

CHAPTER 19

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 96-1019

BY REPRESENTATIVES Adkins, George, Reeser, DeGette, Mace, and Schwarz;
also SENATORS Hopper, Tanner, Wham, and Weddig.

AN ACT

CONCERNING THE RELOCATION OF DEFINITIONS AFFECTING CHILDREN.

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

SECTION 1. 19-1-103, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

19-1-103. Definitions. AS USED IN THIS TITLE OR IN THE SPECIFIED PORTION OF THIS TITLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) (a) "ABUSE" OR "CHILD ABUSE OR NEGLECT", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS AN ACT OR OMISSION IN ONE OF THE FOLLOWING CATEGORIES THAT THREATENS THE HEALTH OR WELFARE OF A CHILD:

(I) ANY CASE IN WHICH A CHILD EXHIBITS EVIDENCE OF SKIN BRUISING, BLEEDING, MALNUTRITION, FAILURE TO THRIVE, BURNS, FRACTURE OF ANY BONE, SUBDURAL HEMATOMA, SOFT TISSUE SWELLING, OR DEATH AND EITHER: SUCH CONDITION OR DEATH IS NOT JUSTIFIABLY EXPLAINED; THE HISTORY GIVEN CONCERNING SUCH CONDITION IS AT VARIANCE WITH THE DEGREE OR TYPE OF SUCH CONDITION OR DEATH; OR THE CIRCUMSTANCES INDICATE THAT SUCH CONDITION MAY NOT BE THE PRODUCT OF AN ACCIDENTAL OCCURRENCE;

(II) ANY CASE IN WHICH A CHILD IS SUBJECTED TO SEXUAL ASSAULT OR MOLESTATION, SEXUAL EXPLOITATION, OR PROSTITUTION;

(III) ANY CASE IN WHICH A CHILD IS A CHILD IN NEED OF SERVICES BECAUSE THE

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

CHILD'S PARENTS, LEGAL GUARDIAN, OR CUSTODIAN FAILS TO TAKE THE SAME ACTIONS TO PROVIDE ADEQUATE FOOD, CLOTHING, SHELTER, MEDICAL CARE, OR SUPERVISION THAT A PRUDENT PARENT WOULD TAKE. THE REQUIREMENTS OF THIS SUBPARAGRAPH (III) SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 19-3-103.

(IV) ANY ACT OR OMISSION DESCRIBED IN SECTION 19-3-102 (1) (a), (1) (b), OR (1) (c).

(b) IN ALL CASES, THOSE INVESTIGATING REPORTS OF CHILD ABUSE SHALL TAKE INTO ACCOUNT ACCEPTED CHILD-REARING PRACTICES OF THE CULTURE IN WHICH THE CHILD PARTICIPATES. NOTHING IN THIS SUBSECTION (1) SHALL REFER TO ACTS THAT COULD BE CONSTRUED TO BE A REASONABLE EXERCISE OF PARENTAL DISCIPLINE OR TO ACTS REASONABLY NECESSARY TO SUBDUE A CHILD BEING TAKEN INTO CUSTODY PURSUANT TO SECTION 19-2-201 THAT ARE PERFORMED BY A PEACE OFFICER, LEVEL I, AS DEFINED IN SECTION 18-1-901 (3) (1), C.R.S., ACTING IN THE GOOD FAITH PERFORMANCE OF THE OFFICER'S DUTIES.

(2) WITH RESPECT TO A JUVENILE WHO HAS BEEN FOUND GUILTY OF A DELINQUENT ACT AND IS A JUVENILE DELINQUENT, "ADJUDICATION", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS CONVICTION WHEN A PREVIOUS CONVICTION MUST BE PLED AND PROVED AS AN ELEMENT OF AN OFFENSE.

(3) "ADJUDICATORY HEARING" MEANS A HEARING TO DETERMINE WHETHER THE ALLEGATIONS OF A PETITION IN DEPENDENCY AND NEGLECT ARE SUPPORTED BY THE EVIDENCE.

(4) "ADJUDICATORY TRIAL" MEANS A TRIAL TO DETERMINE WHETHER THE ALLEGATIONS OF A PETITION IN DELINQUENCY ARE SUPPORTED BY THE EVIDENCE.

(5) "ADMINISTRATIVE REVIEW" MEANS A REVIEW CONDUCTED BY THE STATE DEPARTMENT OF HUMAN SERVICES THAT IS OPEN TO THE PARTICIPATION OF THE PARENTS OF THE CHILD AND CONDUCTED BY A PANEL OF APPROPRIATE PERSONS AT LEAST ONE OF WHOM IS NOT RESPONSIBLE FOR THE CASE MANAGEMENT OF, OR THE DELIVERY OF SERVICES TO, EITHER THE CHILD OR THE PARENTS WHO ARE THE SUBJECT OF THE REVIEW.

(6) "ADOPTEE", AS USED IN PART 3 OF ARTICLE 5 OF THIS TITLE, MEANS A PERSON WHO, AS A MINOR, WAS ADOPTED PURSUANT TO A FINAL DECREE OF ADOPTION ENTERED BY A COURT.

(7) "ADOPTIVE PARENT", AS USED IN PARTS 3 AND 4 OF ARTICLE 5 OF THIS TITLE, MEANS AN ADULT WHO HAS BECOME A PARENT OF A MINOR THROUGH THE LEGAL PROCESS OF ADOPTION.

(8) (a) "ADULT" MEANS A PERSON EIGHTEEN YEARS OF AGE OR OLDER; EXCEPT THAT ANY PERSON EIGHTEEN YEARS OF AGE OR OLDER WHO IS UNDER THE CONTINUING JURISDICTION OF THE COURT, WHO IS BEFORE THE COURT FOR AN ALLEGED DELINQUENT ACT COMMITTED PRIOR TO THE PERSON'S EIGHTEENTH BIRTHDAY, OR CONCERNING WHOM A PETITION HAS BEEN FILED FOR THE PERSON'S ADOPTION OTHER THAN UNDER THIS TITLE SHALL BE REFERRED TO AS A JUVENILE.

(b) "ADULT", AS USED IN PART 3 OF ARTICLE 5 OF THIS TITLE, MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER.

(9) "ADULT ADOPTEE", AS USED IN PART 4 OF ARTICLE 5 OF THIS TITLE, MEANS AN INDIVIDUAL WHO IS TWENTY-ONE YEARS OF AGE OR OLDER AND WHO, AS A MINOR, WAS ADOPTED PURSUANT TO A FINAL DECREE OF ADOPTION ENTERED BY A COURT.

(10) "APPROPRIATE TREATMENT PLAN", AS USED IN SECTION 19-3-508 (1) (e), MEANS A TREATMENT PLAN APPROVED BY THE COURT THAT IS REASONABLY CALCULATED TO RENDER THE PARTICULAR RESPONDENT FIT TO PROVIDE ADEQUATE PARENTING TO THE CHILD WITHIN A REASONABLE TIME AND THAT RELATES TO THE CHILD'S NEEDS.

(11) "ASSESSMENT INSTRUMENT" MEANS AN OBJECTIVE TOOL USED TO COLLECT PERTINENT INFORMATION REGARDING A JUVENILE TAKEN INTO TEMPORARY CUSTODY IN ORDER TO DETERMINE THE APPROPRIATE LEVEL OF SECURITY, SUPERVISION, AND SERVICES PENDING ADJUDICATION.

(12) "BASIC IDENTIFICATION INFORMATION", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS THE NAME, BIRTH DATE, LAST-KNOWN ADDRESS, PHYSICAL DESCRIPTION, SEX, AND FINGERPRINTS OF ANY PERSON.

(13) "BIOLOGICAL PARENT", AS USED IN PART 3 OF ARTICLE 5 OF THIS TITLE, MEANS A PARENT, BY BIRTH, OF AN ADOPTED PERSON.

(14) "BIOLOGICAL SIBLING", AS USED IN PART 3 OF ARTICLE 5 OF THIS TITLE, MEANS A SIBLING, BY BIRTH, OF AN ADOPTED PERSON.

(15) "BIRTH PARENTS", AS USED IN PART 4 OF ARTICLE 5 OF THIS TITLE, MEANS GENETIC, BIOLOGICAL, OR NATURAL PARENTS WHOSE RIGHTS WERE VOLUNTARILY OR INVOLUNTARILY TERMINATED BY A COURT OR OTHERWISE. "BIRTH PARENTS" INCLUDES A MAN WHO IS THE PARENT OF A CHILD AS ESTABLISHED IN ACCORDANCE WITH THE PROVISIONS OF THE "UNIFORM PARENTAGE ACT", ARTICLE 4 OF THIS TITLE, PRIOR TO THE TERMINATION OF PARENTAL RIGHTS.

(16) "BOARD", AS USED IN ARTICLE 3.5 OF THIS TITLE, MEANS THE COLORADO CHILDREN'S TRUST FUND BOARD CREATED IN SECTION 19-3.5-104.

(17) "CHIEF JUSTICE", AS USED IN PART 3 OF ARTICLE 5 OF THIS TITLE, MEANS THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT.

(18) "CHILD" MEANS A PERSON UNDER EIGHTEEN YEARS OF AGE.

(19) "CHILD ABUSE", AS USED IN ARTICLE 3.5 OF THIS TITLE, MEANS ANY ACT THAT REASONABLY MAY BE CONSTRUED TO FALL UNDER THE DEFINITION OF ABUSE OR CHILD ABUSE OR NEGLECT IN SUBSECTION (1) OF THIS SECTION.

(20) "CHILD CARE CENTER" MEANS A CHILD CARE CENTER LICENSED AND APPROVED PURSUANT TO ARTICLE 6 OF TITLE 26, C.R.S. IF SUCH FACILITY IS LOCATED IN ANOTHER STATE, IT SHALL BE DESIGNATED BY THE DEPARTMENT OF HUMAN SERVICES UPON CERTIFICATION THAT NO APPROPRIATE AVAILABLE SPACE EXISTS IN

A CHILD CARE FACILITY IN THIS STATE AND SHALL BE LICENSED OR APPROVED AS REQUIRED BY LAW IN THAT STATE.

(21) "CHILD PLACEMENT AGENCY" MEANS AN AGENCY LICENSED OR APPROVED PURSUANT TO LAW. IF SUCH AGENCY IS LOCATED IN ANOTHER STATE, IT SHALL BE LICENSED OR APPROVED AS REQUIRED BY LAW IN THAT STATE.

(22) "CHILD PROTECTION TEAM", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS A MULTIDISCIPLINARY TEAM CONSISTING, WHERE POSSIBLE, OF A PHYSICIAN, A REPRESENTATIVE OF THE JUVENILE COURT OR THE DISTRICT COURT WITH JUVENILE JURISDICTION, A REPRESENTATIVE OF A LOCAL LAW ENFORCEMENT AGENCY, A REPRESENTATIVE OF THE COUNTY DEPARTMENT, A REPRESENTATIVE OF A MENTAL HEALTH CLINIC, A REPRESENTATIVE OF A PUBLIC HEALTH DEPARTMENT, AN ATTORNEY, A REPRESENTATIVE OF A PUBLIC SCHOOL DISTRICT, AND ONE OR MORE REPRESENTATIVES OF THE LAY COMMUNITY, AT LEAST ONE OF WHOM SHALL BE A PERSON WHO SERVES AS A FOSTER PARENT IN THE COUNTY. EACH PUBLIC AGENCY MAY HAVE MORE THAN ONE PARTICIPATING MEMBER ON THE TEAM; EXCEPT THAT, IN VOTING ON PROCEDURAL OR POLICY MATTERS, EACH PUBLIC AGENCY SHALL HAVE ONLY ONE VOTE. IN NO EVENT SHALL AN ATTORNEY MEMBER OF THE CHILD PROTECTION TEAM BE APPOINTED AS GUARDIAN AD LITEM FOR THE CHILD OR AS COUNSEL FOR THE PARENTS AT ANY SUBSEQUENT COURT PROCEEDINGS, NOR SHALL THE CHILD PROTECTION TEAM BE COMPOSED OF FEWER THAN THREE PERSONS. WHEN ANY RACIAL, ETHNIC, OR LINGUISTIC MINORITY GROUP CONSTITUTES A SIGNIFICANT PORTION OF THE POPULATION OF THE JURISDICTION OF THE CHILD PROTECTION TEAM, A MEMBER OF EACH SUCH MINORITY GROUP SHALL SERVE AS AN ADDITIONAL LAY MEMBER OF THE CHILD PROTECTION TEAM. AT LEAST ONE OF THE PRECEDING MEMBERS OF THE TEAM SHALL BE CHOSEN ON THE BASIS OF REPRESENTING LOW-INCOME FAMILIES. THE ROLE OF THE CHILD PROTECTION TEAM SHALL BE ADVISORY ONLY.

(23) "CITIZEN REVIEW PANEL", AS USED IN SECTION 19-3-211, 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.

(24) "COMMIT", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS TO TRANSFER LEGAL CUSTODY.

(25) "COMPLAINANT", AS USED IN SECTION 19-3-211, MEANS THE PERSON BRINGING A GRIEVANCE AGAINST A COUNTY DEPARTMENT.

(26) "CONFIDENTIAL INTERMEDIARY", AS USED IN PART 3 OF ARTICLE 5 OF THIS TITLE, MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO HAS COMPLETED A TRAINING PROGRAM FOR CONFIDENTIAL INTERMEDIARIES THAT MEETS THE STANDARDS SET FORTH BY THE COMMISSION PURSUANT TO SECTION 19-5-303 AND WHO IS AUTHORIZED TO INSPECT CONFIDENTIAL RELINQUISHMENT AND ADOPTION RECORDS AT THE REQUEST OF AN ADULT ADOPTEE, ADOPTIVE PARENT, BIOLOGICAL PARENT, OR BIOLOGICAL SIBLING.

(27) "CONFIRMED", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS ANY REPORT MADE PURSUANT TO ARTICLE 3 OF THIS TITLE THAT IS SUPPORTED BY A

PREPONDERANCE OF THE EVIDENCE.

(28) "CONSENT", AS USED IN PART 3 OF ARTICLE 5 OF THIS TITLE, MEANS VOLUNTARY, INFORMED, WRITTEN CONSENT. "CONSENT" ALWAYS SHALL BE PRECEDED BY AN EXPLANATION THAT CONSENT PERMITS THE CONFIDENTIAL INTERMEDIARY TO ARRANGE A PERSONAL CONTACT AMONG BIOLOGICAL RELATIVES.

(29) "CONTINUOUSLY AVAILABLE", AS USED IN SECTION 19-3-308 (4), MEANS THE ASSIGNMENT OF A PERSON TO BE NEAR AN OPERABLE TELEPHONE NOT NECESSARILY LOCATED IN THE PREMISES ORDINARILY USED FOR BUSINESS BY THE COUNTY DEPARTMENT OR TO HAVE SUCH ARRANGEMENTS MADE THROUGH AGREEMENTS WITH LOCAL LAW ENFORCEMENT AGENCIES.

(30) "COST OF CARE", AS USED IN SECTION 19-2-705.5, MEANS THE COST TO THE DEPARTMENT OR THE COUNTY CHARGED WITH THE CUSTODY OF THE JUVENILE FOR PROVIDING ROOM, BOARD, CLOTHING, EDUCATION, MEDICAL CARE, AND OTHER NORMAL LIVING EXPENSES TO A JUVENILE SENTENCED TO A PLACEMENT OUT OF THE HOME, AS DETERMINED BY THE COURT.

(31) "COUNSEL" MEANS AN ATTORNEY-AT-LAW WHO ACTS AS A PERSON'S LEGAL ADVISOR OR WHO REPRESENTS A PERSON IN COURT.

(32) (a) "COUNTY DEPARTMENT", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS THE COUNTY OR DISTRICT DEPARTMENT OF SOCIAL SERVICES.

(b) "COUNTY DEPARTMENT", AS USED IN SECTION 19-3-211, MEANS A COUNTY OR A CITY AND COUNTY DEPARTMENT OF SOCIAL SERVICES.

(33) "COUNTY DIRECTOR", AS USED IN SECTION 19-3-211 AND PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS THE COUNTY DIRECTOR OR DISTRICT DIRECTOR APPOINTED PURSUANT TO SECTION 26-1-117, C.R.S.

(34) "COURT", AS USED IN PART 3 OF ARTICLE 5 OF THIS TITLE, MEANS ANY COURT OF RECORD WITH JURISDICTION OVER THE MATTER AT ISSUE.

(35) "CUSTODIAN" MEANS A PERSON WHO HAS BEEN PROVIDING SHELTER, FOOD, CLOTHING, AND OTHER CARE FOR A CHILD IN THE SAME FASHION AS A PARENT WOULD, WHETHER OR NOT BY ORDER OF COURT.

(36) "DELINQUENT ACT", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS A VIOLATION OF ANY STATUTE, ORDINANCE, OR ORDER ENUMERATED IN SECTION 19-2-102 (1) (a). IF A JUVENILE IS ALLEGED TO HAVE COMMITTED OR IS FOUND GUILTY OF A DELINQUENT ACT, THE CLASSIFICATION AND DEGREE OF THE OFFENSE SHALL BE DETERMINED BY THE STATUTE, ORDINANCE, OR ORDER THAT THE PETITION ALLEGES WAS VIOLATED.

(37) "DEPARTMENT", AS USED IN PART 4 OF ARTICLE 5 OF THIS TITLE, MEANS THE DEPARTMENT OF HUMAN SERVICES.

(38) "DEPRIVATION OF CUSTODY" MEANS THE TRANSFER OF LEGAL CUSTODY BY THE COURT FROM A PARENT OR A PREVIOUS LEGAL CUSTODIAN TO ANOTHER PERSON,

AGENCY, OR INSTITUTION.

(39) "DESIGNATED ADOPTION" MEANS AN ADOPTION IN WHICH:

(a) THE BIRTH PARENT OR PARENTS DESIGNATE A SPECIFIC APPLICANT WITH WHOM THEY WISH TO PLACE THEIR CHILD FOR PURPOSES OF ADOPTION; AND

(b) THE ANONYMITY REQUIREMENTS OF SECTION 19-1-122 ARE WAIVED.

(40) "DETENTION" MEANS THE TEMPORARY CARE OF A CHILD WHO REQUIRES SECURE CUSTODY IN PHYSICALLY RESTRICTING FACILITIES PENDING COURT DISPOSITION OR AN EXECUTION OF A COURT ORDER FOR PLACEMENT OR COMMITMENT.

(41) "DIAGNOSTIC AND EVALUATION CENTER", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS A FACILITY FOR THE EXAMINATION AND STUDY OF PERSONS COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES.

(42) "DIRECTOR", AS USED IN SECTION 19-2-303, MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY.

(43) "DISPOSITIONAL HEARING" MEANS A HEARING TO DETERMINE WHAT ORDER OF DISPOSITION SHOULD BE MADE CONCERNING A CHILD WHO IS NEGLECTED OR DEPENDENT. SUCH HEARING MAY BE PART OF THE PROCEEDING THAT INCLUDES THE ADJUDICATORY HEARING, OR IT MAY BE HELD AT A TIME SUBSEQUENT TO THE ADJUDICATORY HEARING.

(44) "DIVERSION" MEANS A DECISION MADE BY A PERSON WITH AUTHORITY OR A DELEGATE OF THAT PERSON THAT RESULTS IN SPECIFIC OFFICIAL ACTION OF THE LEGAL SYSTEM NOT BEING TAKEN IN REGARD TO A SPECIFIC JUVENILE OR CHILD AND IN LIEU THEREOF PROVIDING INDIVIDUALLY DESIGNED SERVICES BY A SPECIFIC PROGRAM. THE GOAL OF DIVERSION IS TO PREVENT FURTHER INVOLVEMENT OF THE JUVENILE OR CHILD IN THE FORMAL LEGAL SYSTEM. DIVERSION OF A JUVENILE OR CHILD MAY TAKE PLACE EITHER AT THE PREFILING LEVEL AS AN ALTERNATIVE TO THE FILING OF A PETITION PURSUANT TO SECTION 19-2-304 OR AT THE POSTADJUDICATION LEVEL AS AN ADJUNCT TO PROBATION SERVICES FOLLOWING AN ADJUDICATORY HEARING PURSUANT TO SECTION 19-3-505 OR A DISPOSITION AS A PART OF SENTENCING PURSUANT TO SECTION 19-2-703. "SERVICES", AS USED IN THIS SUBSECTION (44), INCLUDES BUT IS NOT LIMITED TO DIAGNOSTIC NEEDS ASSESSMENT, RESTITUTION PROGRAMS, COMMUNITY SERVICE, JOB TRAINING AND PLACEMENT, SPECIALIZED TUTORING, CONSTRUCTIVE RECREATIONAL ACTIVITIES, GENERAL COUNSELING AND COUNSELING DURING A CRISIS SITUATION, AND FOLLOW-UP ACTIVITIES.

(45) AN "EMANCIPATED JUVENILE", AS USED IN SECTION 19-2-210 (2), MEANS A JUVENILE OVER FIFTEEN YEARS OF AGE AND UNDER EIGHTEEN YEARS OF AGE WHO HAS, WITH THE REAL OR APPARENT ASSENT OF THE JUVENILE'S PARENTS, DEMONSTRATED INDEPENDENCE FROM THE JUVENILE'S PARENTS IN MATTERS OF CARE, CUSTODY, AND EARNINGS. THE TERM MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, ANY SUCH JUVENILE WHO HAS THE SOLE RESPONSIBILITY FOR THE JUVENILE'S OWN SUPPORT, WHO IS MARRIED, OR WHO IS IN THE MILITARY.

(46) "EMANCIPATED MINOR", AS USED IN SECTIONS 19-1-114 AND 19-2-306, HAS

THE SAME MEANING AS SET FORTH IN SECTION 13-21-107.5, C.R.S.

(47) "ESTATE", AS USED IN SECTION 19-2-705.5, MEANS ANY TANGIBLE OR INTANGIBLE PROPERTIES, REAL OR PERSONAL, BELONGING TO OR DUE TO A PERSON, INCLUDING INCOME OR PAYMENTS TO SUCH PERSON FROM PREVIOUSLY EARNED SALARY OR WAGES, BONUSES, ANNUITIES, PENSIONS, OR RETIREMENT BENEFITS, OR ANY SOURCE WHATSOEVER EXCEPT FEDERAL BENEFITS OF ANY KIND.

(48) "EXPUNGEMENT", AS USED IN SECTION 19-2-902, MEANS THE DESIGNATION OF RECORDS WHEREBY SUCH RECORDS ARE DEEMED NEVER TO HAVE EXISTED. UPON THE ENTRY OF AN EXPUNGEMENT ORDER, THE PERSON, AGENCY, AND COURT MAY PROPERLY INDICATE THAT NO RECORD EXISTS.

(49) "FAMILY CARE HOME" MEANS A FAMILY CARE HOME LICENSED AND APPROVED PURSUANT TO ARTICLE 6 OF TITLE 26, C.R.S. IF SUCH FACILITY IS LOCATED IN ANOTHER STATE, IT SHALL BE DESIGNATED BY THE DEPARTMENT OF HUMAN SERVICES UPON CERTIFICATION THAT NO APPROPRIATE AVAILABLE SPACE EXISTS IN A FACILITY IN THIS STATE AND SHALL BE LICENSED OR APPROVED AS REQUIRED BY LAW IN THAT STATE.

(50) "FAMILY DEVELOPMENT SPECIALIST", AS USED IN SECTION 19-2-705.6, HAS THE SAME MEANING AS SET FORTH IN SECTION 26-5.5-104 (4) (b), C.R.S.

(51) "FIRE INVESTIGATOR" MEANS A PERSON WHO:

(a) IS AN OFFICER OR MEMBER OF A FIRE DEPARTMENT, FIRE PROTECTION DISTRICT, OR FIRE FIGHTING AGENCY OF THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS;

(b) IS ENGAGED IN CONDUCTING OR IS PRESENT FOR THE PURPOSE OF ENGAGING IN THE CONDUCT OF A FIRE INVESTIGATION; AND

(c) IS EITHER A VOLUNTEER OR IS COMPENSATED FOR SERVICES RENDERED BY THE PERSON.

(52) "GANG", AS USED IN SECTIONS 19-2-204 (4) (e) AND 19-2-1111 (2) (d), MEANS A GROUP OF THREE OR MORE INDIVIDUALS WITH A COMMON INTEREST, BOND, OR ACTIVITY, CHARACTERIZED BY CRIMINAL OR DELINQUENT CONDUCT, ENGAGED IN EITHER COLLECTIVELY OR INDIVIDUALLY.

(53) "GOOD FAITH MISTAKE", AS USED IN SECTION 19-2-209, MEANS A REASONABLE ERROR OF JUDGMENT CONCERNING THE EXISTENCE OF FACTS OR LAW THAT, IF TRUE, WOULD BE SUFFICIENT TO CONSTITUTE PROBABLE CAUSE.

(54) "GOVERNING BODY", AS USED IN SECTION 19-3-211, MEANS THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY OR THE CITY COUNCIL OF A CITY AND COUNTY.

(55) "GOVERNMENTAL UNIT", AS USED IN SECTION 19-2-303, MEANS ANY COUNTY, CITY AND COUNTY, CITY, TOWN, JUDICIAL DISTRICT ATTORNEY OFFICE, OR SCHOOL DISTRICT.

(56) (a) "GRANDPARENT" MEANS A PERSON WHO IS THE PARENT OF A CHILD'S

FATHER OR MOTHER, WHO IS RELATED TO THE CHILD BY BLOOD, IN WHOLE OR BY HALF, ADOPTION, OR MARRIAGE.

(b) "GRANDPARENT", AS USED IN SECTIONS 19-1-117 AND 19-1-117.5, HAS THE SAME MEANING AS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (56); EXCEPT THAT "GRANDPARENT" DOES NOT INCLUDE THE PARENT OF A CHILD'S LEGAL FATHER OR MOTHER WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED IN ACCORDANCE WITH SECTIONS 19-5-101 AND 19-1-104 (1) (d).

(57) "GRIEVANCE", AS USED IN SECTION 19-3-211, 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 ARTICLE 3 OF THIS TITLE.

(58) "GROUP CARE FACILITIES AND HOMES" MEANS PLACES OTHER THAN FOSTER FAMILY CARE HOMES PROVIDING CARE FOR SMALL GROUPS OF CHILDREN THAT ARE LICENSED AS PROVIDED IN ARTICLE 6 OF TITLE 26, C.R.S., OR MEET THE REQUIREMENTS OF SECTION 27-10.5-109, C.R.S.

(59) "GUARDIAN AD LITEM" MEANS A PERSON APPOINTED BY A COURT TO ACT IN THE BEST INTERESTS OF A PERSON WHOM THE PERSON APPOINTED IS REPRESENTING IN PROCEEDINGS UNDER THIS TITLE AND WHO, IF APPOINTED TO REPRESENT A PERSON IN A DEPENDENCY AND NEGLECT PROCEEDING UNDER ARTICLE 3 OF THIS TITLE, SHALL BE AN ATTORNEY-AT-LAW LICENSED TO PRACTICE IN COLORADO.

(60) "GUARDIANSHIP OF THE PERSON" MEANS THE DUTY AND AUTHORITY VESTED BY COURT ACTION TO MAKE MAJOR DECISIONS AFFECTING A CHILD, INCLUDING, BUT NOT LIMITED TO:

(a) THE AUTHORITY TO CONSENT TO MARRIAGE, TO ENLISTMENT IN THE ARMED FORCES, AND TO MEDICAL OR SURGICAL TREATMENT;

(b) THE AUTHORITY TO REPRESENT A CHILD IN LEGAL ACTIONS AND TO MAKE OTHER DECISIONS OF SUBSTANTIAL LEGAL SIGNIFICANCE CONCERNING THE CHILD;

(c) THE AUTHORITY TO CONSENT TO THE ADOPTION OF A CHILD WHEN THE PARENT-CHILD LEGAL RELATIONSHIP HAS BEEN TERMINATED BY JUDICIAL DECREE; AND

(d) THE RIGHTS AND RESPONSIBILITIES OF LEGAL CUSTODY WHEN LEGAL CUSTODY HAS NOT BEEN VESTED IN ANOTHER PERSON, AGENCY, OR INSTITUTION.

(61) "HABITUAL JUVENILE OFFENDER", AS USED IN SECTION 19-2-805, MEANS A JUVENILE OFFENDER WHO HAS PREVIOUSLY BEEN TWICE ADJUDICATED A JUVENILE DELINQUENT FOR SEPARATE DELINQUENT ACTS, ARISING OUT OF SEPARATE AND DISTINCT CRIMINAL EPISODES, THAT CONSTITUTE FELONIES.

(62) "HALFWAY HOUSE", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS A GROUP CARE FACILITY FOR JUVENILES WHO HAVE BEEN PLACED ON PROBATION OR PAROLE UNDER THE TERMS OF THIS TITLE.

(63) "IDENTIFYING" MEANS GIVING, SHARING, OR OBTAINING INFORMATION.

(64) "IMMINENT PLACEMENT OUT OF THE HOME", AS USED IN SECTION 19-1-116 (2), MEANS THAT WITHOUT INTERCESSION THE CHILD WILL BE PLACED OUT OF THE HOME IMMEDIATELY.

(65) "INDEPENDENT LIVING" MEANS A FORM OF PLACEMENT OUT OF THE HOME ARRANGED AND SUPERVISED BY THE COUNTY DEPARTMENT OF SOCIAL SERVICES WHEREIN THE CHILD IS ESTABLISHED IN A LIVING SITUATION DESIGNED TO PROMOTE AND LEAD TO THE CHILD'S EMANCIPATION. INDEPENDENT LIVING SHALL ONLY FOLLOW SOME OTHER FORM OF PLACEMENT OUT OF THE HOME.

(66) "INSTITUTIONAL ABUSE", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS ANY CASE OF ABUSE, AS DEFINED IN SUBSECTION (1) OF THIS SECTION, THAT OCCURS IN ANY PUBLIC OR PRIVATE FACILITY IN THE STATE THAT PROVIDES CHILD CARE OUT OF THE HOME, SUPERVISION, OR MAINTENANCE. "FACILITY" INCLUDES, BUT IS NOT LIMITED TO, ANY FACILITY SUBJECT TO THE COLORADO "CHILD CARE ACT" AND THAT IS DESCRIBED IN SECTION 26-6-102, C.R.S. "INSTITUTIONAL ABUSE" SHALL NOT INCLUDE ABUSE THAT OCCURS IN ANY PUBLIC, PRIVATE, OR PAROCHIAL SCHOOL SYSTEM, INCLUDING ANY PRESCHOOL OPERATED IN CONNECTION WITH SAID SYSTEM; EXCEPT THAT, TO THE EXTENT THE SCHOOL SYSTEM PROVIDES EXTENDED DAY SERVICES, ABUSE THAT OCCURS WHILE SUCH SERVICES ARE PROVIDED SHALL BE INSTITUTIONAL ABUSE.

(67) "INTRAFAMILIAL ABUSE", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS ANY CASE OF ABUSE, AS DEFINED IN SUBSECTION (1) OF THIS SECTION, THAT OCCURS WITHIN A FAMILY CONTEXT BY A CHILD'S PARENT, STEPPARENT, GUARDIAN, LEGAL CUSTODIAN, OR RELATIVE, BY A SPOUSAL EQUIVALENT, AS DEFINED IN SUBSECTION (101) OF THIS SECTION, OR BY ANY OTHER PERSON WHO RESIDES IN THE CHILD'S HOME OR WHO IS REGULARLY IN THE CHILD'S HOME FOR THE PURPOSE OF EXERCISING AUTHORITY OVER OR CARE FOR THE CHILD; EXCEPT THAT "INTRAFAMILIAL ABUSE" SHALL NOT INCLUDE ABUSE BY A PERSON WHO IS REGULARLY IN THE CHILD'S HOME FOR THE PURPOSE OF RENDERING CARE FOR THE CHILD IF SUCH PERSON IS PAID FOR RENDERING CARE AND IS NOT RELATED TO THE CHILD.

(68) "JUVENILE", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS A CHILD AS DEFINED IN SUBSECTION (18) OF THIS SECTION.

(69) "JUVENILE COMMUNITY REVIEW BOARD", AS USED IN PART 13 OF ARTICLE 2 OF THIS TITLE, MEANS ANY BOARD APPOINTED BY A BOARD OF COUNTY COMMISSIONERS FOR THE PURPOSE OF REVIEWING COMMUNITY PLACEMENTS UNDER PART 13 OF ARTICLE 2 OF THIS TITLE. THE BOARD, IF PRACTICABLE, SHALL INCLUDE BUT NOT BE LIMITED TO A REPRESENTATIVE FROM A COUNTY DEPARTMENT OF SOCIAL SERVICES, A LOCAL SCHOOL DISTRICT, A LOCAL LAW ENFORCEMENT AGENCY, A LOCAL PROBATION DEPARTMENT, A LOCAL BAR ASSOCIATION, THE DIVISION OF YOUTH SERVICES, AND PRIVATE CITIZENS.

(70) "JUVENILE COURT" OR "COURT" MEANS THE JUVENILE COURT OF THE CITY AND COUNTY OF DENVER OR THE JUVENILE DIVISION OF THE DISTRICT COURT OUTSIDE OF THE CITY AND COUNTY OF DENVER.

(71) "JUVENILE DELINQUENT", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS A JUVENILE WHO HAS BEEN FOUND GUILTY OF A DELINQUENT ACT.

(72) "LAW ENFORCEMENT OFFICER" MEANS A PEACE OFFICER, AS DEFINED IN SECTION 18-1-901 (3) (I) (I), (3) (I) (II), AND (3) (I) (III), C.R.S.

(73) (a) "LEGAL CUSTODY" MEANS THE RIGHT TO THE CARE, CUSTODY, AND CONTROL OF A CHILD AND THE DUTY TO PROVIDE FOOD, CLOTHING, SHELTER, ORDINARY MEDICAL CARE, EDUCATION, AND DISCIPLINE FOR A CHILD AND, IN AN EMERGENCY, TO AUTHORIZE SURGERY OR OTHER EXTRAORDINARY CARE. "LEGAL CUSTODY" MAY BE TAKEN FROM A PARENT ONLY BY COURT ACTION.

(b) FOR PURPOSES OF DETERMINING THE RESIDENCE OF A CHILD AS PROVIDED IN SECTION 22-1-102 (2) (b), C.R.S., GUARDIANSHIP SHALL BE IN THE PERSON TO WHOM LEGAL CUSTODY HAS BEEN GRANTED BY THE COURT.

(74) "LOCAL LAW ENFORCEMENT AGENCY", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS A POLICE DEPARTMENT IN INCORPORATED MUNICIPALITIES OR THE OFFICE OF THE COUNTY SHERIFF.

(75) "LOCATING" MEANS ENGAGING IN THE PROCESS OF SEARCHING FOR OR SEEKING OUT.

(76) "MENTAL HEALTH PRESCREENING" MEANS A FACE-TO-FACE MENTAL HEALTH EXAMINATION, CONDUCTED BY A MENTAL HEALTH PROFESSIONAL, TO DETERMINE WHETHER A CHILD SHOULD BE PLACED IN A FACILITY FOR EVALUATION PURSUANT TO SECTION 27-10-105 OR 27-10-106, C.R.S., AND MAY INCLUDE CONSULTATION WITH OTHER MENTAL HEALTH PROFESSIONALS AND REVIEW OF ALL AVAILABLE RECORDS ON THE CHILD.

(77) "MENTAL HEALTH PROFESSIONAL" MEANS A PERSON LICENSED TO PRACTICE MEDICINE OR PSYCHOLOGY IN THIS STATE OR ANY PERSON ON THE STAFF OF A FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES FOR SEVENTY-TWO-HOUR TREATMENT AND EVALUATION AUTHORIZED BY THE FACILITY TO DO MENTAL HEALTH PRESCREENINGS AND UNDER THE SUPERVISION OF A PERSON LICENSED TO PRACTICE MEDICINE OR PSYCHOLOGY IN THIS STATE.

(78) "NEGLECT", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS ACTS THAT CAN REASONABLY BE CONSTRUED TO FALL UNDER THE DEFINITION OF CHILD ABUSE OR NEGLECT AS DEFINED IN SUBSECTION (1) OF THIS SECTION.

(79) "NONGOVERNMENTAL AGENCY", AS USED IN SECTION 19-2-303, MEANS ANY PERSON, PRIVATE NONPROFIT AGENCY, CORPORATION, ASSOCIATION, OR OTHER NONGOVERNMENTAL AGENCY.

(80) "NONIDENTIFYING INFORMATION", AS USED IN PART 4 OF ARTICLE 5 OF THIS TITLE, MEANS INFORMATION THAT DOES NOT DISCLOSE THE NAME, ADDRESS, PLACE OF EMPLOYMENT, OR ANY OTHER MATERIAL INFORMATION THAT WOULD LEAD TO THE IDENTIFICATION OF THE BIRTH PARENTS AND THAT INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

- (a) THE PHYSICAL DESCRIPTION OF THE BIRTH PARENTS;
- (b) THE EDUCATIONAL BACKGROUND OF THE BIRTH PARENTS;
- (c) THE OCCUPATION OF THE BIRTH PARENTS;
- (d) GENETIC INFORMATION ABOUT THE BIRTH FAMILY;
- (e) MEDICAL INFORMATION ABOUT THE ADULT ADOPTEE'S BIRTH;
- (f) SOCIAL INFORMATION ABOUT THE BIRTH PARENTS;
- (g) THE PLACEMENT HISTORY OF THE ADOPTEE.

(81) "NONPUBLIC AGENCY INTERSTATE AND FOREIGN ADOPTION", AS USED IN SECTION 19-5-205.5, MEANS AN INTERSTATE OR FOREIGN ADOPTION THAT IS HANDLED BY A PRIVATE, LICENSED CHILD PLACEMENT AGENCY.

(82) (a) "PARENT" MEANS EITHER A NATURAL PARENT OF A CHILD, AS MAY BE ESTABLISHED PURSUANT TO ARTICLE 4 OF THIS TITLE, OR A PARENT BY ADOPTION.

(b) "PARENT", AS USED IN SECTIONS 19-1-114, 19-2-306, AND 19-2-307, INCLUDES A NATURAL PARENT HAVING SOLE OR JOINT CUSTODY, REGARDLESS OF WHETHER THE PARENT IS DESIGNATED AS THE PRIMARY RESIDENTIAL CUSTODIAN, OR AN ADOPTIVE PARENT. FOR THE PURPOSES OF SECTION 19-1-114, "PARENT" DOES NOT INCLUDE A PERSON WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED PURSUANT TO THE PROVISIONS OF THIS TITLE OR THE PARENT OF AN EMANCIPATED MINOR.

(83) "PEACE OFFICER", AS USED IN SECTION 19-2-209, HAS THE SAME MEANING AS SET FORTH IN SECTION 18-1-901 (3) (1), C.R.S.

(84) "PHYSICAL CUSTODIAN", AS USED IN SECTION 19-2-210, MEANS A GUARDIAN, WHETHER OR NOT APPOINTED BY COURT ORDER, WITH WHOM THE JUVENILE HAS RESIDED FOR MORE THAN SIX MONTHS, EXCLUDING AN INDIVIDUAL PROVIDING FOSTER OR INSTITUTIONAL CARE.

(85) "PLACEMENT OUT OF THE HOME" MEANS PLACEMENT FOR TWENTY-FOUR-HOUR RESIDENTIAL CARE IN ANY FACILITY OR CENTER OPERATED OR LICENSED BY THE DEPARTMENT OF HUMAN SERVICES, BUT THE TERM DOES NOT INCLUDE ANY PLACEMENT THAT IS PAID FOR TOTALLY BY PRIVATE MONEYS OR ANY PLACEMENT IN A HOME FOR THE PURPOSES OF ADOPTION IN ACCORDANCE WITH SECTION 19-5-205. "PLACEMENT OUT OF THE HOME" MAY BE VOLUNTARY OR COURT-ORDERED. "PLACEMENT OUT OF THE HOME" INCLUDES INDEPENDENT LIVING.

(86) "PREVENTION PROGRAM", AS USED IN ARTICLE 3.5 OF THIS TITLE, MEANS A PROGRAM OF DIRECT CHILD ABUSE PREVENTION SERVICES TO A CHILD, PARENT, OR GUARDIAN AND INCLUDES RESEARCH OR EDUCATION PROGRAMS RELATED TO THE PREVENTION OF CHILD ABUSE. SUCH A PREVENTION PROGRAM MAY BE CLASSIFIED AS A PRIMARY PREVENTION PROGRAM WHEN IT IS AVAILABLE TO THE COMMUNITY ON A VOLUNTARY BASIS AND AS A SECONDARY PREVENTION PROGRAM WHEN IT IS DIRECTED TOWARD GROUPS OF INDIVIDUALS WHO HAVE BEEN IDENTIFIED AS HIGH RISK.

(87) "PROTECTIVE SUPERVISION" MEANS A LEGAL STATUS CREATED BY COURT ORDER UNDER WHICH THE CHILD IS PERMITTED TO REMAIN IN THE CHILD'S HOME OR IS PLACED WITH A RELATIVE OR OTHER SUITABLE PERSON AND SUPERVISION AND ASSISTANCE IS PROVIDED BY THE COURT, DEPARTMENT OF HUMAN SERVICES, OR OTHER AGENCY DESIGNATED BY THE COURT.

(88) "PUBLIC EMPLOYEE", AS USED IN THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S., DOES NOT INCLUDE ANY JUVENILE ORDERED TO PARTICIPATE IN A WORK OR COMMUNITY SERVICE PROGRAM UNDER SECTION 19-2-706.

(89) "REASONABLE EFFORTS", AS USED IN ARTICLE 3 OF THIS TITLE, 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 THAT 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. SERVICES PROVIDED BY A COUNTY OR CITY AND COUNTY IN ACCORDANCE WITH SECTION 19-3-208 ARE DEEMED TO MEET THE REASONABLE EFFORT STANDARD DESCRIBED IN THIS SUBSECTION (89). NOTHING IN THIS SUBSECTION (89) SHALL BE CONSTRUED TO CONFLICT WITH FEDERAL LAW.

(90) "RECEIVING CENTER", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS A FACILITY USED TO PROVIDE TEMPORARY DETENTION AND CARE FOR JUVENILES BY THE DEPARTMENT OF HUMAN SERVICES PENDING PLACEMENT IN A TRAINING SCHOOL, CAMP, OR OTHER FACILITY.

(91) "RECIPIENT", AS USED IN ARTICLE 3.5 OF THIS TITLE, MEANS AND IS LIMITED TO A NONPROFIT OR PUBLIC ORGANIZATION THAT RECEIVES A GRANT FROM THE TRUST FUND CREATED IN SECTION 19-3.5-106.

(92) "RESIDENTIAL COMMUNITY PLACEMENT", AS USED IN PART 13 OF ARTICLE 2 OF THIS TITLE, MEANS ANY PLACEMENT FOR RESIDENTIAL PURPOSES PERMITTED UNDER THIS TITLE EXCEPT IN AN INSTITUTIONAL FACILITY DIRECTLY OPERATED BY, OR A SECURE FACILITY UNDER CONTRACT WITH, THE DEPARTMENT OF HUMAN SERVICES AND EXCEPT WHILE A CHILD IS UNDER THE JURISDICTION OF THE JUVENILE PAROLE BOARD.

(93) "RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES", AS USED IN ARTICLE 3 OF THIS TITLE, 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 PARENTING TIME UNLESS RESTRICTED BY THE COURT, AND THE RIGHT TO DETERMINE THE CHILD'S RELIGIOUS AFFILIATION.

(94) "RESPONSIBLE PERSON", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS A CHILD'S PARENT, LEGAL GUARDIAN, OR CUSTODIAN OR ANY OTHER PERSON RESPONSIBLE FOR THE CHILD'S HEALTH AND WELFARE.

(95) "SENTENCING HEARING", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS A HEARING TO DETERMINE WHAT SENTENCE SHALL BE IMPOSED ON A JUVENILE DELINQUENT OR WHAT OTHER ORDER OF DISPOSITION SHALL BE MADE CONCERNING A JUVENILE DELINQUENT. SUCH HEARING MAY BE PART OF THE PROCEEDING THAT INCLUDES THE ADJUDICATORY TRIAL, OR IT MAY BE HELD AT A TIME SUBSEQUENT TO THE ADJUDICATORY TRIAL.

(96) "SERVICES", AS USED IN SECTION 19-2-303, MAY INCLUDE, BUT IS NOT LIMITED TO, PROVISION OF DIAGNOSTIC NEEDS ASSESSMENT, GENERAL COUNSELING AND COUNSELING DURING A CRISIS SITUATION, SPECIALIZED TUTORING, JOB TRAINING AND PLACEMENT, RESTITUTION PROGRAMS, COMMUNITY SERVICE, CONSTRUCTIVE RECREATIONAL ACTIVITIES, AND FOLLOW-UP ACTIVITIES.

(97) "SEXUAL CONDUCT", AS USED IN SECTION 19-3-304 (2.5), MEANS ANY OF THE FOLLOWING:

(a) SEXUAL INTERCOURSE, INCLUDING GENITAL-GENITAL, ORAL-GENITAL, ANAL-GENITAL, OR ORAL-ANAL, WHETHER BETWEEN PERSONS OF THE SAME OR OPPOSITE SEX OR BETWEEN HUMANS AND ANIMALS;

(b) PENETRATION OF THE VAGINA OR RECTUM BY ANY OBJECT;

(c) MASTURBATION;

(d) SEXUAL SADOMASOCHISTIC ABUSE.

(98) "SHELTER" MEANS THE TEMPORARY CARE OF A CHILD IN PHYSICALLY UNRESTRICTING FACILITIES PENDING COURT DISPOSITION OR EXECUTION OF A COURT ORDER FOR PLACEMENT.

(99) "SPECIAL COUNTY ATTORNEY", AS USED IN ARTICLE 3 OF THIS TITLE, 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.

(100) "SPECIAL RESPONDENT", AS USED IN ARTICLE 3 OF THIS TITLE, 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.

(101) "SPOUSAL EQUIVALENT" MEANS A PERSON WHO IS IN A FAMILY-TYPE LIVING ARRANGEMENT WITH A PARENT AND WHO WOULD BE A STEPPARENT IF MARRIED TO THAT PARENT.

(102) "STATE BOARD", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS THE STATE BOARD OF HUMAN SERVICES.

(103) "STATE DEPARTMENT", AS USED IN SECTION 19-3-211 AND PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS THE DEPARTMENT OF HUMAN SERVICES CREATED BY SECTION 24-1-120, C.R.S.

(104) "STEPARENT" MEANS A PERSON WHO IS MARRIED TO A PARENT OF A CHILD BUT WHO HAS NOT ADOPTED THE CHILD.

(105) "TECHNICAL VIOLATION", AS USED IN SECTION 19-2-209, MEANS A REASONABLE, GOOD FAITH RELIANCE UPON A STATUTE THAT IS LATER RULED UNCONSTITUTIONAL, A WARRANT THAT IS LATER INVALIDATED DUE TO A GOOD FAITH MISTAKE, OR A COURT PRECEDENT THAT IS LATER OVERRULED.

(106) "TEMPORARY HOLDING FACILITY" MEANS AN AREA USED FOR THE TEMPORARY HOLDING OF A CHILD FROM THE TIME THAT THE CHILD IS TAKEN INTO TEMPORARY CUSTODY UNTIL A DETENTION HEARING IS HELD, IF IT HAS BEEN DETERMINED THAT THE CHILD REQUIRES A STAFF-SECURE OR PHYSICALLY SECURE SETTING. SUCH AN AREA MUST BE SEPARATED BY SIGHT AND SOUND FROM ANY AREA THAT HOUSES ADULT OFFENDERS.

(107) "TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP", AS USED IN ARTICLE 3 OF THIS TITLE, 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.

(108) "THIRD-PARTY ABUSE", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS A CASE IN WHICH A CHILD IS SUBJECTED TO ABUSE, AS DEFINED IN SUBSECTION (1) OF THIS SECTION, BY ANY PERSON WHO IS NOT A PARENT, STEPPARENT, GUARDIAN, LEGAL CUSTODIAN, SPOUSAL EQUIVALENT, AS DEFINED IN SUBSECTION (101) OF THIS SECTION, OR ANY OTHER PERSON NOT INCLUDED IN THE DEFINITION OF INTRAFAMILIAL ABUSE, AS DEFINED IN SUBSECTION (67) OF THIS SECTION.

(109) "TRAINING SCHOOL", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS AN INSTITUTION PROVIDING CARE, EDUCATION, TREATMENT, AND REHABILITATION FOR JUVENILES IN A CLOSED SETTING AND INCLUDES A REGIONAL CENTER ESTABLISHED IN PART 3 OF ARTICLE 10.5 OF TITLE 27, C.R.S.

(110) "TRUST FUND", AS USED IN ARTICLE 3.5 OF THIS TITLE, MEANS THE COLORADO CHILDREN'S TRUST FUND CREATED IN SECTION 19-3.5-106.

(111) "UNFOUNDED REPORT", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS ANY REPORT MADE PURSUANT TO ARTICLE 3 OF THIS TITLE THAT IS NOT SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE.

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

19-1-103.5. Other definitions. (1) FOR THE DEFINITION OF PARENT AND CHILD RELATIONSHIP, SEE SECTION 14-15-102, C.R.S.

(2) FOR FATHER DEFINED, SEE SECTION 14-15-124, C.R.S.

SECTION 3. 19-1-116 (2) (b) (I), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-1-116. Funding - alternatives to placement out of the home - pilot project.

(2) (b) (I) On or before July 1, 1994, the commission, if established, shall annually prepare a plan for the provision of services. The primary goals under the plan shall be to prevent imminent placement of children out of the home and to reunite children who have been placed out of the home with their families. ~~For the purposes of this subsection (2), "imminent placement out of the home" means that without intercession the child will be placed out of the home immediately.~~ The plan shall be prepared using all available sources of information in the community, including public hearings. The plan shall specify the nature of the expenditures to be made and shall identify the services which are intended to prevent or minimize placement out of the home and to what extent. The plan shall contain, whenever practicable, a vocational component to provide assistance to older children concerning a transition into the work force upon completion of school. Upon approval of the plan by the county commissioners, the counties shall submit the plan to the department of human services.

SECTION 4. 19-2-210 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-210. Statements. (2) Notwithstanding the provisions of subsection (1) of this section, statements or admissions of a juvenile shall not be inadmissible in evidence by reason of the absence of a parent, guardian, or legal or physical custodian if the juvenile is eighteen years of age or older at the time of the interrogation, if the juvenile is emancipated from the parent, guardian, or legal or physical custodian, or if the juvenile is a runaway from a state other than Colorado and is of sufficient age and understanding. ~~For the purposes of this subsection (2) only, an "emancipated juvenile" means a juvenile over fifteen years of age and under eighteen years of age who has, with the real or apparent assent of his parents, demonstrated his independence from his parents in matters of care, custody, and earnings. The term may include, but shall not be limited to, any such juvenile who has the sole responsibility for his own support, who is married, or who is in the military.~~

SECTION 5. 19-2-306 (2.5) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-306. Summons - issuance - contents - service. (2.5) (a) The court may, when the court determines that it is in the best interests of the child, join the child's parent or guardian and the person with whom the child resides, if other than the child's parent or guardian, as a respondent to the action and may issue a summons requiring the parent or guardian and the person with whom the child resides, if other than the child's parent or guardian, to appear with the child at all proceedings under this article involving the child. If the parent or guardian of any child cannot be found, the court, in its discretion, may proceed with the case without the presence of such parent or guardian. ~~For the purposes of this section and section 19-2-307, "parent" includes a natural parent who has sole or joint custody, regardless of whether the parent is designated as the primary residential custodian, or an adoptive parent. This subsection (2.5) shall not apply to any person whose parental rights have been terminated pursuant to the provisions of this title or the parent of an emancipated minor. For the purposes of this section, "emancipated minor" shall have the same meaning as set forth in section 13-21-107.5, C.R.S.~~

SECTION 6. 19-2-703 (4) (c) (II), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-703. Juvenile delinquent - sentencing - disposition - restitution - parental liability. (4) (c) (II) The court may order the juvenile's parent to make restitution pursuant to the terms and conditions set forth in this subparagraph (II); except that the liability of the juvenile's parent under this subparagraph (II) shall not exceed the amount of five thousand dollars for any one delinquent act. If the court finds, after a hearing, that the juvenile's parent has made diligent, good faith efforts to prevent or discourage the juvenile from engaging in delinquent activity, the court shall absolve the parent of liability for restitution under this subparagraph (II). ~~As used in this subparagraph (II), "parent" has the same meaning as in section 19-1-103 (21).~~

SECTION 7. 19-2-805 (1) (a) (V), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-805. Direct filing - repeal. (1) (a) A juvenile may be charged by the direct filing of an information in the district court or by indictment only when:

(V) The juvenile is fourteen years of age or older, has allegedly committed a delinquent act that constitutes a felony, and is determined to be a habitual juvenile offender. ~~For purposes of this section, a "habitual juvenile offender" is a juvenile offender who has previously been twice adjudicated a juvenile delinquent for separate delinquent acts, arising out of separate and distinct criminal episodes, that constitute felonies.~~

SECTION 8. 19-3-304 (2.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-3-304. Persons required to report child abuse or neglect. (2.5) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative, or slide depicting a child engaged in an act of sexual conduct shall report such fact to a local law enforcement agency immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative, or slide attached within thirty-six hours of receiving the information concerning the incident. ~~For purposes of this subsection (2.5) only, "sexual conduct" means any of the following:~~

~~(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals;~~

~~(b) Penetration of the vagina or rectum by any object;~~

~~(c) Masturbation;~~

~~(d) Sexual sadomasochistic abuse.~~

SECTION 9. 19-3-308 (4) (a), 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. (4) (a) The county department, except as provided in subsections (5) and (5.3) of this section, shall be the agency responsible for the coordination of all investigations of all reports of known or suspected incidents of intrafamilial abuse or neglect. The county department shall arrange for such investigations to be conducted by persons trained to conduct either the complete investigation or such parts thereof as may be assigned. The county department shall conduct the investigation in conjunction with the local law enforcement agency, to the extent a joint investigation is possible and deemed appropriate, and any other appropriate agency. The county department may arrange for the initial investigation to be conducted by another agency with personnel having appropriate training and skill. The county department shall provide for persons to be continuously available to respond to such reports. Contiguous counties may cooperate to fulfill the requirements of this subsection (4). ~~As used in this subsection (4), "continuously available" means the assignment of a person to be near an operable telephone not necessarily located in the premises ordinarily used for business by the county department or to have such arrangements made through agreements with local law enforcement agencies.~~ The county department or other agency authorized to conduct the investigation pursuant to this subsection (4), for the purpose of such investigation, shall have access to the state central registry of child protection for information under the name of the child or the suspected perpetrator.

SECTION 10. 19-5-205.5 (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-5-205.5. Nonpublic agency interstate and foreign adoptions - legislative declaration - authority for department to select agencies. (4) ~~For purposes of this section, "nonpublic agency interstate and foreign adoption" means an interstate or foreign adoption that is handled by a private, licensed child placement agency.~~ All interstate and foreign adoptions in Colorado made by the court, the county departments of social services, or licensed child placement agencies shall be pursuant to section 19-5-206 (1).

SECTION 11. Repeal. 19-1-114 (6), 19-1-117.6, 19-2-101, 19-2-204 (4) (e) (II), 19-2-209 (2), 19-2-210 (4), 19-2-303 (3), 19-2-705.5 (6) (a) and (6) (b) (I), 19-2-705.6 (4) (b), 19-2-706 (8), 19-2-902 (1), 19-2-1111 (2) (d) (II), 19-2-1302, 19-3-101, 19-3-211 (6), 19-3-303, 19-3-508 (1) (e) (II), 19-3.5-103, 19-5-302, and 19-5-401, Colorado Revised Statutes, 1986 Repl. Vol., as amended, are repealed.

SECTION 12. Effective date. This act shall take effect upon passage; except that section 2 of this act shall take effect July 1, 1996.

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: March 20, 1996