

CHAPTER 281

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 14-203

BY SENATOR(S) Lambert and Newell, Aguilar, Crowder, Guzman, Heath, Hodge, Jones, Kefalas, Kerr, Lundberg, Nicholson, Rivera, Roberts, Schwartz, Steadman, Tochtrop, Todd;
 also REPRESENTATIVE(S) May and Gardner, Becker, Buckner, Fields, Ginal, Hullinghorst, Kagan, Kraft-Tharp, Labuda, Lebsack, Moreno, Pettersen, Rosenthal, Ryden, Schafer, Singer, Young.

AN ACT

CONCERNING THE OFFICE OF THE RESPONDENT PARENTS' COUNSEL IN CASES OF ALLEGED CHILD ABUSE OR NEGLECT.

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

SECTION 1. In Colorado Revised Statutes, **add** article 92 to title 13 as follows:

ARTICLE 92
Office of the Respondent Parents' Counsel

13-92-101. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) RESPONDENT PARENTS' COUNSEL PLAYS A CRITICAL ROLE IN HELPING ACHIEVE THE BEST OUTCOMES FOR CHILDREN INVOLVED IN DEPENDENCY AND NEGLECT PROCEEDINGS BY PROVIDING EFFECTIVE LEGAL REPRESENTATION FOR PARENTS IN DEPENDENCY AND NEGLECT PROCEEDINGS, PROTECTING DUE PROCESS AND STATUTORY RIGHTS, PRESENTING BALANCED INFORMATION TO JUDGES, AND PROMOTING THE PRESERVATION OF FAMILY RELATIONSHIPS WHEN APPROPRIATE;

(b) THERE IS A NEED TO ESTABLISH ADDITIONAL AND EQUITABLE FUNDING TO COMPENSATE RESPONDENT PARENTS' COUNSEL; AND

(c) A CLEAR SET OF PRACTICE STANDARDS FOR RESPONDENT PARENTS' COUNSEL NEEDS TO BE ESTABLISHED AND MADE AVAILABLE TO ALL PARTIES INVOLVED IN DEPENDENCY AND NEGLECT PROCEEDINGS.

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

(2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS IN THE BEST INTERESTS OF THE CHILDREN AND PARENTS OF THE STATE OF COLORADO TO HAVE AN INDEPENDENT OFFICE TO OVERSEE THE RESPONDENT PARENTS' COUNSEL TO IMPROVE THE QUALITY OF LEGAL REPRESENTATION FOR PARENTS INVOLVED IN DEPENDENCY AND NEGLECT PROCEEDINGS AND WHO OFTEN DO NOT HAVE THE FINANCIAL MEANS TO AFFORD LEGAL REPRESENTATION.

(3) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ESTABLISH THE OFFICE OF THE RESPONDENT PARENTS' COUNSEL IN THE STATE JUDICIAL DEPARTMENT, BEGINNING JANUARY 1, 2016. IT IS THE FURTHER INTENT OF THE GENERAL ASSEMBLY THAT ALL EXISTING AND NEW STATE PAID RESPONDENT PARENT COUNSEL APPOINTMENTS BE TRANSFERRED ON JANUARY 1, 2016, TO THE OPERATIONAL STRUCTURE RECOMMENDED IN THE FINAL REPORT TO THE OFFICE OF THE STATE COURT ADMINISTRATOR BY THE RESPONDENT PARENTS' COUNSEL WORK GROUP, DUE ON OR BEFORE SEPTEMBER 30, 2014.

(4)(a) TO IMPLEMENT THE RECOMMENDATIONS FROM THE RESPONDENT PARENTS' COUNSEL WORK GROUP, AS REFERENCED IN SUBSECTION (3) OF THIS SECTION, THE STATE JUDICIAL DEPARTMENT SHALL INCLUDE AN APPROPRIATE FISCAL REQUEST TO THE JOINT BUDGET COMMITTEE ON OR BEFORE NOVEMBER 1, 2014.

(b) THE COSTS ASSOCIATED WITH THE ESTABLISHMENT OF THE OFFICE, INCLUDING ANY ASSOCIATED FTE, SHALL BE PAID FOR BY A TRANSFER FROM THE STATE JUDICIAL DEPARTMENT MANDATED COSTS LINE ITEM. IT IS THE FURTHER INTENT OF THE GENERAL ASSEMBLY THAT, FOR FISCAL YEAR 2015-16 AND FISCAL YEARS THEREAFTER, AN APPROPRIATION SHALL BE MADE TO THE OFFICE OF THE RESPONDENT PARENTS' COUNSEL FOR THE PURPOSE OF PAYMENT OF ALL FINANCIAL OBLIGATIONS PREVIOUSLY COVERED BY THE STATE JUDICIAL DEPARTMENT MANDATED COSTS LINE ITEM RELATING TO THE PROVISION OF SERVICES PROVIDED BY THE RESPONDENT PARENTS' COUNSEL AS SET FORTH IN THIS ARTICLE.

13-92-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

(2) "DEPARTMENT" MEANS THE JUDICIAL DEPARTMENT.

(3) "OFFICE" MEANS THE OFFICE OF THE RESPONDENT PARENTS' COUNSEL ESTABLISHED IN SECTION 13-92-103.

(4) "PARENT" MEANS A NATURAL PARENT OF A CHILD, AS MAY BE ESTABLISHED PURSUANT TO ARTICLE 4 OF TITLE 19, C.R.S., A PARENT BY ADOPTION, OR A LEGAL GUARDIAN.

13-92-103. Office of the respondent parents' counsel - established. ON AND AFTER JANUARY 1, 2016, THE OFFICE OF THE RESPONDENT PARENTS' COUNSEL IS CREATED WITHIN THE JUDICIAL DEPARTMENT. IT IS THE RESPONSIBILITY OF THE OFFICE TO WORK COOPERATIVELY WITH LOCAL JUDICIAL DISTRICTS AND ATTORNEYS TO FORM A PARTNERSHIP BETWEEN THOSE ENTITIES AND PERSONS, PARENTS, AND THE STATE FOR THE PURPOSE OF ENSURING THE PROVISION OF UNIFORM,

HIGH-QUALITY LEGAL REPRESENTATION FOR PARENTS INVOLVED IN JUDICIAL DEPENDENCY AND NEGLECT PROCEEDINGS IN COLORADO AND WHO LACK THE FINANCIAL MEANS TO AFFORD LEGAL REPRESENTATION.

13-92-104. Duties of the office of the respondent parents' counsel. (1) THE OFFICE HAS THE FOLLOWING DUTIES, AT A MINIMUM:

(a) ENHANCING THE PROVISION OF RESPONDENT PARENT COUNSEL SERVICES IN COLORADO BY:

(I) ENSURING THE PROVISION AND AVAILABILITY OF HIGH-QUALITY LEGAL REPRESENTATION FOR PARENTS INVOLVED IN DEPENDENCY AND NEGLECT PROCEEDINGS BROUGHT PURSUANT TO ARTICLE 3 OF TITLE 19, C.R.S., AND AS PROVIDED FOR IN SECTION 19-3-202, C.R.S.; AND

(II) MAKING RECOMMENDATIONS FOR MINIMUM PRACTICE STANDARDS TO WHICH ATTORNEYS SERVING AS RESPONDENT PARENT COUNSEL SHALL BE HELD;

(b) ESTABLISHING FAIR AND REALISTIC STATE RATES BY WHICH TO COMPENSATE RESPONDENT PARENT COUNSEL. THE STATE RATES MUST TAKE INTO CONSIDERATION ANY CASELOAD LIMITATIONS PLACED UPON RESPONDENT PARENT COUNSEL AND MUST BE SUFFICIENT TO ATTRACT AND RETAIN HIGH-QUALITY, EXPERIENCED ATTORNEYS TO SERVE AS RESPONDENT PARENT COUNSEL.

(c) ENFORCING, AS APPROPRIATE, THE PROVISIONS OF THIS SECTION;

(d) WORKING COOPERATIVELY WITH THE JUDICIAL DISTRICTS TO ESTABLISH PILOT PROGRAMS, AS APPROPRIATE, DESIGNED TO ENHANCE THE QUALITY OF RESPONDENT PARENT COUNSEL AT THE LOCAL LEVEL; AND

(e) ANNUALLY REVIEWING AND EVALUATING THE OFFICE'S PERFORMANCE TO DETERMINE WHETHER THE OFFICE IS EFFECTIVELY AND EFFICIENTLY MEETING THE GOALS OF IMPROVING CHILD AND FAMILY WELL-BEING AND THE DUTIES SET FORTH IN THIS SECTION. THE REPORT MUST BE SUBMITTED ON OR BEFORE JANUARY 1, 2017, AND ANNUALLY THEREAFTER, TO THE MEMBERS OF THE GENERAL ASSEMBLY AND THE STATE COURT ADMINISTRATOR'S OFFICE.

SECTION 2. In Colorado Revised Statutes, 19-3-202, **amend** (1) as follows:

19-3-202. Right to counsel and jury trial. (1) At the first appearance of a respondent parent, guardian, or legal custodian, the court shall fully advise ~~such party~~ THE RESPONDENT of his OR HER legal rights, including the right to a jury trial, the right to be represented by counsel at every stage of the proceedings, and the right to seek the appointment of counsel THROUGH THE OFFICE OF RESPONDENT PARENTS' COUNSEL ESTABLISHED IN SECTION 13-92-103, C.R.S., if the ~~party~~ RESPONDENT is unable to financially to secure counsel on his OR HER own. The court shall fully explain to ~~such party~~ THE RESPONDENT the informational notice of rights and remedies for families prepared pursuant to section 19-3-212 and shall recommend that the ~~party~~ RESPONDENT discuss such notice with HIS OR HER counsel. Further, the court shall advise the ~~party~~ RESPONDENT of the minimum and maximum time frames for the dependency and neglect process, including the minimum and

maximum time frames for adjudication, disposition, and termination of parental rights for a child who is under six years of age at the time the petition is filed in a county designated pursuant to section 19-1-123.

SECTION 3. In Colorado Revised Statutes, **repeal** 19-3-312 (3).

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 29, 2014