

CHAPTER 409

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 03-314

BY SENATOR(S) Johnson S., and Andrews;
 also REPRESENTATIVE(S) Clapp, Butcher, Carroll, Fritz, Garcia, Hefley, Hodge, Hoppe, May M., Rhodes, Rose, Schultheis,
 Smith, Spence, Stafford, and Williams S.

AN ACT**CONCERNING THE PLACEMENT OF CHILDREN WHO ARE PART OF A SIBLING GROUP.**

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

SECTION 1. 19-3-213 (1) (c) (I), 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:

(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. IF THE COUNTY DEPARTMENT LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, IT SHALL BE PRESUMED THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN.

SECTION 2. 19-3-402 (2), Colorado Revised Statutes, is amended to read:

19-3-402. Duty of officer - notification - release or detention. (2) (a) The child shall then be released to the care of his OR HER parents or other responsible adult, unless it is in the child's best interests and necessary for the child's welfare to

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

be placed out of the child's home. In the event the child is placed out of the child's home, if in the best interests of the child, preference may be given to placing the child with the child's grandparent who is appropriate, capable, willing, and available to care for the child. The court may make reasonable orders as conditions of said release and may provide that any violation of such orders shall subject the child or the child's parent, guardian, or legal custodian to contempt sanctions of the court. The parent or other person to whom the child is released may be required to sign a written promise, on forms supplied by the court, to bring the child to the court at a time set or to be set by the court.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBSECTION (2) TO THE CONTRARY, WHEN THE CHILD IS PART OF A SIBLING GROUP AND THE SIBLING GROUP IS BEING PLACED OUT OF THE HOME, IF THE COUNTY DEPARTMENT LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, IT SHALL BE PRESUMED THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN.

SECTION 3. 19-3-403 (3.6), Colorado Revised Statutes, is amended to read:

19-3-403. Temporary custody - hearing - time limits - restriction.

(3.6) (a) 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 shall advise the parents of the child that the child may be placed with the child's grandparent, aunt, uncle, brother, or sister if in the court's opinion such placement is appropriate and in the child's best interests. The court shall order the parents to provide, within fifteen days after the hearing, the names, addresses, and telephone numbers, if known, of any relatives. The court may order a county department of social services to make reasonable and timely efforts to contact such identified relatives within ninety days after the hearing about placement possibilities for the child unless the court determines there is good cause not to notify or good cause to delay the notification of such relatives. The court may consider and give preference to giving temporary custody to the child's grandparent or such other relative who is appropriate, capable, willing, and available for care if in the best interests of the child and if the court finds that there is no suitable birth or adoptive parent available, with due diligence having been exercised in attempting to locate any such birth 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 interests, or the court may enter such other orders as are appropriate. If the court enters an order removing a child from the home or continuing a child in a placement out of the home, the court shall make the findings required pursuant to section 19-1-115 (6), if such findings are warranted by the evidence.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (3.6) TO THE CONTRARY, WHEN THE CHILD IS PART OF A SIBLING GROUP AND THE

SIBLING GROUP IS BEING PLACED OUT OF THE HOME, IF THE COUNTY DEPARTMENT LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, THE COURT SHALL PRESUME THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN.

SECTION 4. 19-3-500.2 (1) (c), Colorado Revised Statutes, is amended to read:

19-3-500.2. Legislative declaration. (1) The general assembly hereby finds and declares that:

(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. THE GENERAL ASSEMBLY FURTHER FINDS THAT IF THE COUNTY DEPARTMENT LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, THERE SHOULD BE A REBUTTABLE PRESUMPTION THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION SHOULD BE REBUTTABLE BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN.

SECTION 5. 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 that details the services 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 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. IF THE CASEWORKER LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, IT SHALL BE PRESUMED THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN.

(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. IF THE COUNTY DEPARTMENT LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, IT SHALL BE PRESUMED THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN. 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 6. 19-3-508 (1) (c) and (5) (b), Colorado Revised Statutes, are amended to read:

19-3-508. Neglected or dependent child - disposition - concurrent planning.

(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 proposed disposition is termination of the parent-child legal relationship, the hearing on termination shall not be held on the same date as the adjudication, and the time limits set forth above for dispositional hearings shall not apply. When the proposed disposition is termination of the parent-child legal relationship, the court may continue the dispositional hearing to the earliest available date for hearing in accordance with the provisions of part 6 of this article. When the decree does not terminate the parent-child legal relationship, the court shall approve an appropriate treatment plan that shall include but not be limited to one or more of the following provisions of paragraphs (a) to (d) of this subsection (1):

(c) The court may place legal custody in the county department of social services or a child placement agency for placement in a foster care home or other child care facility. WHEN THE CHILD IS PART OF A SIBLING GROUP AND THE SIBLING GROUP IS BEING PLACED OUT OF THE HOME, IF THE COUNTY DEPARTMENT LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, IT SHALL BE PRESUMED THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE

EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN.

(5) (b) (I) If the court finds that placement out of the home is necessary and is in the best interests of the child and the community, the court shall place the child with a relative, including the child's grandparent, as provided in paragraph (b) of subsection (1) of this section, if such placement is in the child's best interests. The court shall place the child in the facility or setting that most appropriately meets the needs of the child, the family, and the community. In making its decision as to proper placement, the court shall utilize the evaluation for placement prepared pursuant to section 19-1-107. If the court deviates from the recommendations of the evaluation for placement in a manner that results in a difference in the cost of the disposition ordered by the court and the cost of the disposition recommended in the evaluation, the court shall make specific findings of fact relating to its decision, including the monthly cost of the placement, if ordered. A copy of such findings shall be sent to the chief justice of the supreme court, who shall report annually to the joint budget committee and annually to the health, environment, welfare, and institutions committees of the house of representatives and senate of the general assembly on such orders.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) TO THE CONTRARY, WHEN THE CHILD IS PART OF A SIBLING GROUP AND THE SIBLING GROUP IS BEING PLACED OUT OF THE HOME, IF THE COUNTY DEPARTMENT LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, IT SHALL BE PRESUMED THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN.

SECTION 7. 19-3-605, Colorado Revised Statutes, is amended to read:

19-3-605. Request for placement with family members. (1) Following an order of termination of the parent-child legal relationship, the court shall consider, but shall not be bound by, a request that guardianship and legal custody of the child be placed in a grandparent, aunt, uncle, brother, or sister of the child. When ordering guardianship of the person and legal custody of the child, the court shall give preference to a grandparent, aunt, uncle, brother, or sister of the child when such relative has made a request therefor and the court determines that such placement is in the best interests of the child. Such request must be submitted to the court prior to commencement of the hearing on the petition seeking termination of the parent-child legal relationship. Nothing in this section shall be construed to require the child placement agency with physical custody of the child to notify said relatives described in this section of the pending termination of parental rights.

(2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION TO THE CONTRARY, WHEN THE CHILD IS PART OF A SIBLING GROUP AND THE SIBLING GROUP IS BEING PLACED OUT OF THE HOME, IF THE COUNTY DEPARTMENT LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, THE COURT SHALL PRESUME THAT PLACEMENT OF

THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN.

SECTION 8. 19-5-104 (2), Colorado Revised Statutes, is amended to read:

19-5-104. Final order of relinquishment. (2) (a) The court shall consider, but shall not be bound by, a request that custody of the child, with the option of applying for adoption, be placed in a grandparent, aunt, uncle, brother, or sister of the child or a foster parent. When ordering legal custody of the child, the court shall give preference to a grandparent, aunt, uncle, brother, or sister of the child when such relative has made a timely request therefor and the court determines that such placement is in the best interests of the child. Such request must be submitted to the court prior to commencement of the hearing on the petition for relinquishment. If such legal custody is granted, guardianship of the child shall remain with the parent, if the legal parent-child relationship has not been terminated, or the guardianship shall be transferred pursuant to subsection (1) of this section. Nothing in this section shall be construed to require the birth parents or the child placement agency with custody of the child to notify said relatives described in this subsection (2) of the pending relinquishment of parental rights. This subsection (2) shall not apply in cases where the birth parents have designated an adoptive family for the child or the birth parents have designated that legal custody of the child shall not be in a person described in this subsection (2) and where the child has not been in legal custody of a relative requesting guardianship or custody as described in this section or the child has not been in the physical custody of such relative for more than six months.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBSECTION (2), IN CASES IN WHICH A PARENT IS SEEKING TO RELINQUISH HIS OR HER PARENT-CHILD LEGAL RELATIONSHIP WITH MORE THAN ONE CHILD OF A SIBLING GROUP AT ONE TIME, IF THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, THE COURT SHALL PRESUME THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN.

SECTION 9. 19-5-200.2 (2) (c), Colorado Revised Statutes, is amended to read:

19-5-200.2. Legislative declaration. (2) The general assembly hereby finds and declares that:

(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. THE GENERAL ASSEMBLY FURTHER FINDS THAT IF THE COUNTY DEPARTMENT LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, THERE SHOULD BE A REBUTTABLE PRESUMPTION THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST

INTERESTS OF THE CHILDREN. SUCH PRESUMPTION SHOULD BE REBUTTABLE BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN.

SECTION 10. 19-5-207.3 (2) and (3), Colorado Revised Statutes, are amended to read:

19-5-207.3. Placement of sibling groups. (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~~ WHO are available for adoption. IF THE COUNTY DEPARTMENT LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, IT SHALL BE PRESUMED THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN.

(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~~ WHO 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~~ WHO are available for adoption. IF THE CHILD PLACEMENT AGENCY LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, IT SHALL BE PRESUMED THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN. 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.

SECTION 11. 19-5-210 (2) (e), Colorado Revised Statutes, is amended to read:

19-5-210. Hearing on petition. (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:

(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. IF THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR ALL OF THE CHILDREN IN THE SIBLING GROUP, IT SHALL BE PRESUMED THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT

IS IN THE BEST INTERESTS OF THE CHILDREN. SUCH PRESUMPTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT PLACEMENT OF THE ENTIRE SIBLING GROUP IN THE JOINT PLACEMENT IS NOT IN THE BEST INTERESTS OF A CHILD OR OF THE CHILDREN. The judge shall review the family services plan document regarding placement of siblings.

SECTION 12. 19-1-115 (1) (a), Colorado Revised Statutes, is amended to read:

19-1-115. Legal custody - guardianship - placement out of the home.

(1) (a) EXCEPT AS OTHERWISE PROVIDED BY LAW, in awarding legal custody of a child pursuant to the provisions of this title, the court may, if in the best interests of the child, give preference to the child's grandparent who is appropriate, capable, willing, and available to care for the child, 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. Any individual, agency, or institution vested by the court with legal custody of a child shall have the rights and duties defined in section 19-1-103 (73).

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 5, 2003