CHAPTER 131

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CHILDREN AND DOMESTIC MATTERS

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HOUSE BILL 06-1071

BY REPRESENTATIVE(S) Massey, McFadyen, McGihon, Pommer, Todd, Berens, and Merrifield;
also SENATOR(S) Kester, Tapia, and Tochtrop.

AN ACT

**CONCERNING JUVENILE COURT PROCEEDINGS, AND, IN CONNECTION THEREWITH, CLARIFYING THE
ROLE AND RIGHTS OF COUNTY DEPARTMENTS OF HUMAN SERVICES.**

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

SECTION 1. 19-2-514 (5), Colorado Revised Statutes, is amended to read:

19-2-514. Summons - issuance - contents - service - repeal. (5) (a) The court
on its own motion or on the motion of any party may join as a respondent or require
the appearance of any person it deems necessary to the action and authorize the
issuance of a summons directed to such person. Any party to the action may request
the issuance of compulsory process by the court requiring the attendance of
witnesses on his or her own behalf or on behalf of the juvenile.

(b) (I) A COUNTY DEPARTMENT THAT HAS BEEN GRANTED CUSTODY OF A CHILD
MAY INTERVENE UPON REQUEST.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2007.

SECTION 2. 19-1-108 (3) (a) and (5), Colorado Revised Statutes, are amended
to read:

19-1-108. Magistrates - qualifications - duties - repeal. (3) (a) (I) Magistrates
shall conduct hearings in the manner provided for the hearing of cases by the court.
During the initial advisement of the rights of any party, the magistrate shall inform
the party, INCLUDING A COUNTY DEPARTMENT IF IT IS THE CUSTODIAN OF THE CHILD,
that, except as provided in this subsection (3), ~~he or she~~ ANY PARTY has the right to
a hearing before the judge ~~in the first instance~~ FOR ANY HEARING and that ~~he or she~~
THE PARTY may waive that right AS TO THAT HEARING but that, by waiving that right,

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

~~he or she~~ THE PARTY is bound by the findings and recommendations of the magistrate, subject to a request for review as provided in subsection (5) of this section. The right to require a hearing before a judge shall not apply to hearings at which a child is advised of his or her rights pursuant to section 19-2-706, detention hearings held pursuant to sections 19-2-507 and 19-2-508, preliminary hearings held pursuant to section 19-2-705, and detention hearings held pursuant to section 19-3-403.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 1, 2007.

(5) (a) A ~~request~~ PETITION for review shall be filed within fifteen days for proceedings under articles 2, 4, and 6 of this title or within five days for proceedings under article 3 of this title after the parties, INCLUDING A COUNTY DEPARTMENT IF IT IS THE CUSTODIAN OF THE CHILD, have received notice of the magistrate's ruling and shall clearly set forth the grounds relied upon. ~~Such review shall be solely upon the record of the hearing before the magistrate and shall be reviewable upon the grounds set forth in rule 59 of the Colorado rules of civil procedure.~~ A PETITION FOR REVIEW SHALL STATE WITH PARTICULARITY THE ALLEGED ERRORS IN THE MAGISTRATE'S ORDER OR JUDGMENT AND MAY BE ACCOMPANIED BY A MEMO BRIEF DISCUSSING THE AUTHORITIES RELIED UPON TO SUPPORT THE PETITION. THE COURT MAY ALSO CONDUCT SUCH FURTHER PROCEEDINGS AS THE COURT BELIEVES APPROPRIATE. A petition for review shall be a prerequisite before an appeal may be filed with the Colorado court of appeals or Colorado supreme court. The judge may, on his or her own motion, remand a case to another magistrate after action is taken on a petition for review.

(b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2007.

SECTION 3. 19-1-108 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19-1-108. Magistrates - qualifications - duties. (3) (a.5) MAGISTRATES SHALL CONDUCT HEARINGS IN THE MANNER PROVIDED FOR THE HEARING OF CASES BY THE COURT. DURING THE INITIAL ADVISEMENT OF THE RIGHTS OF ANY PARTY, THE MAGISTRATE SHALL INFORM THE PARTY THAT, EXCEPT AS PROVIDED IN THIS SUBSECTION (3), HE OR SHE HAS THE RIGHT TO A HEARING BEFORE THE JUDGE IN THE FIRST INSTANCE AND THAT HE OR SHE MAY WAIVE THAT RIGHT BUT THAT, BY WAIVING THAT RIGHT, HE OR SHE IS BOUND BY THE FINDINGS AND RECOMMENDATIONS OF THE MAGISTRATE, SUBJECT TO A REQUEST FOR REVIEW AS PROVIDED IN SUBSECTION (5) OF THIS SECTION. THE RIGHT TO REQUIRE A HEARING BEFORE A JUDGE SHALL NOT APPLY TO HEARINGS AT WHICH A CHILD IS ADVISED OF HIS OR HER RIGHTS PURSUANT TO SECTION 19-2-706, DETENTION HEARINGS HELD PURSUANT TO SECTIONS 19-2-507 AND 19-2-508, PRELIMINARY HEARINGS HELD PURSUANT TO SECTION 19-2-705, AND TEMPORARY CUSTODY HEARINGS HELD PURSUANT TO SECTION 19-3-403.

SECTION 4. 19-1-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-1-108. Magistrates - qualifications - duties. (5.5) A REQUEST FOR REVIEW SHALL BE FILED WITHIN FIFTEEN DAYS FOR PROCEEDINGS UNDER ARTICLES 2, 4, AND

6 OF THIS TITLE OR WITHIN FIVE DAYS FOR PROCEEDINGS UNDER ARTICLE 3 OF THIS TITLE AFTER THE PARTIES HAVE RECEIVED NOTICE OF THE MAGISTRATE'S RULING AND SHALL CLEARLY SET FORTH THE GROUNDS RELIED UPON. SUCH REVIEW SHALL BE SOLELY UPON THE RECORD OF THE HEARING BEFORE THE MAGISTRATE AND SHALL BE REVIEWABLE UPON THE GROUNDS SET FORTH IN RULE 59 OF THE COLORADO RULES OF CIVIL PROCEDURE. A PETITION FOR REVIEW SHALL BE A PREREQUISITE BEFORE AN APPEAL MAY BE FILED WITH THE COLORADO COURT OF APPEALS OR COLORADO SUPREME COURT. THE JUDGE MAY, ON HIS OR HER OWN MOTION, REMAND A CASE TO ANOTHER MAGISTRATE AFTER ACTION IS TAKEN ON A PETITION FOR REVIEW.

SECTION 5. Effective date. Sections 1, 2, 5 and 6 of this act shall take effect upon passage and sections 3 and 4 of this act shall take effect on July 1, 2007.

SECTION 6. 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 18, 2006