENT BASED ON CRITERIA ESTABLISHED BY THE STATE BOARD OF SOCIAL SERVICES AND TO PROVIDE PHASED-IN SERVICES AIMED AT REUNIFYING FAMILIES WHERE A CHILD HAS BEEN PLACED OUT OF THE HOME, WHERE APPROPRIATE, BY REALLOCATING AVAILABLE RESOURCES AND TAPPING INTO OTHER AVAILABLE FEDERAL FUNDS. WHEN THE MAXIMUM NUMBER OF FAMILIES APPROPRIATE FOR INTENSIVE OR REUNIFICATION SERVICES HAVE BEEN SERVED, PHASED-IN SERVICES FOR OTHER TROUBLED FAMILIES MAY BE FINANCED WITH SAVINGS REALIZED FROM PROVIDING INTENSIVE FAMILY PRESERVATION SERVICES TO AT-RISK FAMILIES AS THE ALTERNATIVE TO OUT-OF-HOME PLACEMENTS; AND

(g) ON THE BASIS OF THE FOREGOING, IT IS APPROPRIATE TO ENACT THE PROVISIONS OF THIS ARTICLE PROVIDING FOR THE IMPLEMENTATION OF A STATEWIDE FAMILY PRESERVATION PROGRAM THAT PROVIDES FOR IMMEDIATE INTENSIVE SERVICES FOR AT-RISK FAMILIES AND PHASED-IN SERVICES AIMED AT REUNIFYING FAMILIES, WHERE APPROPRIATE, WHEN THE TARGETED FAMILIES FOR INTENSIVE OR REUNIFICATION SERVICES HAVE BEEN SERVED.

(2) IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE IMPLEMENTATION AND FINANCING OF THE STATEWIDE FAMILY PRESERVATION PROGRAM BE CONSISTENT WITH APPLICABLE FEDERAL MANDATES, INCLUDING ANY FEDERAL FINANCIAL PARTICIPATION REQUIREMENTS, AND THAT THE IMPLEMENTATION OF THE PROGRAM NOT PLACE THIS STATE AT RISK OF LOSING FEDERAL FUNDS RECEIVED BY THE STATE FOR CHILDREN, YOUTH, AND FAMILIES SERVICES PRIOR TO THE ENACTMENT OF THIS ARTICLE.

26-5.5-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AT-RISK FAMILY" MEANS A FAMILY UNIT WITH A CHILD WHO MEETS OUT-OF-HOME PLACEMENT CRITERIA AS ESTABLISHED BY THE STATE BOARD OF SOCIAL SERVICES.

(2) "FAMILY PRESERVATION SERVICES" MEANS ASSISTANCE THAT FOCUSES ON FAMILY STRENGTHS AND INCLUDES SERVICES THAT EMPOWER A FAMILY BY PROVIDING ALTERNATIVE PROBLEM-SOLVING TECHNIQUES, CHILD-REARING PRACTICES, AND RESPONSES TO LIVING SITUATIONS CREATING STRESS UPON THE FAMILY AND INCLUDES RESOURCES THAT ARE AVAILABLE AS SUPPORT SYSTEMS FOR THE FAMILY. FAMILY

PRESERVATION SERVICES INCLUDE, BUT ARE NOT LIMITED TO, SERVICES AND RESOURCES DESCRIBED IN SECTION 26-5.5-104.

(3) "INTENSIVE SERVICES" MEANS IMMEDIATE, SHORT-TERM, CONCENTRATED, AND IN-HOME CRISIS INTERVENTION BY ONE OR MORE FAMILY DEVELOPMENT SPECIALISTS, AS SUCH PERSONS ARE DESCRIBED IN SECTION 26-5.5-104 (4), CARRYING A LIMITED FAMILY CASELOAD, WHO ASSIST A FAMILY IN DEVELOPING STRENGTHS IN COPING WITH FAMILY STRESS.

26-5.5-104. Statewide family preservation program - creation - single state agency designated - program criteria established - available services - powers and duties of agencies - local oversight - feasibility report. (1) THE EXECUTIVE DIRECTORS OF THE DEPARTMENTS OF SOCIAL SERVICES AND INSTITUTIONS, THROUGH THE PROMULGATION OF RULES, MAY JOINTLY DEVELOP, FINANCE, AND IMPLEMENT A STATEWIDE FAMILY PRESERVATION PROGRAM, WHICH PROGRAM SHALL BE FULLY IMPLEMENTED NO LATER THAN JULY 1, 1996. THE STATE DEPARTMENT IS HEREBY DESIGNATED AS THE SINGLE STATE AGENCY TO ADMINISTER THE PROGRAM IN ACCORDANCE WITH THIS ARTICLE AND APPLICABLE FEDERAL LAW.

(2) THE PROGRAM SHALL BE IMPLEMENTED, AS FOLLOWS:

(a) NO LATER THAN JANUARY 1, 1996, SERVICES AIMED AT REUNIFICATION OF FAMILIES SHALL, WITHIN AVAILABLE APPROPRIATIONS, BE MADE AVAILABLE TO APPROPRIATE FAMILIES WHERE A CHILD HAS BEEN PLACED OUT OF THE HOME;

(b) NO LATER THAN JULY 1, 1996, FAMILY PRESERVATION SERVICES SHALL, WITHIN AVAILABLE APPROPRIATIONS, BE AVAILABLE TO APPROPRIATE FAMILIES WHO ARE INVOLVED IN THE CHILD WELFARE, MENTAL HEALTH, AND JUVENILE JUSTICE SYSTEMS.

(3) FAMILY PRESERVATION SERVICES SHALL, AT A MINIMUM, INCLUDE THE FOLLOWING:

(a) SCREENING TO DETERMINE THE APPROPRIATENESS OF PROVIDING FAMILY PRESERVATION SERVICES, INCLUDING INTENSIVE SERVICES AND REUNIFICATION SERVICES, TO A FAMILY;

(b) AN ASSESSMENT OF THE RISK TO A CHILD AND THE NEEDS OF A CHILD AND THE CHILD'S FAMILY, CONSIDERING ANY SPECIAL NEEDS OF A CHILD AND THE CULTURAL BACKGROUND OF THE FAMILY;

(c) APPROPRIATE INTERVENTION TO MEET THE ASSESSED NEEDS OF THE CHILD AND THE CHILD'S FAMILY, TAKING INTO ACCOUNT THE GEOGRAPHICAL LOCATION OF THE FAMILY AND AVAILABLE RESOURCES IN SUCH LOCALE;

(d) REFERRAL TO COMMUNITY SERVICES AND SUPPORT SYSTEMS; AND

(e) FOLLOW-UP CARE, WHERE APPROPRIATE.

(4) (a) INTENSIVE SERVICES SHALL BE AVAILABLE FOR AT-RISK FAMILIES, TO THE EXTENT POSSIBLE IN THE FAMILY HOME, FOR A PERIOD NOT TO EXCEED SIX WEEKS; EXCEPT THAT AN EXTENDED PERIOD, NOT TO EXCEED NINETY DAYS, MAY BE PROVIDED AS DEEMED NECESSARY BY THE FAMILY DEVELOPMENT SPECIALIST. SUCH SERVICES

SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING:

(I) FAMILY PRESERVATION SERVICES DESCRIBED IN SUBSECTION (3) OF THIS SECTION; EXCEPT THAT THE SCREENING OF A FAMILY FOR INTENSIVE SERVICES SHALL OCCUR WITHIN TWENTY-FOUR HOURS AFTER REFERRAL BY THE INVESTIGATING OR PLACEMENT AGENCY TO DECIDE THE APPROPRIATENESS OF PROVIDING INTENSIVE SERVICES TO THE FAMILY WHERE THE CHILD HAS BEEN DETERMINED BY THE INVESTIGATING OR PLACEMENT AGENCY TO BE AT IMMINENT RISK OF OUT-OF-HOME PLACEMENT;

(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 AT-RISK FAMILIES;

(IV) INDIVIDUALIZED AND GROUP COUNSELING.

(b) FOR THE PURPOSES OF THIS SECTION, "FAMILY DEVELOPMENT SPECIALIST" MEANS A PERSON WHO MEETS THE QUALIFICATION CRITERIA AND TRAINING STANDARDS WHICH THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL ESTABLISH THROUGH THE ADOPTION OF RULES.

(5) THE STATE AND COUNTY DEPARTMENTS OF SOCIAL SERVICES MAY SEEK THE ASSISTANCE OF ANY PUBLIC OR PRIVATE ENTITY IN CARRYING OUT THE DUTIES SET FORTH IN THIS ARTICLE. IN ADDITION, THE STATE DEPARTMENT MAY CONTRACT WITH ANY PUBLIC OR PRIVATE ENTITY IN PROVIDING THE SERVICES DESCRIBED IN THIS ARTICLE. PRIORITY SHALL BE GIVEN TO VENDORS WHO PROVIDE THE MOST GEOGRAPHICALLY AND CULTURALLY RELEVANT SERVICES.

(6) ON AND AFTER JULY 1, 1994, THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL ANNUALLY EVALUATE THE STATEWIDE FAMILY PRESERVATION PROGRAM AND SHALL DETERMINE THE OVERALL EFFECTIVENESS AND COST-EFFICIENCY OF THE PROGRAM. ON OR BEFORE THE FIRST DAY OF OCTOBER OF EACH YEAR, THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL REPORT SUCH FINDINGS AND SHALL MAKE RECOMMENDED CHANGES, INCLUDING BUDGETARY CHANGES, TO THE PROGRAM TO THE GENERAL ASSEMBLY, THE CHIEF JUSTICE OF THE SUPREME COURT, AND THE GOVERNOR. IN EVALUATING THE PROGRAM, THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL CONSIDER ANY RECOMMENDATIONS MADE BY THE INTER-AGENCY FAMILY PRESERVATION COMMISSION IN ACCORDANCE WITH SECTION 26-5.5-106. TO THE EXTENT CHANGES TO THE PROGRAM MAY BE MADE WITHOUT REQUIRING STATUTORY AMENDMENT, THE EXECUTIVE DIRECTOR MAY IMPLEMENT SUCH CHANGES, INCLUDING CHANGES RECOMMENDED BY THE COMMISSION ACTING IN ACCORDANCE WITH SUBSECTION (7) OF THIS SECTION.

(7) THE INTER-AGENCY FAMILY PRESERVATION COMMISSION, ESTABLISHED PURSUANT TO SECTION 26-5.5-106, SHALL BE RESPONSIBLE FOR PROVIDING

OVERSIGHT OF THE LOCAL IMPLEMENTATION OF THE STATEWIDE FAMILY PRESERVATION PROGRAM. IN PROVIDING OVERSIGHT, THE COMMISSION SHALL, ON AND AFTER JULY 1, 1994, ANNUALLY EVALUATE THE OVERALL EFFECTIVENESS AND COST-EFFICIENCY OF THE PROGRAM AND SHALL MAKE RECOMMENDED CHANGES TO THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT. THE COMMISSION SHALL SUBMIT TO THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT A REPORT OF ITS FINDINGS ON OR BEFORE THE FIRST DAY OF SEPTEMBER OF EACH YEAR.

26-5.5-105. Family preservation fund - creation - financing of family preservation program established. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY A FUND TO BE KNOWN AS THE FAMILY PRESERVATION FUND, WHICH SHALL BE ADMINISTERED BY THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT. THE MONEYS IN THE FUND SHALL BE USED FOR THE PHASED-IN IMPLEMENTATION OF THE STATEWIDE FAMILY PRESERVATION PROGRAM IN ACCORDANCE WITH SECTION 26-5.5-104.

(2) MONEYS IN THE FUND SHALL CONSIST OF THE FOLLOWING:

(a) ANY MONEYS RECEIVED FROM ANY PRIVATE SOURCES FOR FAMILY PRESERVATION;

(b) ANY MONEYS IN THE FAMILY PRESERVATION FUND CREATED BY SECTION 26-5.5-104, AS SAID SECTION EXISTED PRIOR TO JULY 1, 1993.

(2.5) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION, THE IMPLEMENTATION OF THE STATEWIDE FAMILY PRESERVATION PROGRAM SHALL BE SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION FOR EMERGENCY ASSISTANCE UNDER TITLE IV-A OF THE FEDERAL "SOCIAL SECURITY ACT" AND TO APPROPRIATION BY THE GENERAL ASSEMBLY.

(3) THE GENERAL ASSEMBLY MAY MAKE ANNUAL APPROPRIATIONS OUT OF THE MONEYS IN THE FUND TO THE STATE DEPARTMENT FOR THE DIRECT AND INDIRECT COSTS INCURRED IN ADMINISTERING THE PROVISIONS OF THIS ARTICLE.

(4) ANY MONEYS IN THE FUND NOT APPROPRIATED SHALL REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR, AND ANY INTEREST GENERATED OR EARNED SHALL BE CREDITED TO THE FUND. THE MONEYS CARRIED OVER IN THE FUND SHALL BE USED IN THE NEXT FISCAL YEAR TO SERVE THE MAXIMUM NUMBER OF FAMILIES APPROPRIATE FOR INTENSIVE SERVICES IN ACCORDANCE WITH SECTION 26-5.5-104 (2) (a), AND FOR EACH FISCAL YEAR AFTER THE FISCAL YEAR BEGINNING JULY 1, 1994, FOR INTENSIVE SERVICES AND THE PHASE-IN OF REUNIFICATION AND EARLY INTERVENTION SERVICES IN ACCORDANCE WITH SECTION 26-5.5-104 (2) (b) AND (c).

(5) THE GENERAL ASSEMBLY MAY FROM TIME TO TIME MAKE APPROPRIATIONS FROM THE GENERAL FUND FOR USE IN CARRYING OUT THE PURPOSES OF THIS ARTICLE.

26-5.5-106. Family preservation commission - establishment or designation - duties. (1) THE GOVERNING BODY OF EACH COUNTY OR CITY AND COUNTY SHALL ESTABLISH A FAMILY PRESERVATION COMMISSION FOR THE COUNTY OR CITY AND COUNTY TO CARRY OUT THE DUTIES DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

THE COMMISSION SHALL BE INTERDISCIPLINARY AND MULTIAGENCY IN COMPOSITION; EXCEPT THAT SUCH COMMISSION SHALL INCLUDE AT LEAST TWO MEMBERS FROM THE PUBLIC-AT-LARGE. THE GOVERNING BODY MAY DESIGNATE AN EXISTING BOARD OR GROUP TO ACT AS THE COMMISSION. A GROUP OF COUNTIES MAY AGREE TO DESIGNATE A REGIONAL COMMISSION TO ACT COLLECTIVELY AS THE COMMISSION FOR ALL OF SUCH COUNTIES.

(2) IT SHALL BE THE DUTY OF EACH COMMISSION ESTABLISHED OR DESIGNATED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO HOLD PERIODIC MEETINGS AND EVALUATE THE FAMILY PRESERVATION PROGRAM WITHIN THE COUNTY OR CITY AND COUNTY, AND TO IDENTIFY ANY RECOMMENDED CHANGES TO SUCH PROGRAM. ON AND AFTER JULY 1, 1994, THE COMMISSION SHALL SUBMIT AN ANNUAL REPORT TO THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT. THE REPORT SHALL CONSIST OF AN EVALUATION OF THE OVERALL EFFECTIVENESS AND COST-EFFICIENCY OF THE PROGRAM AND ANY RECOMMENDED CHANGES TO SUCH PROGRAM. THE REPORT SHALL BE SUBMITTED ON OR BEFORE THE FIRST DAY OF SEPTEMBER OF EACH YEAR.

SECTION 2. Effective date. This act shall take effect July 1, 1993.

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 9, 1993