

CHAPTER 333

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 94-205

BY SENATORS Blickensderfer, Rizzuto, Bishop, Johnson, and Mutzebaugh;
also REPRESENTATIVES Pankey, Blue, Epps, and Morrison.

AN ACT

CONCERNING THE DELIVERY OF SOCIAL SERVICES TO FAMILIES.

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

SECTION 1. 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:

19-3-211. Conflict resolution process - rules - appeals - definitions. (1) ON OR BEFORE JANUARY 1, 1995, THE STATE DEPARTMENT, IN CONJUNCTION WITH THE ATTORNEY GENERAL, SHALL ADOPT RULES ALLOWING EACH COUNTY DEPARTMENT TO IMPLEMENT, AT THE OPTION OF THE COUNTY'S GOVERNING BODY, A CONFLICT RESOLUTION PROCESS PURSUANT TO THE PROVISIONS OF THIS SECTION. THE PURPOSE OF SUCH CONFLICT RESOLUTION PROCESS IS TO PROVIDE A FORUM FOR GRIEVANCES AGAINST A PARTICIPATING COUNTY DEPARTMENT CONCERNING SUCH DEPARTMENT'S RESPONSE TO REPORTS OF CHILD ABUSE AND NEGLECT OR PERFORMANCE OF ITS DUTIES PURSUANT TO THIS ARTICLE.

(2) THE STATE DEPARTMENT'S RULES SHALL PROVIDE, AT A MINIMUM, FOR THE FOLLOWING:

(a) THE CREATION OF A CITIZEN REVIEW PANEL IN EACH COUNTY, THE MEMBERS OF WHICH SHALL BE APPOINTED BY THE GOVERNING BODY OF THE COUNTY, BE REPRESENTATIVE OF THE COMMUNITY, HAVE DEMONSTRABLE PERSONAL OR PROFESSIONAL KNOWLEDGE AND EXPERIENCE WITH CHILDREN, AND SHALL NOT BE EMPLOYEES OR AGENTS OF ANY STATE OR LOCAL SOCIAL SERVICES AGENCY;

(b) TRANSMITTAL OF ALL GRIEVANCES TO THE COUNTY DIRECTOR FOR THE COUNTY

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

DIRECTOR'S PROMPT REFERRAL OF SUCH GRIEVANCES TO THE LOCAL DEPARTMENT OF SOCIAL SERVICES FOR INTERNAL RESOLUTION WITHIN TEN DAYS AFTER RECEIPT OF THE GRIEVANCE AND THEREAFTER TO THE CITIZEN REVIEW PANEL FOR REVIEW AND DECISION WITHIN THIRTY DAYS AFTER RECEIPT OF THE GRIEVANCE;

(c) THE REFERRAL OF A CITIZEN REVIEW PANEL DECISION TO THE GOVERNING BODY FOR A FINAL APPEAL WITHIN THIRTY DAYS AFTER THE DECISION BY THE CITIZEN REVIEW PANEL IF A COMPLAINANT DISAGREES WITH THE CITIZEN REVIEW PANEL'S DISPOSITION OF THE GRIEVANCE;

(d) REVIEW AND DECISION BY THE GOVERNING BODY WITHIN THIRTY DAYS OF RECEIPT OF A GRIEVANCE FOR FINAL APPEAL;

(e) THE INCLUSION OF CASE REASSIGNMENT AS A POSSIBLE RESOLUTION TO THE GRIEVANCE;

(f) THE DISCLOSURE OF THE AVAILABILITY OF THE CONFLICT RESOLUTION PROCESS TO PERSONS WHO ARE THE SUBJECT OF ANY CHILD ABUSE OR NEGLECT REPORT AND TO ANY FAMILY WHOSE CHILD IS THE SUBJECT OF ANY CHILD ABUSE OR NEGLECT REPORT;

(g) ACCESS BY THE CITIZEN REVIEW PANELS AND THE GOVERNING BODY TO CHILD ABUSE OR NEGLECT REPORTS, WHICH SHALL BE REVIEWED SOLELY FOR THE PURPOSE OF RESOLVING DISPUTES PURSUANT TO THE PROVISIONS OF THIS SECTION; EXCEPT THAT NO IDENTIFYING INFORMATION CONCERNING ANY PERSON WHO REPORTED CHILD ABUSE OR NEGLECT SHALL BE DISCLOSED; AND

(h) A SYSTEM FOR MONITORING COMPLIANCE WITH THIS SECTION WHICH SHALL INCLUDE ANNUAL REPORTS FROM THE PARTICIPATING COUNTIES AS TO THE COMPLAINTS RECEIVED AND THEIR RESOLUTION AND AN ANNUAL REPORT BY THE STATE DEPARTMENT TO THE GENERAL ASSEMBLY AND THE RELEVANT COMMITTEES OF REFERENCE CONCERNING COMPLIANCE WITH THIS SECTION.

(3) THE CONFLICT RESOLUTION PROCESS SHALL BE INFORMAL, AND THE RULES GOVERNING THE ESTABLISHMENT AND IMPLEMENTATION OF THE PROCESS SHALL BE EASILY UNDERSTANDABLE BY COMPLAINANTS. THE STATE DEPARTMENT SHALL PREPARE STANDARDIZED FORMS THAT SHALL BE USED BY THE COUNTY DEPARTMENTS AND THE CITIZEN REVIEW PANELS IN THE PARTICIPATING COUNTIES. THE CITIZEN REVIEW PANELS AND THE GOVERNING BODIES SHALL PREPARE WRITTEN REPORTS SETTING FORTH THE BASES FOR THEIR DECISIONS. RELEVANT INFORMATION CONCERNING THE CONFLICT RESOLUTION PROCESS SHALL BE PUBLICIZED.

(4) FOR THE PURPOSE OF ANY PROCEEDING RELATING TO CHILD ABUSE OR NEGLECT, WRITTEN REPORTS, PREPARED IN CONNECTION WITH RESOLUTION OF GRIEVANCES PURSUANT TO THIS SECTION AND THE RULES ADOPTED BY THE STATE DEPARTMENT, MAY BE RECEIVED AND CONSIDERED BY THE COURT ALONG WITH OTHER EVIDENCE; BUT THE COURT, IF SO REQUESTED BY THE CHILD, THE CHILD'S PARENT OR GUARDIAN, OR OTHER INTERESTED PARTY, SHALL REQUIRE THAT THE PERSON WHO WROTE THE REPORT APPEAR AS A WITNESS AND BE SUBJECT TO BOTH DIRECT AND CROSS-EXAMINATION. IN THE ABSENCE OF SUCH REQUEST, THE COURT MAY ORDER THE PERSON WHO PREPARED THE REPORT TO APPEAR IF IT FINDS THAT THE

BEST INTERESTS OF THE CHILD SO REQUIRE.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO DIRECT OR AUTHORIZE ANY PARTICIPANT IN THE CONFLICT RESOLUTION PROCESS TO INTERFERE WITH ANY CRIMINAL INVESTIGATION OR JUDICIAL PROCEEDING.

(6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CITIZEN REVIEW PANEL" MEANS THE PANEL CREATED IN A COUNTY BY THE BOARD OF COUNTY COMMISSIONERS OR IN A CITY AND COUNTY BY THE CITY COUNCIL THAT SHALL REVIEW AND RENDER DECISIONS REGARDING GRIEVANCES BETWEEN A COMPLAINANT AND A COUNTY DEPARTMENT.

(b) "COMPLAINANT" MEANS THE PERSON BRINGING A GRIEVANCE AGAINST A COUNTY DEPARTMENT.

(c) "COUNTY DEPARTMENT" MEANS A COUNTY OR A CITY AND COUNTY DEPARTMENT OF SOCIAL SERVICES.

(d) "COUNTY DIRECTOR" MEANS THE COUNTY DIRECTOR OR DISTRICT DIRECTOR APPOINTED PURSUANT TO SECTION 26-1-117, C.R.S.

(e) "GOVERNING BODY" MEANS THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY OR THE CITY COUNCIL OF A CITY AND COUNTY.

(f) "GRIEVANCE" MEANS ANY DISPUTE BETWEEN A COMPLAINANT AND A COUNTY DEPARTMENT CONCERNING SUCH DEPARTMENT'S RESPONSE TO, INVESTIGATION OF, AND RECOMMENDATIONS REGARDING ANY REPORT OF CHILD ABUSE AND NEGLECT PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

(g) "STATE DEPARTMENT" MEANS THE STATE DEPARTMENT OF HUMAN SERVICES.

(7) UPON IMPLEMENTATION OF THE RESTRUCTURING OF THE HEALTH AND HUMAN SERVICES DELIVERY SYSTEM PURSUANT TO ARTICLE 1.7 OF TITLE 24, C.R.S., THE PROVISIONS OF THIS SECTION SHALL NO LONGER BE APPLICABLE IF THE STATE DEPARTMENT DETERMINES THAT SUCH LOCAL RESTRUCTURING INCLUDES A LOCAL CONFLICT RESOLUTION PROCESS FOR GRIEVANCES CONCERNING CHILD ABUSE AND NEGLECT CASES.

19-3-212. Notice of rights and remedies for families. (1) THE STATE DEPARTMENT SHALL PREPARE, WITH THE ASSISTANCE OF THE ATTORNEY GENERAL, ON A STANDARDIZED FORM, A DETAILED INFORMATIONAL NOTICE OF RIGHTS AND REMEDIES FOR FAMILIES SUBJECT TO THE PROVISIONS OF THIS ARTICLE.

(2) THE NOTICE PREPARED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE SUPPLIED TO ALL SOCIAL SERVICE AND LAW ENFORCEMENT AGENCIES IN THE STATE AND SHALL BE DELIVERED TO ALL PARENTS AND FAMILIES FROM WHOM CHILDREN ARE REMOVED UNDER COURT ORDER OR BY LAW ENFORCEMENT PERSONNEL, ALONG WITH A COPY OF THE COURT ORDER DIRECTING REMOVAL OF THE CHILD OR CHILDREN FROM THE HOME. IN ADDITION TO THE NOTIFICATION ON THE COURT ORDER, THE INFORMATIONAL NOTICE SHALL CONTAIN A STATEMENT AS TO THE CAUSE OF THE

REMOVAL OF THE CHILD OR CHILDREN.

(3) THE NOTICE PREPARED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE AVAILABLE FOR PUBLIC INSPECTION AT A REVIEW AND COMMENT HEARING PRIOR TO ITS ADOPTION.

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

26-1-111. Activities of the state department under the supervision of the executive director. (2) The state department, under the supervision of the executive director, shall:

(s) PROMULGATE RULES IN ACCORDANCE WITH SECTION 19-3-211, C.R.S., FOR ESTABLISHING A CONFLICT RESOLUTION PROCESS FOR RESOLVING GRIEVANCES AGAINST THE COUNTY DEPARTMENTS CONCERNING RESPONSES TO REPORTS OF CHILD ABUSE AND NEGLECT AND THE PERFORMANCE OF DUTIES PURSUANT TO ARTICLE 3 OF TITLE 19, C.R.S. SUCH RULES SHALL TAKE INTO ACCOUNT AND ALLOW FOR ANY SUBSEQUENT LOCALLY DEVELOPED GRIEVANCE PROCEDURES THAT APPLY TO A LOCALLY RESTRUCTURED HUMAN SERVICES SYSTEM TO ENSURE CONSISTENCY WITHIN THE SYSTEM.

SECTION 3. 19-1-120 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19-1-120. Confidentiality of records - dependency and neglect. (2) Only the following persons or agencies shall be given access to child abuse or neglect records and reports:

(p) THE GOVERNING BODY AS DEFINED IN SECTION 19-3-211 (6) (e) AND THE CITIZEN REVIEW PANELS CREATED PURSUANT TO SECTION 19-3-211, FOR THE PURPOSES OF CARRYING OUT THEIR CONFLICT RESOLUTION DUTIES AS SET FORTH IN SECTION 19-3-211 AND RULES PROMULGATED BY THE STATE DEPARTMENT OF HUMAN SERVICES.

SECTION 4. 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 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, 1994