

CHAPTER 116

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 15-1149

BY REPRESENTATIVE(S) Hamner, Young, Rankin, Fields, Kagan, Pabon, Rosenthal;
also SENATOR(S) Lambert, Grantham, Steadman, Crowder, Guzman, Heath, Johnston, Newell, Todd.

AN ACT

CONCERNING THE RESPONDENT PARENTS' COUNSEL, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.

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

SECTION 1. In Colorado Revised Statutes, 13-92-101, **amend** (3) as follows:

13-92-101. Legislative declaration. (3) It is the intent of the general assembly to establish A RESPONDENT PARENTS' COUNSEL GOVERNING COMMISSION BY JULY 1, 2015, AND 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~~ JULY 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, AND SET FORTH IN SECTION 13-92-103 (1) (b).

SECTION 2. In Colorado Revised Statutes, 13-92-102, **add** (1.5) and (2.5) as follows:

13-92-102. Definitions. As used in this article, unless the context otherwise requires:

(1.5) "COMMISSION" MEANS THE RESPONDENT PARENTS' COUNSEL GOVERNING COMMISSION ESTABLISHED IN SECTION 13-92-103.

(2.5) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF THE RESPONDENT PARENTS' COUNSEL.

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

SECTION 3. In Colorado Revised Statutes, **amend** 13-92-103 as follows:

13-92-103. Respondent parents' counsel - commission - office - duties - qualifications of director. (1) (a) 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.

(b) AS OF JULY 1, 2016, ALL EXISTING RESPONDENT PARENT COUNSEL APPOINTMENTS MUST BE TRANSFERRED TO THE OFFICE AND, AFTER JULY 1, 2016, THE OFFICE SHALL MAKE ALL NEW RESPONDENT PARENT COUNSEL APPOINTMENTS.

(2) (a) THE COLORADO SUPREME COURT SHALL APPOINT A NINE-MEMBER RESPONDENT PARENTS' COUNSEL GOVERNING COMMISSION ON OR BEFORE JULY 1, 2015. THE MEMBERSHIP OF THE COMMISSION MUST, TO THE EXTENT PRACTICABLE, INCLUDE PERSONS FROM THROUGHOUT THE STATE, PERSONS WITH DISABILITIES, AND TAKE INTO CONSIDERATION RACE, GENDER, AND THE ETHNIC DIVERSITY OF THE STATE. APPOINTMENTS SHALL BE MADE AS FOLLOWS:

(I) NO MORE THAN FIVE MEMBERS OF THE COMMISSION MAY BE FROM THE SAME POLITICAL PARTY;

(II) THE MEMBERS MUST REPRESENT EACH OF THE CONGRESSIONAL DISTRICTS IN THE STATE;

(III) AT LEAST SIX MEMBERS MUST BE ATTORNEYS ADMITTED TO PRACTICE LAW IN THIS STATE, THREE OF WHOM HAVE EXPERIENCE IN SERVING AS A RESPONDENT PARENT COUNSEL;

(IV) THE REMAINING THREE MEMBERS MAY BE SELECTED AS APPROPRIATE, BUT THE SUPREME COURT IS ENCOURAGED TO APPOINT AT LEAST ONE MEMBER WHO WAS A FORMER RESPONDENT PARENT; AND

(V) COMMISSION MEMBERS MUST NOT CURRENTLY BE UNDER CONTRACT WITH THE OFFICE OR EMPLOYED BY THE STATE DEPARTMENT OF HUMAN SERVICES, A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES, OR BE SERVING CURRENTLY AS A CITY OR COUNTY ATTORNEY, JUDGE, MAGISTRATE, COURT-APPOINTED SPECIAL ADVOCATE, OR GUARDIAN AD LITEM.

(b) COMMISSION MEMBERS SERVE FOR TERMS OF FOUR YEARS; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED, FIVE SHALL SERVE FOR TERMS OF TWO YEARS. THE SUPREME COURT SHALL FILL ANY VACANCIES ON THE COMMISSION FOR THE REMAINDER OF ANY UNEXPIRED TERM.

(c) THE SUPREME COURT SHALL ESTABLISH PROCEDURES FOR THE OPERATION OF THE COMMISSION.

(d) COMMISSION MEMBERS SHALL SERVE WITHOUT COMPENSATION BUT MUST BE

REIMBURSED FOR ACTUAL AND REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

(e) EXPENSES INCURRED BY THE COMMISSION MUST BE PAID FROM THE GENERAL OPERATING BUDGET OF THE OFFICE OF THE RESPONDENT PARENTS' COUNSEL.

(3) THE COMMISSION HAS THE FOLLOWING DUTIES:

(a) ON OR BEFORE JANUARY 1, 2016, AND AS NECESSARY THEREAFTER, TO APPOINT, AND DISCHARGE FOR CAUSE, A PERSON TO SERVE AS THE DIRECTOR OF THE OFFICE;

(b) TO FILL ANY VACANCY IN THE DIRECTORSHIP; AND

(c) TO WORK COOPERATIVELY WITH THE DIRECTOR TO PROVIDE GOVERNANCE TO THE OFFICE, TO PROVIDE FISCAL OVERSIGHT OF THE GENERAL OPERATING BUDGET OF THE OFFICE, TO PARTICIPATE IN FUNDING DECISIONS RELATING TO THE PROVISION OF RESPONDENT PARENT COUNSEL, AND TO ASSIST WITH THE DUTIES OF THE OFFICE CONCERNING RESPONDENT PARENT COUNSEL TRAINING, AS NEEDED.

(4) (a) THE DIRECTOR MUST HAVE AT LEAST FIVE YEARS OF EXPERIENCE AS A LICENSED ATTORNEY PRIOR TO APPOINTMENT, BE LICENSED TO PRACTICE LAW IN COLORADO AT THE TIME OF APPOINTMENT, AND BE FAMILIAR WITH THE UNIQUE DEMANDS OF REPRESENTING RESPONDENT PARENTS IN DEPENDENCY AND NEGLECT CASES IN COLORADO. THE DIRECTOR SHALL DEVOTE HIMSELF OR HERSELF FULL TIME TO THE PERFORMANCE OF HIS OR HER DUTIES AS DIRECTOR AND SHALL NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(b) THE GENERAL ASSEMBLY SHALL FIX THE DIRECTOR'S COMPENSATION, WHICH MAY NOT BE REDUCED DURING HIS OR HER APPOINTMENT.

SECTION 4. 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 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 respondent is unable to financially secure counsel on his or her own. The court shall fully explain to the respondent the informational notice of rights and remedies for families prepared pursuant to section 19-3-212 and shall recommend that the respondent discuss such notice with his or her counsel. Further, the court shall advise the 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. NOTHING IN THIS SECTION LIMITS THE POWER OF THE COURT TO APPOINT COUNSEL PRIOR TO THE FILING OF A PETITION FOR GOOD CAUSE.

SECTION 5. Appropriation - adjustments to 2015 long bill. (1) To

implement this act, general fund appropriations made in the annual general appropriation act for the 2015-16 state fiscal year to the judicial department are increased by the following amounts:

<u>Courts administration, administration and technology</u>	
General courts administration	\$64,211 (0.8 FTE)
<u>Trial courts</u>	
Trial court programs	\$109,558 (2.3 FTE)
Court costs, jury costs, and court-appointed counsel	\$4,986,663

(2) To implement this act, general fund appropriations made in the annual general appropriation act for the 2015-16 state fiscal year to the judicial department are decreased by the following amounts:

<u>Office of the respondent parents' counsel</u>	
Personal services	\$479,386 (4.2 FTE)
Health, life, and dental	\$18,790
Short-term disability	\$868
S.B. 04-257 amortization equalization disbursement	\$17,362
S.B. 06-235 supplemental amortization equalization disbursement	\$16,770
Operating expenses	\$13,113
Case management system	\$215,625
Training	\$15,000
Court-appointed counsel	\$4,986,663

(3) To implement this act, the cash funds appropriation from training fees made in the annual general appropriation act for the 2015-16 state fiscal year to the judicial department for use by the office of the respondent parents' counsel for training is decreased by \$15,000.

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 24, 2015