

CHAPTER 329

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 94-1178

BY REPRESENTATIVES Keller, Allen, Armstrong, Blue, Clarke, DeGette, Eisenach, George, Knox, Linkhart, Lyle, Mattingly, Nichol, Reeves, Romero, Rupert, Strom, Williams, and Wright;
also SENATORS Gallagher, Bishop, Casey, Feeley, Mares, Mendez, Peterson, L. Powers, and Wells.

AN ACT

CONCERNING THE PLACEMENT OF YOUNG CHILDREN, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 19-1-102, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-1-102. Legislative declaration. (1.6) THE GENERAL ASSEMBLY RECOGNIZES THE NUMEROUS STUDIES ESTABLISHING THAT CHILDREN UNDERGO A CRITICAL BONDING AND ATTACHMENT PROCESS PRIOR TO THE TIME THEY REACH SIX YEARS OF AGE. SUCH STUDIES FURTHER DISCLOSE THAT A CHILD WHO HAS NOT BONDED WITH A PRIMARY ADULT DURING THIS CRITICAL STAGE WILL SUFFER SIGNIFICANT EMOTIONAL DAMAGE WHICH FREQUENTLY LEADS TO CHRONIC PSYCHOLOGICAL PROBLEMS AND ANTISOCIAL BEHAVIOR WHEN THE CHILD REACHES ADOLESCENCE AND ADULTHOOD. ACCORDINGLY, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS APPROPRIATE TO PROVIDE FOR AN EXPEDITED PLACEMENT PROCEDURE TO ENSURE THAT CHILDREN UNDER THE AGE OF SIX YEARS WHO HAVE BEEN REMOVED FROM THEIR HOMES ARE PLACED IN PERMANENT HOMES AS EXPEDITIOUSLY AS POSSIBLE.

SECTION 2. 19-1-107, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-1-107. Social study and other reports. (2.5) FOR PURPOSES OF DETERMINING THE APPROPRIATE TREATMENT PLAN IN CONNECTION WITH THE DISPOSITION OF A CHILD WHO IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN

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

ACCORDANCE WITH SECTION 19-3-501 (2), THE REPORT SHALL INCLUDE A LIST OF SERVICES AVAILABLE TO FAMILIES THAT ARE SPECIFIC TO THE NEEDS OF THE CHILD AND THE CHILD'S FAMILY AND THAT ARE AVAILABLE IN THE COMMUNITY WHERE THE FAMILY RESIDES. THE REPORT SHALL ESTABLISH A PRIORITY OF THE SERVICES IF MULTIPLE SERVICES ARE RECOMMENDED. THE SERVICES MAY INCLUDE, BUT ARE NOT LIMITED TO, TRANSPORTATION SERVICES, VISITATION SERVICES, PSYCHOLOGICAL COUNSELING, DRUG SCREENING AND TREATMENT PROGRAMS, MARRIAGE AND FAMILY COUNSELING, PARENTING CLASSES, HOUSING AND DAY CARE ASSISTANCE, AND HOMEMAKER SERVICES.

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

19-1-123. Expedited procedures for permanent placement - children under the age of six years - designated counties - annual report. (1) (a) THE EXPEDITED PROCEDURES FOR THE PERMANENT PLACEMENT OF CHILDREN UNDER THE AGE OF SIX YEARS REQUIRED BY ARTICLE 3 OF THIS TITLE SHALL BE IMPLEMENTED ON A COUNTY-BY-COUNTY BASIS BEGINNING JULY 1, 1994. THE DEPARTMENT OF HUMAN SERVICES, IN CONSULTATION WITH THE JUDICIAL DEPARTMENT AND THE GOVERNING BOARDS OF EACH COUNTY DEPARTMENT OF SOCIAL SERVICES, SHALL HAVE THE RESPONSIBILITY FOR ESTABLISHING AN IMPLEMENTATION SCHEDULE WHICH PROVIDES FOR STATEWIDE IMPLEMENTATION OF SUCH EXPEDITED PROCEDURES BY JUNE 30, 2004. A DESIGNATED COUNTY SHALL BE REQUIRED TO IMPLEMENT THE EXPEDITED PROCEDURES ON AND AFTER THE IMPLEMENTATION DATE APPLICABLE TO THE COUNTY AS SPECIFIED IN THE IMPLEMENTATION SCHEDULE FOR EACH NEW CASE FILED IN THE COUNTY INVOLVING A CHILD WHO IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2).

(b) THE IMPLEMENTATION SCHEDULE DEVELOPED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE CONTINGENT UPON THE AVAILABILITY OF MONEYS IN THE FAMILY ISSUES CASH FUND CREATED IN SECTION 26-5.3-106, C.R.S., INCLUDING ANY MONEYS TRANSFERRED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION AS A RESULT OF OUT-OF-HOME PLACEMENT COSTS AVOIDANCE.

(2) (a) ON OR BEFORE DECEMBER 31, 1995, AND EACH DECEMBER 31 THEREAFTER THROUGH AND INCLUDING DECEMBER 31, 2003, THE DEPARTMENT OF HUMAN SERVICES IN CONSULTATION WITH THE JUDICIAL DEPARTMENT SHALL SUBMIT A WRITTEN REPORT TO THE JOINT BUDGET COMMITTEE REGARDING PROGRAM EFFECTIVENESS AND PROGRESS TOWARD STATEWIDE IMPLEMENTATION. SUCH REPORT SHALL ALSO PROVIDE AN EVALUATION AS TO WHETHER OUT-OF-HOME PLACEMENT COSTS HAVE BEEN AVOIDED AS A RESULT OF THE PROGRAM. IN THE EVENT SUCH COSTS HAVE BEEN AVOIDED, THE DEPARTMENT OF HUMAN SERVICES SHALL REQUEST THAT ANY AVAILABLE MONEYS BE TRANSFERRED FROM THE OUT-OF-HOME PLACEMENT BUDGET CATEGORY TO THE FAMILY ISSUES CASH FUND FOR THE PURPOSES OF STATEWIDE IMPLEMENTATION. THE IMPLEMENTATION OF EXPEDITED PROCEDURES IN ADDITIONAL COUNTIES SHALL BE SUBJECT TO SPECIFIC APPROPRIATION BY THE GENERAL ASSEMBLY.

(b) THE FINAL REPORT SUBMITTED ON OR BEFORE DECEMBER 31, 2003, SHALL ALSO INCLUDE ANY RECOMMENDATIONS CONCERNING THE CONTINUATION OF THE EXPEDITED PROCEDURES, RECOMMENDATIONS REGARDING ANY LEGISLATIVE

MODIFICATIONS, INCLUDING, IF NECESSARY, ANY RECOMMENDATIONS FOR EXTENSIONS OF TIME REQUIRED FOR STATEWIDE IMPLEMENTATION, AND ANY OTHER INFORMATION DEEMED NECESSARY AND APPROPRIATE.

SECTION 4. 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:

19-3-104. Hearings - procedure. EXCEPT FOR PROCEEDINGS HELD PURSUANT TO SECTION 19-3-703, ANY HEARING CONDUCTED PURSUANT TO THIS ARTICLE IN A COUNTY DESIGNATED PURSUANT TO SECTION 19-1-123 REGARDING A CHILD WHO IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2) SHALL NOT BE DELAYED OR CONTINUED UNLESS GOOD CAUSE IS SHOWN AND UNLESS THE COURT FINDS THAT THE BEST INTERESTS OF THE CHILD WILL BE SERVED BY GRANTING A DELAY OR CONTINUANCE. WHENEVER ANY SUCH DELAY OR CONTINUANCE IS GRANTED, THE COURT SHALL SET FORTH THE SPECIFIC REASONS NECESSITATING THE DELAY OR CONTINUANCE AND SHALL SCHEDULE THE MATTER WITHIN THIRTY DAYS AFTER THE DATE OF GRANTING THE DELAY OR CONTINUANCE. IF APPROPRIATE, IN ANY HEARING CONDUCTED PURSUANT TO THIS ARTICLE IN A COUNTY DESIGNATED PURSUANT TO SECTION 19-1-123 REGARDING A CHILD WHO IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2), THE COURT SHALL INCLUDE ALL OTHER CHILDREN RESIDING IN THE SAME HOUSEHOLD WHOSE PLACEMENT IS SUBJECT TO DETERMINATION PURSUANT TO THIS ARTICLE.

SECTION 5. 19-3-201 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-3-201. Venue. (2) When proceedings are commenced under this article in a county other than that of the child's residence, the court in which proceedings were initiated may, on its own motion or on the motion of any interested party, transfer the case to the court in the county where the child resides if adjudication has taken place and it finds that the transfer would not be detrimental to the best interests of the child; EXCEPT THAT, IN A COUNTY DESIGNATED PURSUANT TO SECTION 19-1-123, IF THE CHILD IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2), IT SHALL BE PRESUMED THAT ANY TRANSFER OF PROCEEDINGS WITHOUT GOOD CAUSE SHOWN THAT RESULTS IN A DELAY IN THE JUDICIAL PROCEEDINGS WOULD BE DETRIMENTAL TO THE CHILD'S BEST INTERESTS. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE.

SECTION 6. 19-3-505 (3) and (7), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

19-3-505. Adjudicatory hearing - findings - adjudication. (3) Adjudicatory hearings shall be held at the earliest possible time, but in no instance shall such hearing be held later than ninety days after service of the petition, OR, IN A COUNTY DESIGNATED PURSUANT TO SECTION 19-1-123, IF THE CHILD IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2), IN NO INSTANCE SHALL SUCH HEARING BE HELD LATER THAN SIXTY DAYS AFTER SERVICE OF THE PETITION unless the court finds that the best interests of the child will be served by granting a delay. If the court determines that a delay is necessary, it shall set forth the specific reason why such delay is necessary and shall schedule the

adjudicatory hearing at the earliest possible time following the delay.

(7) (a) When the court finds that the allegations of the petition are supported by a preponderance of the evidence, except when the case is continued as provided in the introductory portion to subsection (5) of this section, the court shall sustain the petition and shall make an order of adjudication setting forth whether the child is neglected or dependent. Evidence that child abuse or nonaccidental injury has occurred shall constitute prima facie evidence that such child is neglected or dependent, and such evidence shall be sufficient to support an adjudication under this section.

(b) The court shall then hold the dispositional hearing, but such hearing may be continued on the motion of any interested party or on the motion of the court. Such continuance shall not exceed thirty days unless good cause exists. IN A COUNTY DESIGNATED PURSUANT TO SECTION 19-1-123, IF THE CHILD IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2), THE DISPOSITIONAL HEARING SHALL BE HELD WITHIN THIRTY DAYS AFTER THE ADJUDICATORY HEARING UNLESS GOOD CAUSE IS SHOWN AND UNLESS THE COURT FINDS THAT THE BEST INTERESTS OF THE CHILD WILL BE SERVED BY GRANTING A DELAY. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DISPOSITIONAL HEARING BE HELD ON THE SAME DAY AS THE ADJUDICATORY HEARING, WHENEVER POSSIBLE.

SECTION 7. The introductory portion to 19-3-508 (1), 19-3-508 (1) (a), the introductory portion to 19-3-508 (4), and 19-3-508 (4) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

19-3-508. Neglected or dependent child - disposition. (1) When a child has been adjudicated to be neglected or dependent, the court may enter a decree of disposition the same day, but in any event it shall do so within forty-five days unless the court finds that the best interests of the child will be served by granting a delay. IN A COUNTY DESIGNATED PURSUANT TO SECTION 19-1-123, IF THE CHILD IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2), THE COURT SHALL ENTER A DECREE OF DISPOSITION WITHIN THIRTY DAYS AFTER THE ADJUDICATION AND SHALL NOT GRANT A DELAY UNLESS GOOD CAUSE IS SHOWN AND UNLESS THE COURT FINDS THAT THE BEST INTERESTS OF THE CHILD WILL BE SERVED BY GRANTING THE DELAY. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DISPOSITIONAL HEARING BE HELD ON THE SAME DAY AS THE ADJUDICATORY HEARING, WHENEVER POSSIBLE. If a delay is granted, the court shall set forth the reasons why a delay is necessary and the minimum amount of time needed to resolve the reasons for the delay and shall schedule the hearing at the earliest possible time following the delay. When the decree does not terminate the parent-child legal relationship, the court shall approve an appropriate treatment plan which shall include but not be limited to one or more of the following provisions of paragraphs (a) to (d) of this subsection (1):

(a) The court may place the child in the legal custody of one or both parents or the guardian, with or without protective supervision, under such conditions as the court deems necessary and appropriate. IN A COUNTY DESIGNATED PURSUANT TO SECTION 19-1-123, IF THE CHILD IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2) AND IS PLACED WITH A PARENT OR

GUARDIAN WHO IS A NAMED RESPONDENT IN A PETITION FILED PURSUANT TO SECTION 19-3-502, THE TREATMENT PLAN SHALL INCLUDE A REQUIREMENT THAT THE FAMILY OBTAIN SERVICES SPECIFIC TO THE FAMILY'S NEEDS IF AVAILABLE IN THE COMMUNITY WHERE THE FAMILY RESIDES AND BASED ON THE SOCIAL STUDY AND REPORTS PROVIDED PURSUANT TO SECTION 19-1-107 (2.5).

(4) When a child has been adjudicated neglected or dependent because ~~he~~ THE CHILD has been abandoned by ~~his~~ THE CHILD'S parent or parents, the court may enter a decree terminating the parent-child legal relationship if it finds ONE OF THE FOLLOWING:

(a) That the parent or parents have surrendered physical custody for a period of six months and, during this period, have not manifested to the child, the court, or the person having physical custody a firm intention to resume or obtain physical custody or to make permanent legal arrangements for the care of the child; ~~or~~

SECTION 8. 19-3-604 (1) and the introductory portion to 19-3-604 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 19-3-604 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

19-3-604. Criteria for termination. (1) The court may order a termination of the parent-child legal relationship upon the finding of any one of the following:

(a) That the child has been adjudicated dependent or neglected and has been abandoned by ~~his~~ THE CHILD'S parent or parents as follows:

(I) That the parent or parents have surrendered physical custody of the child for a period of six months or more and have not manifested during such period the firm intention to resume physical custody of the child or to make permanent legal arrangements for the care of the child except in cases when voluntary placement is renewable under section 19-3-701 (1); ~~or~~

(II) That the identity of the parent of the child is unknown and has been unknown for three months or more and that reasonable efforts to identify and locate the parent in accordance with section 19-3-603 have failed;

(b) That the child is adjudicated dependent or neglected and the court has found by clear and convincing evidence that no appropriate treatment plan can be devised to address the unfitness of the parent or parents. In making such a determination, the court shall find one of the following as the basis for unfitness:

(I) Emotional illness, mental illness, or mental deficiency of the parent of such duration or nature as to render the parent unlikely within a reasonable time to care for the ongoing physical, mental, and emotional needs AND CONDITIONS of the child;

(II) A single incident resulting in a gravely disabling injury or disfigurement of the child;

(III) Long-term confinement of the parent of such duration that ~~he~~ THE PARENT is not eligible for parole for at least six years ~~from~~ AFTER the date the child was adjudicated dependent or neglected OR, IN A COUNTY DESIGNATED PURSUANT TO

SECTION 19-1-123, IF THE CHILD IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2), THE LONG-TERM CONFINEMENT OF THE PARENT OF SUCH DURATION THAT THE PARENT IS NOT ELIGIBLE FOR PAROLE FOR AT LEAST THIRTY-SIX MONTHS AFTER THE DATE THE CHILD WAS ADJUDICATED DEPENDENT OR NEGLECTED AND THE COURT HAS FOUND BY CLEAR AND CONVINCING EVIDENCE THAT NO APPROPRIATE TREATMENT PLAN CAN BE DEvised TO ADDRESS THE UNFITNESS OF THE PARENT OR PARENTS;

(IV) Gravely disabling injury or death of a sibling due to proven parental abuse or neglect; ~~or~~

(c) That the child is adjudicated dependent or neglected and all of the following exist:

(I) That an appropriate treatment plan approved by the court has not been reasonably complied with by the parent or parents or has not been successful or that the court has previously found, pursuant to section 19-3-508 (1) (e), that an appropriate treatment plan could not be devised. IN A COUNTY DESIGNATED PURSUANT TO SECTION 19-1-123, IF A CHILD IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2), NO PARENT OR PARENTS SHALL BE FOUND TO BE IN REASONABLE COMPLIANCE WITH OR TO HAVE BEEN SUCCESSFUL AT A COURT-APPROVED TREATMENT PLAN WHEN:

(A) THE PARENT HAS NOT ATTENDED VISITATIONS WITH THE CHILD AS SET FORTH IN THE TREATMENT PLAN, UNLESS GOOD CAUSE CAN BE SHOWN FOR FAILING TO VISIT; OR

(B) THE PARENT EXHIBITS THE SAME PROBLEMS ADDRESSED IN THE TREATMENT PLAN WITHOUT ADEQUATE IMPROVEMENT, INCLUDING BUT NOT LIMITED TO IMPROVEMENT IN THE RELATIONSHIP WITH THE CHILD, AND IS UNABLE OR UNWILLING TO PROVIDE NURTURING AND SAFE PARENTING SUFFICIENTLY ADEQUATE TO MEET THE CHILD'S PHYSICAL, EMOTIONAL, AND MENTAL HEALTH NEEDS AND CONDITIONS DESPITE EARLIER INTERVENTION AND TREATMENT FOR THE FAMILY. THE COURT MAY RECEIVE TESTIMONY REGARDING THE FAMILY'S PROGRESS UNDER THE TREATMENT PLAN FROM THE CHILD'S PHYSICIAN OR THERAPIST, FOSTER PARENT, EDUCATIONAL OR RELIGIOUS TEACHERS, COURT-APPOINTED SPECIAL ADVOCATE, OR CASEWORKER.

(II) That the parent is unfit; AND

(III) That the conduct or condition of the parent or parents is unlikely to change within a reasonable time.

(2) In determining unfitness, conduct, or condition for purposes of paragraph (c) of subsection (1) of this section, the court shall find that continuation of the legal relationship between parent and child is likely to result in grave risk of death or serious injury to the child or that the conduct or condition of the parent or parents renders the parent or parents unable or unwilling to give the child reasonable parental care TO INCLUDE, AT A MINIMUM, NURTURING AND SAFE PARENTING SUFFICIENTLY ADEQUATE TO MEET THE CHILD'S PHYSICAL, EMOTIONAL, AND MENTAL HEALTH NEEDS AND CONDITIONS. In making such determinations, the court shall consider, but not be limited to, the following:

(i) THAT ANY PARENT WHO IS A NAMED RESPONDENT IN THE TERMINATION PROCEEDING HAS HAD PRIOR INVOLVEMENT WITH THE DEPARTMENT OF HUMAN SERVICES CONCERNING AN INCIDENT OF ABUSE OR NEGLECT INVOLVING THE CHILD AND A SUBSEQUENT INCIDENT OF ABUSE OR NEGLECT OCCURS.

SECTION 9. 19-3-702 (1) and (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 19-3-702 is further amended BY THE ADDITION OF A NEW SUBSECTION, 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 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; EXCEPT THAT, IN A COUNTY DESIGNATED PURSUANT TO SECTION 19-1-123, IF THE CHILD IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2), SUCH PERMANENCY PLANNING HEARING SHALL BE HELD NO LATER THAN THREE MONTHS AFTER THE DECREE OF DISPOSITION OF THE CHILD. The permanency planning hearing shall be combined with the six-month review as provided for in section 19-1-115 (4) (c).

(2.5) AT A PERMANENCY PLANNING HEARING HELD IN A COUNTY DESIGNATED PURSUANT TO SECTION 19-1-123, IF THE CHILD IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2) AND HAS BEEN PLACED OUT OF THE HOME FOR THREE MONTHS, THE COURT SHALL REVIEW THE PROGRESS OF THE CASE AND THE TREATMENT PLAN INCLUDING THE PROVISION OF SERVICES. THE COURT MAY ORDER THE COUNTY DEPARTMENT OF SOCIAL SERVICES TO SHOW CAUSE WHY IT SHOULD NOT FILE A MOTION TO TERMINATE THE PARENT-CHILD LEGAL RELATIONSHIP PURSUANT TO PART 6 OF

THIS ARTICLE. CAUSE MAY INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING CONDITIONS:

(a) THE PARENTS OR GUARDIANS HAVE MAINTAINED REGULAR PARENTING TIME AND CONTACT WITH THE CHILD, AND THE CHILD WOULD BENEFIT FROM CONTINUING THIS RELATIONSHIP; OR

(b) THE CRITERIA OF SECTION 19-3-604 HAVE NOT YET BEEN MET.

(3) EXCEPT AS PROVIDED IN SUBSECTION (2.5) OF THIS SECTION, at the permanency planning hearing, the court shall first determine whether the child should be returned to ~~his~~ THE CHILD'S parent or guardian, pursuant to section 19-1-115 (4) (b). If the child is not returned to the custody of ~~his~~ THE CHILD'S parent or guardian, the court shall determine whether there is a substantial probability that the child will be returned to the physical custody of ~~his~~ THE CHILD'S parent, guardian, or legal custodian within six months. If the court so determines, it shall set another review hearing for not more than six months, which shall be a permanency planning hearing.

SECTION 10. Part 7 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:

19-3-703. Permanent home. IN A COUNTY DESIGNATED PURSUANT TO SECTION 19-1-123, IF A CHILD IS UNDER SIX YEARS OF AGE AT THE TIME A PETITION IS FILED IN ACCORDANCE WITH SECTION 19-3-501 (2), THE CHILD SHALL BE PLACED IN A PERMANENT HOME NO LATER THAN TWELVE MONTHS AFTER THE ORIGINAL PLACEMENT OUT OF THE HOME UNLESS THE COURT DETERMINES THAT A PLACEMENT IN A PERMANENT HOME IS NOT IN THE BEST INTERESTS OF THE CHILD AT THAT TIME. IN DETERMINING WHETHER SUCH A PLACEMENT DELAY IS IN THE BEST INTERESTS OF THE CHILD, THE COURT MUST BE SHOWN CLEAR AND CONVINCING EVIDENCE THAT REASONABLE EFFORTS, AS DEFINED IN SECTION 19-3-101 (1), WERE MADE TO FIND THE CHILD AN APPROPRIATE PERMANENT HOME AND SUCH A HOME IS NOT CURRENTLY AVAILABLE, OR THAT THE CHILD'S MENTAL AND/OR PHYSICAL NEEDS OR CONDITIONS DEEM IT IMPROBABLE THAT SUCH CHILD WOULD HAVE A SUCCESSFUL PERMANENT PLACEMENT. THE CASEWORKER AND THE CHILD'S GUARDIAN AD LITEM SHALL PROVIDE THE COURT WITH A REPORT SPECIFYING WHICH SERVICES ARE BEING GIVEN THE CHILD IN ORDER TO REMEDY THE CHILD'S PROBLEMS. THE CASE SHALL BE REVIEWED AT LEAST EVERY SIX MONTHS UNTIL THE CHILD IS PERMANENTLY PLACED. CLEAR AND CONVINCING STANDARDS OF EVIDENCE SHALL BE APPLICABLE AT ANY SUCH REVIEW. FOR THE PURPOSES OF THIS SECTION, A PERMANENT HOME SHALL INCLUDE, BUT NOT BE LIMITED TO, THE CHILD'S REUNIFICATION WITH THE CHILD'S PARENTS, PLACEMENT WITH A RELATIVE, WITH A POTENTIAL ADOPTIVE PARENT, PERMANENT CUSTODY GRANTED TO ANOTHER, OR, IF THE CHILD CANNOT BE RETURNED HOME, PLACEMENT IN THE LEAST RESTRICTIVE LEVEL OF CARE.

SECTION 11. Appropriation - appropriation in long bill to be adjusted.

(1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the family issues cash fund not otherwise appropriated, to the department of human services, for the fiscal year beginning July 1, 1994, the sum of three hundred thousand dollars (\$300,000), or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, the amount appropriated from cash funds in the annual general appropriation act for the fiscal year beginning July 1, 1994, to the department of human services, child welfare, family and children's programs, shall be decreased by three hundred thousand dollars (\$300,000).

(3) No additional general fund moneys shall be expended for this program beyond those appropriated to the family issues cash fund for this purpose.

SECTION 12. Effective date. This act shall take effect July 1, 1994.

SECTION 13. 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, 1994