

CHAPTER 22

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 05-1173

BY REPRESENTATIVE(S) Harvey, Berens, Boyd, Buescher, Coleman, Crane, Decker, Frangas, Green, Jahn, Knoedler, Massey, May M., Merrifield, Penry, Rose, Schultheis, Stafford, Sullivan, and White;
also SENATOR(S) Groff.

AN ACT**CONCERNING COURT PROCEDURES INVOLVING CHILD PLACEMENT SUBSEQUENT TO TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP.**

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

SECTION 1. 19-3-605 (1), 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 TIMELY request therefor PURSUANT TO THE REQUIREMENT OF THIS SUBSECTION (1) 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~~ NO LATER THAN TWENTY DAYS AFTER THE MOTION FOR TERMINATION IS FILED PURSUANT TO SECTION 19-3-602. 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.

SECTION 2. 19-3-602 (2), Colorado Revised Statutes, is amended to read:

19-3-602. Motion for termination - separate hearing - right to counsel - no jury trial. (2) After a motion for termination of a parent-child legal relationship is filed pursuant to this part 6, the parent or parents shall be advised of the right to counsel if not already represented by counsel of record; and counsel shall be

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

appointed in accordance with the provisions of section 19-1-105. THE PARENT OR PARENTS SHALL ALSO BE ADVISED THAT A GRANDPARENT, AUNT, UNCLE, BROTHER, OR SISTER OF THE CHILD MUST FILE A REQUEST FOR GUARDIANSHIP AND LEGAL CUSTODY OF THE CHILD WITHIN TWENTY DAYS OF THE FILING OF THE MOTION. Advisement of right to counsel AND THE TIME FOR A RELATIVE TO FILE A REQUEST may be done in open court or in a writing served as provided by law for motions and notices in a proceeding under section 19-1-104 (1) (b).

SECTION 3. 19-3-602 (1.5)(a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

19-3-602. Motion for termination - separate hearing - right to counsel - no jury trial. (1.5) (a) Pursuant to the provisions of section 19-1-126, the motion for termination shall:

(1.5) INCLUDE A STATEMENT INDICATING THAT A GRANDPARENT, AUNT, UNCLE, BROTHER, OR SISTER OF THE CHILD MUST FILE A REQUEST FOR GUARDIANSHIP AND LEGAL CUSTODY OF THE CHILD WITHIN TWENTY DAYS OF THE FILING OF THE MOTION;

SECTION 4. The introductory portion to 19-5-210 (2) and 19-5-210 (5), Colorado Revised Statutes, are 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~~ THE CHILD BEGINS TO LIVE IN THE PROSPECTIVE ADOPTIVE PARENT'S HOME, 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:

(5) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (5), all hearings with reference to adoption shall be closed to the public and, in the discretion of the court, to any child who is the subject of adoption and who is under twelve years of age, but the court may interview the child whenever it deems it proper.

(b) UPON MOTION BY ANY PARTY TO AN ADOPTION OR UPON THE COURT'S OWN MOTION, THE COURT MAY ORDER THAT AN ADOPTION HEARING BE OPENED TO THE PUBLIC OR TO THE CHILD WHO IS, OR THE CHILDREN WHO ARE, THE SUBJECT OF THE ADOPTION IF THE COURT FINDS THAT OPENING THE HEARING IS IN THE BEST INTERESTS OF THE CHILD WHO IS, OR THE CHILDREN WHO ARE, THE SUBJECT OF THE ADOPTION HEARING AND THE COURT FINDS THAT THE POTENTIAL ADOPTIVE PARENTS HAVE CONSENTED TO AN OPEN HEARING.

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: March 31, 2005