

CHAPTER 137

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 00-1108

BY REPRESENTATIVES Ragsdale, Coleman, Bacon, Gagliardi, Gordon, Gotlieb, Keller, Lawrence, Mace, Morrison, Stengel, Takis, Tapia, Tochtrop, Vigil, Webster, Williams, S. Windels, and Zimmerman;
also SENATORS Evans and Weddig.

AN ACT

CONCERNING PLACEMENT DECISIONS INVOLVING CHILDREN WHO ARE SIBLINGS.

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

SECTION 1. 19-1-103 (14) and (32) (a), Colorado Revised Statutes, are amended, and the said 19-1-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-1-103. Definitions. As used in this title or in the specified portion of this title, unless the context otherwise requires:

(14) "Biological sibling", as used in part 3 of article 5 of this title, means a sibling, by birth, of an adopted person. "BIOLOGICAL SIBLING", AS USED IN ARTICLE 3 AND ARTICLE 5 OF THIS TITLE, FOR PURPOSES OF THE DEFINITION OF SIBLING GROUP, AS DEFINED IN SUBSECTION (98.5) OF THIS SECTION, MEANS A BROTHER, SISTER, OR HALF-SIBLING OF A CHILD WHO IS BEING PLACED IN FOSTER CARE OR BEING PLACED FOR ADOPTION.

(32) (a) "County department", as used in this article and PART 2, part 3, AND PART 7 of article 3 of this title AND PART 2 OF ARTICLE 5 OF THIS TITLE, means the county or district department of social services.

(98.5) "SIBLING GROUP", AS USED IN ARTICLE 3 AND ARTICLE 5 OF THIS TITLE, MEANS BIOLOGICAL SIBLINGS WHO HAVE BEEN RAISED TOGETHER OR HAVE LIVED TOGETHER.

SECTION 2. Part 5 of article 3 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

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

19-3-500.2. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IT IS BENEFICIAL FOR A CHILD WHO IS REMOVED FROM HIS OR HER HOME AND PLACED IN FOSTER CARE TO BE ABLE TO CONTINUE RELATIONSHIPS WITH HIS OR HER BROTHERS AND SISTERS, REGARDLESS OF AGE, IN ORDER THAT THE SIBLINGS MAY SHARE THEIR STRENGTHS AND ASSOCIATION IN THEIR EVERYDAY AND OFTEN COMMON EXPERIENCES. THE GENERAL ASSEMBLY ALSO FINDS THAT THE INITIAL DECISIONS ABOUT TEMPORARY PLACEMENT OF A CHILD MAY AFFECT THE ULTIMATE PERMANENT PLACEMENT OF THE CHILD OR OF THE CHILDREN IN A SIBLING GROUP.

(b) WHEN PARENTS AND OTHER ADULT RELATIVES ARE NO LONGER AVAILABLE TO A CHILD, THE CHILD'S SIBLINGS CONSTITUTE HIS OR HER BIOLOGICAL FAMILY.

(c) WHEN PLACING CHILDREN IN FOSTER CARE, EFFORTS SHOULD BE MADE TO PLACE SIBLINGS TOGETHER, UNLESS THERE IS A DANGER OF SPECIFIC HARM TO A CHILD OR IT IS NOT IN THE CHILD'S OR CHILDREN'S BEST INTERESTS TO BE PLACED TOGETHER.

(2) THE GENERAL ASSEMBLY ALSO DECLARES THAT NOTHING IN THIS ARTICLE REGARDING THE PLACEMENT OF SIBLING GROUPS TOGETHER SHOULD BE CONSTRUED AS REQUIRING THE REMOVAL OF A CHILD FROM HIS OR HER HOME AND PLACEMENT INTO FOSTER CARE IF THAT IS NOT IN THE BEST INTERESTS OF THE CHILD.

SECTION 3. 19-3-213 (1), Colorado Revised Statutes, is amended to read:

19-3-213. Placement criteria. (1) In any case in which the county department recommends placement out of the home for a child or in which a child is in out-of-home placement, the court, the guardian ad litem, the county department, any CASA volunteer, and other parties shall consider the best interests of the child and shall comply with the following placement criteria:

(a) Prior to the change of placement of a child, the county department shall, to the extent possible, notify the guardian ad litem, any CASA volunteer, and other parties. If the guardian ad litem or other party disagrees with the change of placement, he or she may seek an emergency hearing concerning the appropriate placement for a child. In an emergency, the county department may proceed to make the change of placement prior to any requested hearing.

(b) Except in exceptional circumstances, no child shall remain in an emergency, short-term, or shelter facility for more than sixty days, nor shall a child be moved from one such facility to another, unless all reasonable efforts to return the child to the child's home or to place the child in a more permanent setting have been exhausted.

(c) (I) IF THE CHILD IS PART OF A SIBLING GROUP, AS DEFINED IN SECTION 19-1-103 (98.5), AND THE SIBLING GROUP IS BEING PLACED IN FOSTER CARE, THE COUNTY DEPARTMENT SHALL MAKE THOROUGH EFFORTS TO LOCATE A JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP.

(II) CONSIDERATION OF THE PLACEMENT OF CHILDREN TOGETHER AS A SIBLING

GROUP IN FOSTER CARE SHALL NOT BE CONSTRUED AS REQUIRING THE REMOVAL OF A CHILD FROM HIS OR HER HOME AND PLACEMENT INTO FOSTER CARE IF THAT IS NOT IN THE BEST INTERESTS OF THE CHILD.

(III) IN ANY PROCEEDING UNDER THIS ARTICLE INVOLVING A SIBLING GROUP, THE JUDGE SHALL REVIEW THE FAMILY SERVICES PLAN DOCUMENT REGARDING PLACEMENT OF SIBLINGS.

SECTION 4. 19-3-507 (1) (b) and (4), Colorado Revised Statutes, are amended to read:

19-3-507. Dispositional hearing. (1) (b) Prior to any dispositional hearing, the caseworker of the department of human services assigned to the case shall submit to the court a statement ~~which~~ THAT details the services ~~which~~ THAT 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~~ THAT, 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. IF THE CHILD IS PART OF A SIBLING GROUP, AS DEFINED IN SECTION 19-1-103 (98.5), AND THE CHILD WAS NOT PLACED WITH HIS OR HER SIBLINGS, THE CASEWORKER SHALL SUBMIT TO THE COURT A STATEMENT ABOUT WHETHER IT CONTINUES TO BE IN THE BEST INTERESTS OF THE CHILD OR THE CHILDREN IN THE SIBLING GROUP TO BE PLACED SEPARATELY.

(4) In any case in which the disposition is placement out of the home, except for children committed to the department of human services, the court shall, at the time of placement, set a review within ninety days, to determine whether continued placement is necessary and in the best interests of the child and the community and whether reasonable efforts have been made to return the child to the home OR IN THE CASE OF A SIBLING GROUP WHETHER IT IS IN THE BEST INTERESTS OF THE CHILDREN IN THE SIBLING GROUP TO BE PLACED TOGETHER. THE JUDGE SHALL REVIEW THE FAMILY SERVICES PLAN DOCUMENT REGARDING PLACEMENT OF SIBLINGS. Notice of said review shall be given by the court to all parties and to the director of the facility or agency in which the child is placed and any person who has physical custody of the child and any attorney or guardian ad litem of record. The review shall be conducted in accordance with section 19-3-701 (6).

SECTION 5. 19-3-702, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-3-702. Permanency hearing. (2.7) CONSIDERATION OF THE PLACEMENT OF CHILDREN TOGETHER AS A SIBLING GROUP SHALL NOT DELAY THE EFFORTS FOR EXPEDITED PERMANENCY PLANNING OR PERMANENCY PLANNING IN ORDER TO ACHIEVE PERMANENCY FOR EACH CHILD IN THE SIBLING GROUP.

SECTION 6. 19-5-200.2, Colorado Revised Statutes, is amended to read:

19-5-200.2. Legislative declaration. (1) Notwithstanding any other provisions of this title to the contrary, it is the intent of the general assembly that the court shall

protect and promote the best interests of the children who are the subjects of proceedings held pursuant to this part 2 while giving due regard to the interests of any other individuals affected.

(2) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IT IS BENEFICIAL FOR A CHILD PLACED FOR ADOPTION TO BE ABLE TO CONTINUE RELATIONSHIPS WITH HIS OR HER BROTHERS AND SISTERS, REGARDLESS OF AGE, IN ORDER THAT THE SIBLINGS MAY SHARE THEIR STRENGTHS AND ASSOCIATION IN THEIR EVERYDAY AND OFTEN COMMON EXPERIENCES.

(b) WHEN PARENTS AND OTHER ADULT RELATIVES ARE NO LONGER AVAILABLE TO A CHILD, THE CHILD'S SIBLINGS CONSTITUTE HIS OR HER BIOLOGICAL FAMILY.

(c) WHEN PLACING CHILDREN IN ADOPTIVE PLACEMENTS, EFFORTS SHOULD BE MADE TO PLACE SIBLINGS TOGETHER, UNLESS THERE IS A DANGER OF SPECIFIC HARM TO A CHILD OR IT IS NOT IN THE CHILD'S OR CHILDREN'S BEST INTERESTS TO BE PLACED TOGETHER.

SECTION 7. Part 2 of article 5 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

19-5-207.3. Placement of sibling groups. (1) WHEN A CHILD IS PLACED FOR ADOPTION BY THE COUNTY DEPARTMENT, IF THE CHILD IS PART OF A SIBLING GROUP, AS DEFINED IN SECTION 19-1-103 (98.5), THE COUNTY DEPARTMENT SHALL INCLUDE IN THE ADOPTION REPORT PREPARED FOR THE COURT, THE NAMES AND CURRENT PHYSICAL CUSTODY AND LOCATION OF ANY SIBLINGS OF THE CHILD WHO ARE ALSO AVAILABLE FOR ADOPTION; EXCEPT THAT THE NAMES OF CHILDREN, PARENTS, CARETAKERS, AND ADOPTIVE PARENTS AND ANY MEANS OF IDENTIFYING SUCH PERSONS SHALL NOT BE MADE AVAILABLE TO ANY PARTY TO THE ADOPTION PROCEEDING EXCEPT UPON ORDER OF THE COURT OR AS OTHERWISE PERMITTED BY LAW.

(2) IF THE CHILD IS PART OF A SIBLING GROUP, THE COUNTY DEPARTMENT SHALL MAKE THOROUGH EFFORTS TO LOCATE A JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP THAT ARE AVAILABLE FOR ADOPTION.

(3) IF THE CHILD IS PART OF A SIBLING GROUP, AS DEFINED IN SECTION 19-1-103 (98.5), AND IS BEING PLACED FOR ADOPTION BY A CHILD PLACEMENT AGENCY IN EITHER A CIRCUMSTANCE INVOLVING SIBLINGS THAT ARE THE RESULT OF A MULTIPLE BIRTH OR A CIRCUMSTANCE IN WHICH A PARENT HAS RELINQUISHED PARENTAL RIGHTS TO THE CHILDREN TO A CHILD PLACEMENT AGENCY, THE CHILD PLACEMENT AGENCY SHALL MAKE THOROUGH EFFORTS TO LOCATE A JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP THAT ARE AVAILABLE FOR ADOPTION. IF AN ENTIRE SIBLING GROUP IS NOT PLACED TOGETHER IN AN ADOPTIVE PLACEMENT, THE CHILD PLACEMENT AGENCY SHALL PLACE AS MANY SIBLINGS OF THE GROUP TOGETHER AS POSSIBLE, CONSIDERING THEIR RELATIONSHIP AND THE BEST INTERESTS OF EACH CHILD.

(4) CONSIDERATION OF THE PLACEMENT OF CHILDREN TOGETHER AS A SIBLING GROUP SHALL NOT DELAY THE EFFORTS FOR EXPEDITED PERMANENCY PLANNING OR

PERMANENCY PLANNING IN ORDER TO ACHIEVE PERMANENCY FOR EACH CHILD IN THE SIBLING GROUP.

SECTION 8. 19-5-210 (2), Colorado Revised Statutes, is amended, and the said 19-5-210 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-5-210. Hearing on petition - visitation among siblings placed apart. (2) In stepparent, custodial, or kinship adoptions, the court shall hold a hearing on the petition as soon as possible. In all other adoptions, the court shall hold a hearing on the petition no sooner than six months after the date of the placement, unless for good cause shown that time is extended or shortened by the court. At the hearing held on the petition, the court shall enter a decree setting forth its findings and grant to the petitioner a final decree of adoption if it is satisfied as to:

(a) The availability of the child for adoption;

(b) The good moral character, the ability to support and educate the child, and the suitability of the home of the person adopting such child;

(b.5) The criminal records check of the prospective adoptive parent as reported to the court by the county department of social services or the child placement agency pursuant to section 19-5-207 (2.5) or the information provided to the court pursuant to section 19-5-208 (5) does not reveal a criminal history described in 19-5-207 (2.5) (a);

(c) The mental and physical condition of the child as a proper subject for adoption in said home; ~~and~~

(d) The fact that the best interests of the child will be served by the adoption; AND

(e) IF THE CHILD IS PART OF A SIBLING GROUP, WHETHER IT IS IN THE BEST INTERESTS OF THE CHILD TO REMAIN IN AN INTACT SIBLING GROUP. THE JUDGE SHALL REVIEW THE FAMILY SERVICES PLAN DOCUMENT REGARDING PLACEMENT OF SIBLINGS.

(7) IN CASES INVOLVING THE ADOPTION OF A CHILD WHO IS PART OF A SIBLING GROUP, BUT WHO IS NOT BEING ADOPTED WITH HIS OR HER SIBLINGS, IN ADDITION TO ISSUING A FINAL DECREE OF ADOPTION, IF THE ADOPTIVE PARENTS ARE WILLING, THE COURT MAY ENCOURAGE REASONABLE VISITATION AMONG THE SIBLINGS WHEN VISITATION IS IN THE BEST INTERESTS OF THE CHILD OR THE CHILDREN. THE COURT SHALL REVIEW THE RECORD AND INQUIRE AS TO WHETHER THE ADOPTIVE PARENTS HAVE RECEIVED COUNSELING REGARDING CHILDREN IN SIBLING GROUPS MAINTAINING OR DEVELOPING TIES WITH EACH OTHER.

SECTION 9. Part 2 of article 3 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

19-3-215. Foster care - capacity may be exceeded for sibling groups. THE STATE BOARD OF HUMAN SERVICES SHALL PROMULGATE RULES THAT ALLOW FOSTER CARE HOMES TO EXCEED CAPACITY FOR THE NUMBER OF CHILDREN AND FOR SQUARE FOOTAGE REQUIREMENTS IN ORDER TO ACCOMMODATE THE JOINT PLACEMENT OF

SIBLING GROUPS IN A SINGLE FOSTER CARE HOME.

SECTION 10. Effective date - applicability. This act shall take effect July 1, 2000, and shall apply to foster care placements made on or after said date and to adoptive placements made on or after said date.

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: April 28, 2000