

## CHAPTER 326

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**CHILDREN AND DOMESTIC MATTERS**

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**SENATE BILL 93-28**

BY SENATORS Mendez, Bishop, Groff, Johnson, Martinez, Peterson, Traylor, Weissmann, Wells, and Wham;  
also REPRESENTATIVES George, DeGette, Friednash, Gordon, Greenwood, Keller, Lyle, Morrison, Pierson, Rupert, Salaz, Snyder,  
Tanner, Taylor, and Wright.

**AN ACT**

**CONCERNING THE PRESERVATION OF FAMILIES BY THE AVOIDANCE OF UNNECESSARY PLACEMENT  
OUT OF THE HOME OF CHILDREN IMPACTED BY ABUSE AND NEGLECT, AND MAKING AN  
APPROPRIATION IN CONNECTION THEREWITH.**

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

**SECTION 1.** Part 1 of article 3 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**19-3-100.5. Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE STABILITY AND PRESERVATION OF THE FAMILIES OF THIS STATE, AND THE SAFETY AND PROTECTION OF CHILDREN, ARE MATTERS OF STATEWIDE CONCERN. THE GENERAL ASSEMBLY FINDS THAT THE FEDERAL "ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980", FEDERAL PUBLIC LAW 96-272, REQUIRES THAT EACH STATE MAKE A COMMITMENT TO MAKE "REASONABLE EFFORTS" TO PREVENT THE PLACEMENT OF ABUSED AND NEGLECTED CHILDREN OUT OF THE HOME AND TO REUNIFY THE FAMILY WHENEVER APPROPRIATE. THE GENERAL ASSEMBLY FURTHER FINDS THAT THE IMPLEMENTATION OF THE FEDERAL "ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980", FEDERAL PUBLIC LAW 96-272, IS NOT THE EXCLUSIVE RESPONSIBILITY OF THE STATE DEPARTMENT OF SOCIAL SERVICES OR OF LOCAL DEPARTMENTS OF SOCIAL SERVICES. ELECTED OFFICIALS AT THE STATE AND LOCAL LEVELS MUST ENSURE THAT RESOURCES AND SERVICES ARE AVAILABLE THROUGH STATE AND LOCAL SOCIAL SERVICES AGENCIES AND THROUGH THE INVOLVEMENT OF THE RESOURCES OF PUBLIC AND PRIVATE SOURCES. JUDGES, ATTORNEYS, AND GUARDIANS AD LITEM MUST BE ENCOURAGED TO TAKE INDEPENDENT RESPONSIBILITY TO ENSURE THAT "REASONABLE EFFORTS" HAVE BEEN MADE IN EACH CASE. THEREFORE, IN ORDER TO CARRY OUT THE REQUIREMENTS

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

ADDRESSED IN THIS SECTION, AND TO DECREASE THE NEED FOR OUT-OF-HOME PLACEMENT, THE GENERAL ASSEMBLY SHALL DEFINE "REASONABLE EFFORTS" AND IDENTIFY THE SERVICES AND PROCESSES WHICH MUST BE IN PLACE TO ENSURE THAT "REASONABLE EFFORTS" HAVE BEEN MADE.

**SECTION 2.** 19-3-101, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "REASONABLE EFFORTS" MEANS THE EXERCISE OF DILIGENCE AND CARE THROUGHOUT THE STATE OF COLORADO FOR CHILDREN WHO ARE IN OUT-OF-HOME PLACEMENT, OR ARE AT IMMINENT RISK OF OUT-OF-HOME PLACEMENT, TO PROVIDE, PURCHASE, OR DEVELOP THE SUPPORTIVE AND REHABILITATIVE SERVICES TO THE FAMILY WHICH ARE REQUIRED BOTH TO PREVENT UNNECESSARY PLACEMENT OF CHILDREN OUTSIDE OF SUCH CHILDREN'S HOMES AND TO FOSTER, WHENEVER APPROPRIATE, THE REUNIFICATION OF CHILDREN WITH THE FAMILIES OF SUCH CHILDREN. NOTHING IN THIS SUBSECTION (1) SHALL BE CONSTRUED TO CONFLICT WITH FEDERAL LAW.

(2) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after legal custody, guardianship of the person, or both have been vested in another person, agency, or institution, including, but not necessarily limited to, the responsibility for support, the right to consent to adoption, the right to reasonable visitation unless restricted by the court, and the right to determine the child's religious affiliation.

(3) "Special county attorney" means an attorney hired by a county attorney or city attorney of a city and county or hired by a county department of social services with the concurrence of the county attorney or city attorney of a city and county to prosecute dependency and neglect cases.

(4) "Special respondent" means any person who is not a parent, guardian, or legal custodian and who is involuntarily joined as a party in a dependency or neglect proceeding for the limited purposes of protective orders or inclusion in a treatment plan.

(5) "Termination of the parent-child legal relationship" means the permanent elimination by court order of all parental rights and duties, including residual parental rights and responsibilities as provided in section 19-3-608.

**SECTION 3.** 19-3-203 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3-203. Guardian ad litem.** (3) The guardian ad litem shall be charged in general with the representation of the child's interests. To that end, ~~he~~ THE GUARDIAN AD LITEM shall make such further investigations as ~~he~~ THE GUARDIAN AD LITEM deems necessary to ascertain the facts and shall talk with or observe the child involved, examine and cross-examine witnesses in both the adjudicatory and dispositional hearings, introduce and examine ~~his~~ THE GUARDIAN AD LITEM'S own witnesses, make

recommendations to the court concerning the child's welfare, appeal matters to the court of appeals or the supreme court, and participate further in the proceedings to the degree necessary to adequately represent the child. IN ADDITION, THE GUARDIAN AD LITEM, IF IN THE BEST INTEREST OF THE CHILD, SHALL SEEK TO ASSURE THAT REASONABLE EFFORTS ARE BEING MADE TO PREVENT UNNECESSARY PLACEMENT OF THE CHILD OUT OF THE HOME AND TO FACILITATE REUNIFICATION OF THE CHILD WITH THE CHILD'S FAMILY.

**SECTION 4.** Part 2 of article 3 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**19-3-208. Services - county required to provide - rules and regulations.**

(1) EACH COUNTY OR CITY AND COUNTY SHALL PROVIDE A SET OF SERVICES, AS DEFINED IN SUBSECTION (2) OF THIS SECTION, TO CHILDREN WHO ARE IN OUT-OF-HOME PLACEMENT OR MEET THE SOCIAL SERVICES OUT-OF-HOME PLACEMENT CRITERIA, AND TO THEIR FAMILIES IN THE STATE OF COLORADO ELIGIBLE FOR SUCH SERVICES AS DETERMINED NECESSARY BY AN ASSESSMENT AND A CASE PLAN. A COUNTY OR CITY AND COUNTY MAY ENTER INTO AN AGREEMENT WITH ANY OTHER COUNTY, CITY AND COUNTY, OR GROUP OF COUNTIES TO SHARE IN THE PROVISION OF THESE SERVICES. EACH COUNTY, CITY AND COUNTY, OR GROUP OF COUNTIES MAY ENTER INTO CONTRACTS WITH PRIVATE ENTITIES FOR THE PROVISION OF THESE SERVICES. EACH COUNTY OR CITY AND COUNTY SHALL HAVE A PROCESS IN PLACE WHEREBY SERVICES CAN READILY BE ACCESSED BY CHILDREN AND FAMILIES DETERMINED TO BE IN NEED OF SUCH SERVICES.

(2) (a) "SERVICES" SHALL BE DESIGNED TO ACCOMPLISH THE FOLLOWING GOALS:

(I) PROMOTE THE IMMEDIATE HEALTH AND SAFETY OF CHILDREN ELIGIBLE FOR THESE SERVICES BASED UPON THE CASE ASSESSMENT AND INDIVIDUAL CASE PLAN;

(II) REDUCE THE RISK OF FUTURE MALTREATMENT OF CHILDREN WHO HAVE PREVIOUSLY BEEN ABUSED OR NEGLECTED AND PROTECT THE SIBLINGS OF SUCH CHILDREN AND OTHER CHILDREN WHO ARE MEMBERS OF THE SAME HOUSEHOLD WHO MAY BE SUBJECTED TO MALTREATMENT;

(III) AVOID THE UNNECESSARY PLACEMENT OF CHILDREN INTO FOSTER CARE RESULTING FROM CHILD ABUSE AND NEGLECT, VOLUNTARY DECISIONS BY FAMILIES, OR THE COMMISSION OF STATUS OFFENSES; AND

(IV) FACILITATE, IF APPROPRIATE, THE SPEEDY REUNIFICATION OF PARENTS WITH ANY OF THEIR CHILDREN WHO HAVE BEEN PLACED IN OUT-OF-HOME PLACEMENT.

(b) THE FOLLOWING SERVICES SHALL BE AVAILABLE AND PROVIDED, AS DETERMINED NECESSARY AND APPROPRIATE BY INDIVIDUAL CASE PLANS, COMMENCING ON OR AFTER JULY 1, 1993:

(I) SCREENING, ASSESSMENTS, AND INDIVIDUAL CASE PLANS;

(II) HOME-BASED FAMILY AND CRISIS COUNSELING;

(III) INFORMATION AND REFERRAL SERVICES TO AVAILABLE PUBLIC AND PRIVATE ASSISTANCE RESOURCES;

(IV) VISITATION SERVICES FOR PARENTS WITH CHILDREN IN OUT-OF-HOME PLACEMENT; AND

(V) PLACEMENT SERVICES INCLUDING FOSTER CARE AND EMERGENCY SHELTER.

(c) THE SERVICES ENUMERATED IN PARAGRAPH (d) OF THIS SUBSECTION (2) SHALL BE MADE AVAILABLE AND PROVIDED BASED UPON THE STATE'S CAPACITY TO INCREASE FEDERAL FUNDING, OR TO OBTAIN OR ALLOCATE FUNDING FROM OTHER PUBLIC OR PRIVATE SOURCES. THE DEPARTMENT OF SOCIAL SERVICES SHALL EVALUATE THE FEASIBILITY OF SECURING SUCH FEDERAL FUNDING AND SHALL SUBMIT A PLAN TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 1, 1993.

(d) BASED UPON THE FEASIBILITY OF INCREASED FEDERAL FUNDING, THE FOLLOWING SERVICES SHALL BE MADE AVAILABLE AND PROVIDED AS DETERMINED NECESSARY AND APPROPRIATE BY INDIVIDUAL CASE PLANS:

(I) TRANSPORTATION TO THESE SERVICES WHEN OTHER APPROPRIATE TRANSPORTATION IS NOT AVAILABLE;

(II) CHILD CARE AS NEEDED ACCORDING TO A CASE PLAN, WHEN OTHER CHILD CARE IS NOT AVAILABLE;

(III) IN-HOME SUPPORTIVE HOMEMAKER SERVICES;

(IV) DIAGNOSTIC, MENTAL HEALTH, AND HEALTH CARE SERVICES;

(V) DRUG AND ALCOHOL TREATMENT SERVICES;

(VI) AFTER CARE SERVICES TO PREVENT A RETURN TO OUT-OF-HOME PLACEMENT;

(VII) FAMILY SUPPORT SERVICES WHILE A CHILD IS IN OUT-OF-HOME PLACEMENT INCLUDING HOME-BASED SERVICES, FAMILY COUNSELING, AND PLACEMENT ALTERNATIVE SERVICES;

(VIII) FINANCIAL SERVICES IN ORDER TO PREVENT PLACEMENT; AND

(IX) FAMILY PRESERVATION SERVICES, WHICH ARE BRIEF, COMPREHENSIVE, AND INTENSIVE SERVICES PROVIDED TO PREVENT THE OUT-OF-HOME PLACEMENT OF CHILDREN OR TO PROMOTE THE SAFE RETURN OF CHILDREN TO THE HOME.

(e) THE DEPARTMENT OF SOCIAL SERVICES MAY PROMULGATE SUCH RULES AND REGULATIONS AS ARE NECESSARY TO IMPLEMENT THE PROVISION OF SERVICES PURSUANT TO THIS ARTICLE.

(f) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO USE EXISTING GENERAL FUND MONIES WHICH HAVE SERVICED THE PROGRAMS DESCRIBED IN THIS SUBSECTION (2) TO ACCESS FEDERAL FUNDS.

**19-3-209. Individual case plan - required.** AN INDIVIDUAL CASE PLAN, DEVELOPED WITH THE INPUT OR PARTICIPATION OF THE FAMILY, IS REQUIRED TO BE IN PLACE FOR ALL ABUSED AND NEGLECTED CHILDREN AND THE FAMILIES OF SUCH CHILDREN IN EACH CASE WHICH IS OPENED FOR THE PROVISION OF SERVICES BEYOND THE INVESTIGATION OF THE REPORT OF CHILD ABUSE OR NEGLECT, REGARDLESS OF WHETHER THE CHILD OR CHILDREN INVOLVED ARE PLACED OUT OF THE HOME OR UNDER COURT SUPERVISION.

**SECTION 5.** 19-3-401, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3-401. Taking children into custody.** (1) A child may be taken into temporary custody by a law enforcement officer without order of the court:

(a) When the child is abandoned, lost, or seriously endangered in ~~his~~ SUCH CHILD'S surroundings or seriously endangers others and immediate removal appears to be necessary for ~~his~~ SUCH CHILD'S protection or the protection of others;

(b) When there are reasonable grounds to believe that ~~he~~ SUCH CHILD has run away or escaped from ~~his~~ SUCH CHILD'S parents, guardian, or legal custodian; or

(c) When an arrest warrant has been issued for ~~his~~ SUCH CHILD'S parent or guardian on the basis of an alleged violation of section 18-3-304, C.R.S. No child taken into temporary custody pursuant to this paragraph (c) shall be placed in detention or jail.

(1.5) AN EMERGENCY EXISTS AND A CHILD IS SERIOUSLY ENDANGERED AS DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION WHENEVER THE SAFETY OR WELL-BEING OF A CHILD IS IMMEDIATELY AT ISSUE AND THERE IS NO OTHER REASONABLE WAY TO PROTECT THE CHILD WITHOUT REMOVING THE CHILD FROM THE CHILD'S HOME. IF SUCH AN EMERGENCY EXISTS, A CHILD SHALL BE REMOVED FROM SUCH CHILD'S HOME AND PLACED IN PROTECTIVE CUSTODY REGARDLESS OF WHETHER REASONABLE EFFORTS TO PRESERVE THE FAMILY HAVE BEEN MADE.

(2) The taking of a child into temporary custody under this section shall not be deemed an arrest, nor shall it constitute a police record.

**SECTION 6.** 19-3-403 (3.6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3-403. Temporary custody - hearing - time limits - restriction.** (3.6) At the hearing, information may be supplied to the court in the form of written or oral reports, affidavits, testimony, or other relevant information that the court may wish to receive. Any information having probative value may be received by the court, regardless of its admissibility under the Colorado rules of evidence. The court may consider and give preference to giving temporary custody to the child's grandparent who is appropriate, capable, willing, and available for care if in the best interest of the child, and if the court finds that there is no suitable natural or adoptive parent available, with due diligence having been exercised in attempting to locate any such natural or adoptive parent. The court may place or continue custody with the county department of social services if the court is satisfied from the information presented

at the hearing that such custody is appropriate and in the child's best interest, or the court may enter such other orders as are appropriate. THE COURT SHALL MAKE A FINDING THAT REASONABLE EFFORTS HAVE BEEN MADE TO PREVENT UNNECESSARY OUT-OF-HOME PLACEMENT, IF THE EVIDENCE SUPPORTS SUCH A FINDING. IN THE ALTERNATIVE, IF THE EVIDENCE SUPPORTS SUCH A FINDING, THE COURT SHALL MAKE A FINDING THAT THE CHILD IS SERIOUSLY ENDANGERED AND AN EMERGENCY SITUATION EXISTS WHICH MAKES IT REASONABLE NOT TO MAKE REASONABLE EFFORTS TO PREVENT THE REMOVAL OF SUCH CHILD.

**SECTION 7.** 19-3-502, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**19-3-502. Petition form and content -limitations on claims in dependency or neglect actions.** (2.5) THE PETITION IN EACH CASE WHERE REMOVAL OF A CHILD FROM THE HOME IS SOUGHT SHALL EITHER STATE THAT REASONABLE EFFORTS TO PREVENT OUT-OF-HOME PLACEMENT WERE MADE AND SHALL SUMMARIZE SUCH EFFORTS OR, IF NO SERVICES TO PREVENT OUT-OF-HOME PLACEMENT WERE PROVIDED, THE PETITION SHALL CONTAIN AN EXPLANATION OF WHY SUCH SERVICES WERE NOT PROVIDED OR A DESCRIPTION OF THE EMERGENCY WHICH PRECLUDED THE USE OF SERVICES TO PREVENT OUT-OF-HOME PLACEMENT OF THE CHILD. THE PETITION SHALL BE VERIFIED.

**SECTION 8.** 19-3-507 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3-507. Dispositional hearing.** (1) (a) 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.

(b) PRIOR TO ANY DISPOSITIONAL HEARING, THE CASEWORKER OF THE DEPARTMENT OF SOCIAL SERVICES ASSIGNED TO THE CASE SHALL SUBMIT TO THE COURT A STATEMENT WHICH DETAILS THE SERVICES WHICH WERE OFFERED TO OR PROVIDED TO THE FAMILY TO PREVENT UNNECESSARY OUT-OF-HOME PLACEMENT OF THE CHILD AND TO FACILITATE THE REUNIFICATION OF THE CHILD WITH THE FAMILY. THE STATEMENT SHALL CONTAIN AN EXPLANATION OF THE SERVICES OR ACTIONS WHICH, HAD SUCH SERVICES OR ACTIONS BEEN AVAILABLE, WOULD HAVE BEEN NECESSARY TO ENABLE THE CHILD TO REMAIN AT HOME SAFELY. IN THE ALTERNATIVE, THE CASEWORKER MAY SUBMIT A STATEMENT AS TO WHY NO SERVICES OR ACTIONS WOULD HAVE MADE IT POSSIBLE FOR THE CHILD TO REMAIN AT HOME SAFELY.

**SECTION 9. No appropriation.** The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

**SECTION 10. Effective date.** This act shall take effect July 1, 1993.

**SECTION 11. 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