Colorado Revised Statutes 2017

TITLE 19

CHILDREN'S CODE

Editor's note: This title was numbered as chapter 22, C.R.S. 1963. The substantive provisions of this title were repealed and reenacted in 1987, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this title prior to 1987, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this title, see the comparative tables located in the back of the index.

ARTICLE 1

General Provisions

PART 1

GENERAL PROVISIONS

19-1-101. Short title. This title shall be known and may be cited as the "Colorado Children's Code".

Source: L. 87: Entire title R&RE, p. 695, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. This section, as it existed in 1987, is the same as 19-1-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-1-102. Legislative declaration. (1) The general assembly declares that the purposes of this title are:

(a) To secure for each child subject to these provisions such care and guidance, preferably in his own home, as will best serve his welfare and the interests of society;

(b) To preserve and strengthen family ties whenever possible, including improvement of home environment;

(c) To remove a child from the custody of his parents only when his welfare and safety or the protection of the public would otherwise be endangered and, in either instance, for the courts to proceed with all possible speed to a legal determination that will serve the best interests of the child; and

(d) To secure for any child removed from the custody of his parents the necessary care, guidance, and discipline to assist him in becoming a responsible and productive member of society.

(1.5) (a) The general assembly declares that it is in the best interests of the child who has been removed from his own home to have the following guarantees:

(I) To be placed in a secure and stable environment;

(II) To not be indiscriminately moved from foster home to foster home; and

(III) To have assurance of long-term permanency planning.

(b) (Deleted by amendment, L. 92, p. 220, § 1, effective July 1, 1992.)

(1.6) The general assembly recognizes the numerous studies establishing that children undergo a critical bonding and attachment process prior to the time they reach six years of age. Such studies further disclose that a child who has not bonded with a primary adult during this critical stage will suffer significant emotional damage which frequently leads to chronic psychological problems and antisocial behavior when the child reaches adolescence and adulthood. Accordingly, the general assembly finds and declares that it is appropriate to provide for an expedited placement procedure to ensure that children under the age of six years who have been removed from their homes are placed in permanent homes as expeditiously as possible.

(1.7) The general assembly further declares that it is the intent of the general assembly to have the media and the courts refrain from causing undue hardship, discomfort, and distress to any juvenile victims of sexual assault, child abuse, incest, or any offenses listed in wrongs to children pursuant to part 4 of article 6 of title 18, C.R.S., by not disseminating or publishing the names of such victims.

(2) To carry out these purposes, the provisions of this title shall be liberally construed to serve the welfare of children and the best interests of society.

Source: L. 87: Entire title R&RE, p. 695, § 1, effective October 1. **L. 88:** (1.5) added, p. 755, § 1, effective May 31. **L. 90:** (1.7) added, p. 1007, § 1, effective July 1. **L. 92:** (1.5) amended, p. 220, § 1, effective July 1. **L. 94:** (1.6) added, p. 2051, § 1, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. This section, as it existed in 1987, is the same as 19-1-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-1-103. Definitions. As used in this title 19 or in the specified portion of this title 19, unless the context otherwise requires:

(1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of article 3 of this title, means an act or omission in one of the following categories that threatens the health or welfare of a child:

(I) Any case in which a child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, or death and either: Such condition or death is not justifiably explained; the history given concerning such condition is at variance with the degree or type of such condition or death; or the circumstances indicate that such condition may not be the product of an accidental occurrence;

(II) Any case in which a child is subjected to unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.;

(III) Any case in which a child is a child in need of services because the child's parents, legal guardian, or custodian fails to take the same actions to provide adequate food, clothing, shelter, medical care, or supervision that a prudent parent would take. The requirements of this subparagraph (III) shall be subject to the provisions of section 19-3-103.

(IV) Any case in which a child is subjected to emotional abuse. As used in this subparagraph (IV), "emotional abuse" means an identifiable and substantial impairment of the child's intellectual or psychological functioning or development or a substantial risk of impairment of the child's intellectual or psychological functioning or development.

(V) Any act or omission described in section 19-3-102 (1)(a), (1)(b), or (1)(c);

(VI) Any case in which, in the presence of a child, or on the premises where a child is found, or where a child resides, a controlled substance, as defined in section 18-18-102 (5), C.R.S., is manufactured or attempted to be manufactured;

(VII) Any case in which a child tests positive at birth for either a schedule I controlled substance, as defined in section 18-18-203, C.R.S., or a schedule II controlled substance, as defined in section 18-18-204, C.R.S., unless the child tests positive for a schedule II controlled substance as a result of the mother's lawful intake of such substance as prescribed.

(VIII) Any case in which a child is subjected to human trafficking of a minor for sexual servitude, as described in section 18-3-504, C.R.S.

(b) In all cases, those investigating reports of child abuse shall take into account accepted child-rearing practices of the culture in which the child participates including, but not limited to, accepted work-related practices of agricultural communities. Nothing in this subsection (1) shall refer to acts that could be construed to be a reasonable exercise of parental discipline or to acts reasonably necessary to subdue a child being taken into custody pursuant to section 19-2-502 that are performed by a peace officer, as described in section 16-2.5-101, C.R.S., acting in the good faith performance of the officer's duties.

(2) "Adjudication" means a determination by the court that it has been proven beyond a reasonable doubt to the trier of fact that the juvenile has committed a delinquent act or that a juvenile has pled guilty to committing a delinquent act. In addition, when a previous conviction must be pled and proven as an element of an offense or for purposes of sentence enhancement, "adjudication" means conviction.

(3) "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition in dependency and neglect are supported by the evidence.

(4) "Adjudicatory trial" means a trial to determine whether the allegations of a petition in delinquency are supported by the evidence.

(5) "Administrative review" means a review conducted by the state department of human services that is open to the participation of the parents of the child and conducted by an administrative reviewer who is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(6) "Adoptee", as used in part 3 of article 5 of this title, means a person who, as a minor, was adopted pursuant to a final decree of adoption entered by a court.

(6.5) (a) "Adoption record", as used in part 3 of article 5 of this title, with the exception of section 19-5-305 (2)(b)(I) to (2)(b)(IV), means the following documents and information:

(I) The adoptee's original birth certificate and amended birth certificate;

(II) The final decree of adoption;

(III) Nonidentifying information, as defined in section 19-1-103 (80);

(IV) The final order of relinquishment; and

(V) The order of termination of parental rights.

(a.5) "Adoption record", as used in section 19-5-305 (2)(b)(I) to (2)(b)(IV), means the following documents and information, without redaction:

(I) The adoptee's original birth certificate and amended birth certificate;

(II) The final decree of adoption;

(III) Any identifying information, such as the name of the adoptee before placement in adoption, the name and address of each birth parent as they appear in the birth records, the name, address, and contact information of the adult adoptee, and the current name, address, and contact information of each birth parent, if known, or other information that might personally identify a birth parent;

(IV) Any nonidentifying information, as defined in section 19-1-103 (80);

(V) The final order of relinquishment; and

(VI) The order of termination of parental rights.

(b) "Adoption record", as used in either paragraph (a) or paragraph (a.5) of this subsection (6.5), shall not include pre-relinquishment counseling records, which records shall remain confidential.

(6.7) "Adoption triad" means the three parties involved in an adoption: The adoptee, the birth parent, and the adoptive parent.

(7) "Adoptive parent", as used in parts 3 and 4 of article 5 of this title, means an adult who has become a parent of a minor through the legal process of adoption.

(8) (a) "Adult" means a person eighteen years of age or older; except that any person eighteen years of age or older who is under the continuing jurisdiction of the court, who is before the court for an alleged delinquent act committed prior to the person's eighteenth birthday, or concerning whom a petition has been filed for the person's adoption other than under this title shall be referred to as a juvenile.

(b) (Deleted by amendment, L. 97, p. 1167, § 14, effective July 1, 1997.)

(9) "Adult adoptee", as used in parts 3 and 4 of article 5 of this title, means an individual who is eighteen years of age or older and who, as a minor, was adopted pursuant to a final decree of adoption entered by a court.

(10) "Appropriate treatment plan", as used in section 19-3-508 (1)(e), means a treatment plan approved by the court that is reasonably calculated to render the particular respondent fit to provide adequate parenting to the child within a reasonable time and that relates to the child's needs.

(10.5) "Assessment center for children", as used in sections 19-1-303 and 19-1-304, means a multi-disciplinary, community-based center that provides services to children and their families, including, but not limited to, detention screening, case management, and therapeutic intervention relating to delinquency, abuse or neglect, family conflict, and truancy.

(11) "Assessment instrument" means an objective tool used to collect pertinent information regarding a juvenile taken into temporary custody in order to determine the appropriate level of security, supervision, and services pending adjudication.

(12) "Basic identification information", as used in article 2 of this title, means the name, place and date of birth, last-known address, social security number, occupation and address of employment, last school attended, physical description, photograph, handwritten signature, sex, fingerprints, and any known aliases of any person.

(13) "Biological parent" or "birth parent", as used in part 3 of article 5 of this title, means a parent, by birth, of an adopted person.

(14) "Biological sibling", as used in part 3 of article 5 of this title, means a sibling, by birth, of an adopted person. "Biological sibling", as used in article 3 and article 5 of this title, for purposes of the definition of sibling group, as defined in subsection (98.5) of this section, means a brother, sister, or half-sibling of a child who is being placed in foster care or being placed for adoption.

(15) "Birth parents", as used in part 4 of article 5 of this title, means genetic, biological, or natural parents whose rights were voluntarily or involuntarily terminated by a court or otherwise. "Birth parents" includes a man who is the parent of a child as established in accordance with the provisions of the "Uniform Parentage Act", article 4 of this title, prior to the termination of parental rights.

(16) "Board", as used in article 3.5 of this title, means the Colorado children's trust fund board created in section 19-3.5-104.

(16.5) "Case management purposes", as used in section 19-1-303, means assessments, evaluations, treatment, education, proper disposition or placement of the child, interagency coordination, and other services that are incidental to the administration of the program and in the best interests of the child.

(17) "Chief justice", as used in part 3 of article 5 of this title, means the chief justice of the Colorado supreme court.

(18) "Child" means a person under eighteen years of age.

(19) "Child abuse", as used in article 3.5 of this title, means any act that reasonably may be construed to fall under the definition of abuse or child abuse or neglect in subsection (1) of this section.

(19.5) "Child advocacy center", as used in part 3 of article 3 of this title, means a center that provides a comprehensive multi-disciplinary team response to allegations of child abuse or neglect in a dedicated, child-friendly setting. The team response to allegations of child abuse or neglect includes, but is not limited to, technical assistance for forensic interviews, forensic medical examinations, mental health and related support services, consultation, training, and education.

(20) "Child care center" means a child care center licensed and approved pursuant to article 6 of title 26, C.R.S. If such facility is located in another state, it shall be designated by the department of human services upon certification that no appropriate available space exists in a child care facility in this state and shall be licensed or approved as required by law in that state.

(21) "Child placement agency" means an agency licensed or approved pursuant to law. If such agency is located in another state, it shall be licensed or approved as required by law in that state.

(22) "Child protection team", as used in part 3 of article 3 of this title, means a multidisciplinary team consisting, where possible, of a physician, a representative of the juvenile court or the district court with juvenile jurisdiction, a representative of a local law enforcement agency, a representative of the county department, a representative of a mental health clinic, a representative of a county, district, or municipal public health agency, an attorney, a representative of a public school district, and one or more representatives of the lay community, at least one of whom shall be a person who serves as a foster parent in the county. Each public agency may have more than one participating member on the team; except that, in voting on

procedural or policy matters, each public agency shall have only one vote. In no event shall an attorney member of the child protection team be appointed as guardian ad litem for the child or as counsel for the parents at any subsequent court proceedings, nor shall the child protection team be composed of fewer than three persons. When any racial, ethnic, or linguistic minority group constitutes a significant portion of the population of the jurisdiction of the child protection team, a member of each such minority group shall serve as an additional lay member of the child protection team. At least one of the preceding members of the team shall be chosen on the basis of representing low-income families. The role of the child protection team shall be advisory only.

(23) "Citizen review panel", as used in section 19-3-211, means the panel created in a county by the board of county commissioners or in a city and county by the city council that shall review and make recommendations regarding grievances referred to the panel by the county director pursuant to the conflict resolution process.

(23.5) "Commercial sexual exploitation of children" involves crimes of a sexual nature committed against juvenile victims for financial or other economic reasons.

(24) "Commit", as used in article 2 of this title, means to transfer legal custody.

(24.5) "Community placement" means the placement of a child for whom the state department of human services or a county department has placement and care responsibility pursuant to article 2 or 3 of this title in any licensed or certified twenty-four-hour, non-secure, care and treatment facility away from the child's parent or guardian. "Community placement" includes, but is not limited to, placement in a foster care home, group home, residential child care facility, or residential treatment facility.

(25) "Complainant", as used in section 19-3-211, means any person who was the subject of an investigation of a report of child abuse or neglect or any parent, guardian, or legal custodian of a child who is the subject of a report of child abuse or neglect and brings a grievance against a county department in accordance with the provisions of section 19-3-211.

(26) "Confidential intermediary", as used in part 3 of article 5 of this title, means a person twenty-one years of age or older who has completed a training program for confidential intermediaries that meets the standards set forth by the commission pursuant to section 19-5-303 and who is authorized to inspect confidential relinquishment and adoption records at the request of an adult adoptee, adoptive parent, biological parent, or biological sibling.

(27) "Confirmed", as used in part 3 of article 3 of this title, means any report made pursuant to article 3 of this title that is found by a county department, law enforcement agency, or entity authorized to investigate institutional abuse to be supported by a preponderance of the evidence.

(28) "Consent", as used in part 3 of article 5 of this title, means voluntary, informed, written consent. When used in the context of confidential intermediaries, "consent" always shall be preceded by an explanation that consent permits the confidential intermediary to arrange a personal contact among biological relatives. "Consent" may also mean the agreement for contact or disclosure of records by any of the parties identified in section 19-5-304 (2) as a result of an inquiry by a confidential intermediary pursuant to section 19-5-304.

(28.5) "Consent form", as used in section 19-5-305 (3), means a verified written statement signed by an adult adoptee or an adult adoptee's consenting birth parent or an adoptive parent of a minor adoptee that has been notarized and that authorizes the release of adoption records or identifying information, to the extent available, by a licensed child placement agency.

(28.6) "Contact information" means information supplied voluntarily by a birth parent on a contact preference form, including the name of the birth parent at the time of relinquishment of the adoptee; the alias, if any, used at the time of relinquishment of the adoptee; and the current name, current address, and current telephone number of the birth parent.

(28.7) (a) "Contact preference form" means a written statement signed by a birth parent indicating whether the birth parent prefers future contact with an adult adoptee, an adult descendant of the adoptee, or a legal representative of the adoptee or the descendant and, if contact is preferred, whether the contact should be through a confidential intermediary or a designated employee of a child placement agency.

(b) Repealed.

(29) "Continuously available", as used in section 19-3-308 (4), means the assignment of a person to be near an operable telephone not necessarily located in the premises ordinarily used for business by the county department or to have such arrangements made through agreements with local law enforcement agencies.

(29.3) "Convicted" or "conviction", as used in section 19-5-105.5, means a plea of guilty accepted by the court, including a plea of guilty entered pursuant to a deferred sentence under section 18-1.3-102, C.R.S., a verdict of guilty by a judge or jury, or a plea of no contest accepted by the court, or having received a disposition as a juvenile or having been adjudicated a juvenile delinquent based on the commission of any act that constitutes sexual assault, as defined in subsection (96.5) of this section.

(29.5) Repealed.

(30) "Cost of care" means the cost to the department or the county for a child placed out of the home or charged with the custody of the juvenile for providing room, board, clothing, education, medical care, and other normal living expenses for a child placed out of the home or to a juvenile sentenced to a placement out of the home, as determined by the court. As used in this title, "cost of care" also includes any costs associated with maintenance of a juvenile in a home detention program, supervision of probation when the juvenile is granted probation, or supervision of parole when the juvenile is placed on parole.

(31) "Counsel" means an attorney-at-law who acts as a person's legal advisor or who represents a person in court.

(31.5) "County attorney" means the office of the county attorney or city attorney representing a county or a city and county and includes the attorneys employed or retained by such county or city and county.

(32) (a) "County department", as used in this article and part 2, part 3, and part 7 of article 3 of this title and part 2 of article 5 of this title, means the county or district department of human or social services.

(b) "County department" means a county or a city and county department of human or social services.

(33) "County director", as used in section 19-3-211 and part 3 of article 3 of this title, means the county director or district director appointed pursuant to section 26-1-117, C.R.S.

(34) "Court", as used in part 3 of article 5 of this title, means any court of record with jurisdiction over the matter at issue.

(34.3) "Court-appointed special advocate" or "CASA volunteer" means a volunteer appointed by a court pursuant to the provisions of part 2 of this article to assist in advocacy for children.

(34.5) "Court-appointed special advocate program" or "CASA program" means a program established pursuant to the provisions of part 2 of this article.

(34.6) "Criminal justice agency", as used in section 19-1-303, shall have the same meaning as set forth in section 24-72-302 (3), C.R.S.

(34.7) "Custodial adoption", as used in part 2 of article 5 of this title, means an adoption of a child by any person and such person's spouse, as required under section 19-5-202 (3), who:

(a) Has been awarded custody or allocated parental responsibilities by a court of law in a dissolution of marriage, custody or allocation of parental responsibilities proceeding, or has been awarded guardianship of the child by a court of law in a probate action, such as pursuant to part 2 of article 14 of title 15, C.R.S.; and

(b) Has had physical custody of the child for a period of one year or more.

(35) "Custodian" means a person who has been providing shelter, food, clothing, and other care for a child in the same fashion as a parent would, whether or not by order of court.

(35.3) (a) (I) "Custodian of records", as used in section 19-5-305 (1.5) and (2) and as used in section 19-5-305.5, means any of the following individuals or entities that have custody of records relating to the relinquishment or adoption of a child:

(A) A court;

(B) A state agency; or

(C) The legal agent or representative of any entity described in sub-subparagraphs (A) and (B) of this paragraph (I).

(II) "Custodian of records", as used in section 19-5-305 (1.5) and (2) and as used in section 19-5-305.5, does not include a licensed child placement agency.

(b) "Custodian of records", as used in section 19-5-109, means an entity that has custody of records relating to the relinquishment of a child, including a court, state agency, licensed child placement agency, maternity home, or the legal agent or representative of any such entity.

(36) "Delinquent act", as used in article 2 of this title, means a violation of any statute, ordinance, or order enumerated in section 19-2-104 (1)(a). If a juvenile is alleged to have committed or is found guilty of a delinquent act, the classification and degree of the offense shall be determined by the statute, ordinance, or order that the petition alleges was violated.

(37) "Department", as used in article 5 of this title, means the department of human services.

(38) "Deprivation of custody" means the transfer of legal custody by the court from a parent or a previous legal custodian to another person, agency, or institution.

(39) "Designated adoption" means an adoption in which:

(a) The birth parent or parents designate a specific applicant with whom they wish to place their child for purposes of adoption; and

(b) The anonymity requirements of section 19-1-309 are waived.

(40) "Detention" means the temporary care of a child who requires secure custody in physically restricting facilities pending court disposition or an execution of a court order for placement or commitment.

(40.5) "Determinate period", as used in article 2 of this title, means that the department of human services may not transfer legal or physical custody of a juvenile until the juvenile has completed the period of commitment imposed by the court, unless otherwise ordered by the court; except that the department may release the juvenile on parole prior to completion of the determinate period, as provided in section 19-2-1002.

(41) "Diagnostic and evaluation center", as used in article 2 of this title, means a facility for the examination and study of persons committed to the custody of the department of human services.

(42) "Director", as used in section 19-2-303, means the executive director of the department of public safety.

(43) "Dispositional hearing" means a hearing to determine what order of disposition should be made concerning a child who is neglected or dependent. Such hearing may be part of the proceeding that includes the adjudicatory hearing, or it may be held at a time subsequent to the adjudicatory hearing.

(44) "Diversion" means a decision made by a person with authority or a delegate of that person that results in specific official action of the legal system not being taken in regard to a specific juvenile or child and in lieu thereof providing individually designed services by a specific program. The goal of diversion is to prevent further involvement of the juvenile or child in the formal legal system. Diversion of a juvenile or child may take place either at the prefiling level as an alternative to the filing of a petition pursuant to section 19-2-512 or at the postadjudication level as an adjunct to probation services following an adjudicatory hearing pursuant to section 19-3-505 or a disposition as a part of sentencing pursuant to section 19-2-907. "Services", as used in this subsection (44), includes but is not limited to diagnostic needs assessment, restitution programs, community service, job training and placement, specialized tutoring, constructive recreational activities, general counseling and counseling during a crisis situation, and follow-up activities. Services may include restorative justice practices as defined in section 18-1-901 (3)(o.5), C.R.S., and as deemed suitable by the probation department or a designated restorative justice practices facilitator. Restorative justice practices shall be conducted by facilitators recommended by the district attorney.

(44.5) "Donor", as used in section 19-4-106, means an individual who produces eggs or sperm used for assisted reproduction, whether or not for consideration. "Donor" does not include a husband who provides sperm, or a wife who provides eggs, to be used for assisted reproduction by the wife.

(45) "Emancipated juvenile", as used in section 19-2-511, means a juvenile over fifteen years of age and under eighteen years of age who has, with the real or apparent assent of the juvenile's parents, demonstrated independence from the juvenile's parents in matters of care, custody, and earnings. The term may include, but shall not be limited to, any such juvenile who has the sole responsibility for the juvenile's own support, who is married, or who is in the military.

(46) (Deleted by amendment, L. 96, p. 1684, § 12, effective January 1, 1997.)

(47) (a) "Estate", as used in section 19-2-114, means any tangible or intangible properties, real or personal, belonging to or due to a person, including income or payments to such person from previously earned salary or wages, bonuses, annuities, pensions, or retirement benefits, or any source whatsoever except federal benefits of any kind.

(b) (I) Real property that is held in joint ownership or ownership in common with the juvenile's spouse, while being used and occupied by the spouse as a place of residence, shall not be considered a part of the estate of the juvenile for the purposes of section 19-2-114.

(II) Real property that is held by the juvenile's parent, while being used and occupied by such parent as a place of residence, shall not be considered a part of the estate of the parent for the purposes of section 19-2-114.

(47.5) "Executive director", as used in article 3.3 of this title, means the executive director of the department of human services.

(48) "Expungement", as used in section 19-1-306, means the designation of juvenile delinquency records whereby such records are deemed never to have existed.

(49) "Family child care home" means a family child care home licensed and approved pursuant to article 6 of title 26, C.R.S. If such facility is located in another state, it shall be designated by the department of human services upon certification that no appropriate available space exists in a facility in this state and shall be licensed or approved as required by law in that state.

(50) (Deleted by amendment, L. 96, p. 1684, § 12, effective January 1, 1997.)

(51) "Fire investigator" means a person who:

(a) Is an officer or member of a fire department, fire protection district, or fire fighting agency of the state or any of its political subdivisions;

(b) Is engaged in conducting or is present for the purpose of engaging in the conduct of a fire investigation; and

(c) Is either a volunteer or is compensated for services rendered by the person.

(51.3) "Foster care" means the placement of a child into the legal custody or legal authority of a county department of social services for physical placement of the child in a kinship care placement or certified or licensed facility or the physical placement of a juvenile committed to the custody of the state department of human services into a community placement.

(51.5) "Foster care home" means a foster care home certified pursuant to article 6 of title 26, C.R.S.

(52) "Gang", as used in sections 19-2-205 and 19-2-508, means a group of three or more individuals with a common interest, bond, or activity, characterized by criminal or delinquent conduct, engaged in either collectively or individually.

(53) "Good faith mistake", as used in section 19-2-803, means a reasonable error of judgment concerning the existence of facts or law that, if true, would be sufficient to constitute probable cause.

(54) "Governing body", as used in section 19-3-211, means the board of county commissioners of a county or the city council of a city and county.

(55) "Governmental unit", as used in section 19-2-303, means any county, city and county, city, town, judicial district attorney office, or school district.

(56) (a) "Grandparent" means a person who is the parent of a child's father or mother, who is related to the child by blood, in whole or by half, adoption, or marriage.

(b) "Grandparent", as used in sections 19-1-117 and 19-1-117.5, has the same meaning as set forth in paragraph (a) of this subsection (56); except that "grandparent" does not include the parent of a child's legal father or mother whose parental rights have been terminated in accordance with sections 19-5-101 and 19-1-104 (1)(d).

(56.5) "Great-grandparent", as used in sections 19-1-117 and 19-1-117.5, means a person who is the grandparent of a child's father or mother, who is related to the child by blood, in whole or by half, adoption, or marriage. "Great-grandparent" does not include the grandparent of a child's legal father or mother whose parental rights have been terminated in accordance with sections 19-5-101 and 19-1-104 (1)(d).

(57) "Grievance", as used in section 19-3-211, means a dispute between a complainant and a county department concerning the conduct of county department personnel in performing their duties pursuant to article 3 of this title.

(58) "Group care facilities and homes" means places other than foster family care homes providing care for small groups of children that are licensed as provided in article 6 of title 26, C.R.S., or meet the requirements of section 25.5-10-214, C.R.S.

(59) "Guardian ad litem" means a person appointed by a court to act in the best interests of a person whom the person appointed is representing in proceedings under this title and who, if appointed to represent a person in a dependency and neglect proceeding under article 3 of this title, shall be an attorney-at-law licensed to practice in Colorado.

(60) "Guardianship of the person" means the duty and authority vested by court action to make major decisions affecting a child, including, but not limited to:

(a) The authority to consent to marriage, to enlistment in the armed forces, and to medical or surgical treatment;

(b) The authority to represent a child in legal actions and to make other decisions of substantial legal significance concerning the child;

(c) The authority to consent to the adoption of a child when the parent-child legal relationship has been terminated by judicial decree; and

(d) The rights and responsibilities of legal custody when legal custody has not been vested in another person, agency, or institution.

(61) "Habitual juvenile offender", as used in section 19-2-517, means a juvenile offender who has previously been twice adjudicated a juvenile delinquent for separate delinquent acts, arising out of separate and distinct criminal episodes, that constitute felonies.

(61.5) "Half-sibling" shall have the same meaning as biological sibling provided in subsection (14) of this section.

(62) "Halfway house", as used in article 2 of this title, means a group care facility for juveniles who have been placed on probation or parole under the terms of this title.

(63) "Identifying" means giving, sharing, or obtaining information.

(63.5) "Identifying information", as used in section 19-5-305 (3), means copies of any adoption records, as that term is defined in subsection (6.5) of this section, that are in the possession of the child placement agency. "Identifying information" also includes the name of the adoptee before placement in adoption; the name and address of each consenting birth parent as they appear in the birth records; the current name, address, and telephone number of the adult adoptee; and the current name, address, and telephone number of each consenting birth parent to the extent such information is available to the child placement agency.

(64) "Imminent placement out of the home", as used in section 19-1-116 (2), means that without intercession the child will be placed out of the home immediately.

(65) "Independent living" means a form of placement out of the home arranged and supervised by the county department of social services wherein the child is established in a living situation designed to promote and lead to the child's emancipation. Independent living shall only follow some other form of placement out of the home.

(65.3) "Indian child" means an unmarried person who is younger than eighteen years of age and who is either:

(a) A member of an Indian tribe; or

(b) Eligible for membership in an Indian tribe and who is the biological child of a member of an Indian tribe.

(65.5) "Indian child's tribe" means:

(a) The Indian tribe in which an Indian child is a member or eligible for membership; or

(b) In the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the most significant contacts.

(65.7) "Indian tribe" means an Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the federal governmental services provided to Indians because of their status as Indians.

(66) "Institutional abuse", as used in part 3 of article 3 of this title, means any case of abuse, as defined in subsection (1) of this section, that occurs in any public or private facility in the state that provides child care out of the home, supervision, or maintenance. "Facility" includes, but is not limited to, family child care homes, foster care homes, and any other facility subject to the Colorado "Child Care Licensing Act" and described in section 26-6-102, C.R.S. "Institutional abuse" shall not include abuse that occurs in any public, private, or parochial school system, including any preschool operated in connection with said system; except that, to the extent the school system provides extended day services, abuse that occurs while such services are provided shall be institutional abuse.

(67) "Intrafamilial abuse", as used in part 3 of article 3 of this title, means any case of abuse, as defined in subsection (1) of this section, that occurs within a family context by a child's parent, stepparent, guardian, legal custodian, or relative, by a spousal equivalent, as defined in subsection (101) of this section, or by any other person who resides in the child's home or who is regularly in the child's home for the purpose of exercising authority over or care for the child; except that "intrafamilial abuse" shall not include abuse by a person who is regularly in the child's home for the purpose of rendering care for the child if such person is paid for rendering care and is not related to the child.

(68) "Juvenile", as used in article 2 of this title, means a child as defined in subsection (18) of this section.

(69) "Juvenile community review board", as used in article 2 of this title 19, means any board appointed by a board of county commissioners for the purpose of reviewing community placements under article 2 of this title 19. The board, if practicable, shall include but not be limited to a representative from a county department of social services, a local school district, a local law enforcement agency, a local probation department, a local bar association, the division of youth services, and private citizens.

(70) "Juvenile court" or "court" means the juvenile court of the city and county of Denver or the juvenile division of the district court outside of the city and county of Denver.

(71) "Juvenile delinquent", as used in article 2 of this title, means a juvenile who has been found guilty of a delinquent act.

(71.3) "Kin", for purposes of a "kinship foster care home" or for purposes of "noncertified kinship care", may be a relative of the child, a person ascribed by the family as having a family-like relationship with the child, or a person that has a prior significant relationship with the child. These relationships take into account cultural values and continuity of significant relationships with the child.

(71.5) "Kinship adoption", as used in part 2 of article 5 of this title, means an adoption of a child by a relative of the child and such relative's spouse, as required under section 19-5-202 (3), who:

(a) Is either a grandparent, brother, sister, half-sibling, aunt, uncle, or first cousin; and

(b) Has had physical custody of the child for a period of one year or more and the child is not the subject of a pending dependency and neglect proceeding pursuant to article 3 of this title.

(72) "Law enforcement officer" means a peace officer, as described in section 16-2.5-101, C.R.S.

(73) (a) "Legal custody" means the right to the care, custody, and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education, and discipline for a child and, in an emergency, to authorize surgery or other extraordinary care. "Legal custody" may be taken from a parent only by court action.

(b) For purposes of determining the residence of a child as provided in section 22-1-102 (2)(b), C.R.S., guardianship shall be in the person to whom legal custody has been granted by the court.

(73.5) (a) "Legal representative", as used in sections 19-5-304 and 19-5-305, means the person designated by a court to act on behalf of any person described in section 19-5-304 (1)(b)(I) or 19-5-305 (2).

(b) For purposes of the term "legal representative", as used in section 19-5-304 and 19-5-305 and as defined in paragraph (a) of this subsection (73.5), "legal guardian" shall not include a governmental entity of any foreign country from which a child has been adopted or any representative of such governmental entity.

(74) "Local law enforcement agency", as used in part 3 of article 3 of this title, means a police department in incorporated municipalities or the office of the county sheriff.

(75) "Locating" means engaging in the process of searching for or seeking out.

(76) "Mental health hospital placement prescreening" means a face-to-face mental health examination, conducted by a mental health professional, to determine whether a child should be placed in a facility for evaluation pursuant to section 27-65-105 or 27-65-106, C.R.S., and may include consultation with other mental health professionals and review of all available records on the child.

(77) "Mental health professional" means a person licensed to practice medicine or psychology in this state or any person on the staff of a facility designated by the executive director of the department of human services for seventy-two-hour treatment and evaluation authorized by the facility to do mental health hospital placement prescreenings and under the supervision of a person licensed to practice medicine or psychology in this state.

(77.5) "Need to know", as used in section 19-1-303, means agencies or individuals who need access to certain information for the care, treatment, supervision, or protection of a child.

(78) "Neglect", as used in part 3 of article 3 of this title, means acts that can reasonably be construed to fall under the definition of child abuse or neglect as defined in subsection (1) of this section.

(78.5) "Newborn child" means a child who is less than seventy-two hours old.

(78.7) "Noncertified kinship care" means a child is being cared for by a relative or kin who has a significant relationship with the child in circumstances when there is a safety concern by a county department and where the relative or kin has not met the foster care certification

requirements for a kinship foster care home or has chosen not to pursue that certification process.

(79) "Nongovernmental agency", as used in section 19-2-303, means any person, private nonprofit agency, corporation, association, or other nongovernmental agency.

(80) "Nonidentifying information", as used in part 4 of article 5 of this title, means information that does not disclose the name, address, place of employment, or any other material information that would lead to the identification of the birth parents and that includes, but is not limited to, the following:

(a) The physical description of the birth parents;

(b) The educational background of the birth parents;

(c) The occupation of the birth parents;

(d) Genetic information about the birth family;

(e) Medical information about the adult adoptee's birth;

(f) Social information about the birth parents;

(g) The placement history of the adoptee.

(81) "Nonpublic agency interstate and foreign adoption", as used in section 19-5-205.5, means an interstate or foreign adoption that is handled by a private, licensed child placement agency.

(82) (a) "Parent" means either a natural parent of a child, as may be established pursuant to article 4 of this title, or a parent by adoption.

(b) "Parent", as used in sections 19-1-114, 19-2-514, and 19-2-515, includes a natural parent having sole or joint custody, regardless of whether the parent is designated as the primary residential custodian, or a parent allocated parental responsibilities with respect to a child, or an adoptive parent. For the purposes of section 19-1-114, "parent" does not include a person whose parental rights have been terminated pursuant to the provisions of this title or the parent of an emancipated minor.

(83) (Deleted by amendment, L. 96, p. 1684, § 12, effective January 1, 1997.)

(83.5) "Permanency hearing" means a hearing in which the permanency plan for a child in foster care is determined by the court.

(84) "Physical custodian", as used in section 19-2-511, means a guardian, whether or not appointed by court order, with whom the juvenile has resided.

(85) "Placement out of the home" means placement for twenty-four-hour residential care in any facility or center operated or licensed by the department of human services, but the term does not include any placement that is paid for totally by private moneys or any placement in a home for the purposes of adoption in accordance with section 19-5-205. "Placement out of the home" may be voluntary or court-ordered. "Placement out of the home" includes independent living.

(85.5) (a) "Post-adoption record", as used in part 3 of article 5 of this title, means information contained in the files subsequent to the completion of an adoption proceeding.

(b) The post-adoption record may contain information concerning, but not limited to:

(I) The written inquiries from persons requesting access to records;

(II) The search efforts of the confidential intermediary;

(III) The response, if any, to those search efforts by the persons sought;

(IV) Any updated medical information gathered pursuant to part 3 of article 5 of this title; and

(V) Any personal identifying information concerning any persons subject to the provisions of part 3 of article 5 of this title.

(86) "Prevention program", as used in article 3.5 of this title, means a program of direct child abuse prevention services to a child, parent, or guardian and includes research or education programs related to the prevention of child abuse. Such a prevention program may be classified as a primary prevention program when it is available to the community on a voluntary basis and as a secondary prevention program when it is directed toward groups of individuals who have been identified as high risk.

(87) "Protective supervision" means a legal status created by court order under which the child is permitted to remain in the child's home or is placed with a relative or other suitable person and supervision and assistance is provided by the court, department of human services, or other agency designated by the court.

(87.5) "Public adoption", as used in part 2 of article 5 of this title, means an adoption involving a child who is in the legal custody and guardianship of the county department of social services that has the right to consent to adoption for that child.

(88) (Deleted by amendment, L. 96, p. 1684, § 12, effective January 1, 1997.)

(89) "Reasonable efforts", as used in articles 1, 2, and 3 of this title, means the exercise of diligence and care throughout the state of Colorado for children who are in out-of-home placement, or are at imminent risk of out-of-home placement. In determining whether it is appropriate to provide, purchase, or develop the supportive and rehabilitative services that are required to prevent unnecessary placement of a child outside of a child's home or to foster the safe reunification of a child with a child's family, as described in section 19-3-208, or whether it is appropriate to find and finalize an alternative permanent plan for a child, and in making reasonable efforts, the child's health and safety shall be the paramount concern. Services provided by a county or city and county in accordance with section 19-3-208 are deemed to meet the reasonable effort standard described in this subsection (89). Nothing in this subsection (89) shall be construed to conflict with federal law.

(90) "Receiving center", as used in article 2 of this title, means a facility used to provide temporary detention and care for juveniles by the department of human services pending placement in a training school, camp, or other facility.

(91) "Recipient", as used in article 3.5 of this title, means and is limited to a nonprofit or public organization that receives a grant from the trust fund created in section 19-3.5-106.

(91.5) "Record", as used in section 19-4-106, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(91.7) "Register of actions" means those portions of the electronic case management system necessary to carry out a statutory purpose or the duties of a court appointment.

(92) "Residential community placement", as used in article 2 of this title, means any placement for residential purposes permitted under this title except in an institutional facility directly operated by, or a secure facility under contract with, the department of human services and except while a juvenile is under the jurisdiction of the juvenile parole board.

(93) "Residual parental rights and responsibilities", as used in article 3 of this title, means those rights and responsibilities remaining with the parent after legal custody, guardianship of the person, or both have been vested in another person, agency, or institution, including, but not necessarily limited to, the responsibility for support, the right to consent to

adoption, the right to reasonable parenting time unless restricted by the court, and the right to determine the child's religious affiliation.

(94) "Responsible person", as used in part 3 of article 3 of this title, means a child's parent, legal guardian, or custodian or any other person responsible for the child's health and welfare.

(94.1) "Restorative justice" means those practices that emphasize repairing the harm to the victim and the community caused by criminal acts. Restorative justice practices may include victim-offender conferences attended voluntarily by the victim, a victim advocate, the offender, community members, and supporters of the victim or the offender that provide an opportunity for the offender to accept responsibility for the harm caused to those affected by the crime and to participate in setting consequences to repair the harm. Consequences recommended by the participants may include, but need not be limited to, apologies, community service, restoration, and counseling. The selected consequences are incorporated into an agreement that sets time limits for completion of the consequences and is signed by all participants.

(94.2) "Reunited parties", as used in section 19-5-305, means any two persons who qualify as and meet any specified requirements for parties under the list of individuals in section 19-5-304 (1)(b)(I).

(94.3) "School", as used in sections 19-1-303 and 19-1-304, means a public or parochial or other nonpublic school that provides a basic academic education in compliance with school attendance laws for students in grades one to twelve. "Basic academic education" has the same meaning as set forth in section 22-33-104 (2)(b), C.R.S.

(94.5) "Screening team" means the person or persons designated, pursuant to rule 3.7 of the Colorado rules of juvenile procedure, by the chief judge in each judicial district or, for the second judicial district, the presiding judge of the Denver juvenile court to make recommendations to the juvenile court concerning whether a juvenile taken into temporary custody should be released or admitted to a detention or shelter facility pursuant to section 19-2-508.

(95) "Sentencing hearing", as used in article 2 of this title, means a hearing to determine what sentence shall be imposed on a juvenile delinquent or what other order of disposition shall be made concerning a juvenile delinquent, including commitment. Such hearing may be part of the proceeding that includes the adjudicatory trial, or it may be held at a time subsequent to the adjudicatory trial.

(96) "Services", as used in section 19-2-303, may include, but is not limited to, provision of diagnostic needs assessment, general counseling and counseling during a crisis situation, specialized tutoring, job training and placement, restitution programs, community service, constructive recreational activities, day reporting and day treatment programs, and follow-up activities.

(96.5) "Sexual assault", as used in sections 19-5-105, 19-5-105.5, and 19-5-105.7, means:

(a) "Sexual assault" as defined in section 18-3-402, C.R.S.;

(b) "Sexual assault on a child" as defined in section 18-3-405, C.R.S.;

(c) "Sexual assault on a child by one in a position of trust" as defined in section 18-3-405.3, C.R.S.;

(d) "Sexual assault on a client by a psychotherapist" as defined in section 18-3-405.5, C.R.S.; or

(e) "Unlawful sexual contact" as defined in section 18-3-404, C.R.S.

(97) "Sexual conduct", as used in section 19-3-304 (2.5), means any of the following:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals;

(b) Penetration of the vagina or rectum by any object;

(c) Masturbation;

(d) Sexual sadomasochistic abuse.

(98) "Shelter" means the temporary care of a child in physically unrestricting facilities pending court disposition or execution of a court order for placement.

(98.5) "Sibling group", as used in article 3 and article 5 of this title, means biological siblings who have been raised together or have lived together.

(99) "Special county attorney", as used in article 3 of this title, means an attorney hired by a county attorney or city attorney of a city and county or hired by a county department of social services with the concurrence of the county attorney or city attorney of a city and county to prosecute dependency and neglect cases.

(100) "Special respondent", as used in article 3 of this title 19, means any person who is not a parent, guardian, or legal custodian and who is voluntarily or involuntarily joined in a dependency or neglect proceeding for the limited purposes of protective orders or inclusion in a treatment plan, and for the grounds outlined in sections 19-3-502 (6) and 19-3-503 (4).

(101) "Spousal equivalent" means a person who is in a family-type living arrangement with a parent and who would be a stepparent if married to that parent.

(101.5) "Staff secure facility" means a group facility or home at which each juvenile is continuously under staff supervision and at which all services, including but not limited to education and treatment, are provided on site. A staff secure facility may or may not be a locked facility.

(101.7) "Standardized behavioral or mental health disorder screening" means the behavioral or mental health disorder screening conducted using the juvenile standardized screening instruments and the procedures adopted pursuant to section 16-11.9-102.

(102) "State board", as used in part 3 of article 3 of this title, means the state board of human services.

(103) "State department", as used in section 19-3-211, part 3 of article 3 of this title, and article 3.3 of this title, means the department of human services created by section 24-1-120, C.R.S.

(103.5) "State registrar" means the state registrar of vital statistics in the department of public health and environment.

(103.7) "Status offense" shall have the same meaning as is defined in federal law in 28 CFR 31.304, as amended.

(104) "Stepparent" means a person who is married to a parent of a child but who has not adopted the child.

(105) "Technical violation", as used in section 19-2-803, means a reasonable, good faith reliance upon a statute that is later ruled unconstitutional, a warrant that is later invalidated due to a good faith mistake, or a court precedent that is later overruled.

(106) "Temporary holding facility" means an area used for the temporary holding of a child from the time that the child is taken into temporary custody until a detention hearing is

held, if it has been determined that the child requires a staff-secure setting. Such an area must be separated by sight and sound from any area that houses adult offenders.

(107) "Termination of the parent-child legal relationship", as used in articles 3 and 5 of this title, means the permanent elimination by court order of all parental rights and duties, including residual parental rights and responsibilities, as provided in section 19-3-608.

(108) "Third-party abuse", as used in part 3 of article 3 of this title, means a case in which a child is subjected to abuse, as defined in subsection (1) of this section, by any person who is not a parent, stepparent, guardian, legal custodian, spousal equivalent, as defined in subsection (101) of this section, or any other person not included in the definition of intrafamilial abuse, as defined in subsection (67) of this section.

(109) "Training school", as used in article 2 of this title, means an institution providing care, education, treatment, and rehabilitation for juveniles in a closed setting and includes a regional center established in part 3 of article 10.5 of title 27, C.R.S.

(110) "Trust fund", as used in article 3.5 of this title, means the Colorado children's trust fund created in section 19-3.5-106.

(111) "Unfounded report", as used in part 3 of article 3 of this title, means any report made pursuant to article 3 of this title that is not supported by a preponderance of the evidence.

(111.5) "Updated medical history statement" means a written narrative statement dated and signed by a birth parent about the medical history of the birth parent or other biological relatives of the adoptee that can be voluntarily submitted by the birth parent to the state registrar for future disclosure to the birth parent's adult child who is an adult adoptee or an adult descendant of the adoptee or legal representative of such person in accordance with the provisions of section 19-5-305 (1.5).

(112) (a) "Victim", as used in article 2 of this title, means the party immediately and directly aggrieved by the juvenile, that party's spouse, the party's parent, sibling, or child who is living with the party, a victim compensation board that has paid a victim compensation claim, a person or entity who has suffered losses because of a contractual relationship with such party, including, but not limited to, an insurer, or because of liability under section 14-6-110, C.R.S., or, in the absence of any of the above, the state.

(b) "Victim", as used in section 19-5-105.5, means any natural person against whom a crime of sexual assault or a crime in which the underlying factual basis was sexual assault has been perpetrated or is alleged to have been perpetrated.

(113) "Youth" means an individual who is less than twenty-one years of age.

Source: L. 87: Entire title R&RE, p. 696, § 1, effective October 1. **L. 88:** (11.5) added, p. 748, § 1, effective March 18; (3) amended, p. 741, § 1, effective July 1; (3.5) added, p. 750, § 1, effective July 1. **L. 89:** (27) added, p. 926, § 1, effective April 23. **L. 90:** (9.5)(b) amended, p. 1011, § 3, effective July 1. **L. 91:** (12.5) added, p. 263, § 5, effective May 31. **L. 92:** (2.5) added, p. 220, § 2, effective July 1. **L. 93:** (22) amended, p. 1134, § 64, effective July 1, 1994. **L. 94:** (12.3) added, p. 910, § 5, effective April 28; (2.5), (5), (12), (20), and (23) amended, p. 2658, § 144, effective July 1. **L. 96:** Entire section R&RE, p. 68, § 1, effective March 20; (34.3) and (34.5) added, p. 1089, § 1, effective May 23; (49) amended and (51.5) added, p. 264, § 13, effective July 1; (66) amended, p. 265, § 15, effective July 1; (1)(b), (2), (12), (30), (36), (44), (45), (46), (47), (50), (52), (53), (61), (69), (82)(b), (83), (84), (88), (92), (95), (96), and (105) amended and (40.5), (94.5), and (101.5) added, p. 1684, § 12, effective January 1, 1997; (48)

amended and (16.5) and (77.5) added, p. 1174, § 10, effective January 1, 1997; (112) added, p. 1783, § 12, effective January 1, 1997. **L. 97:** (1), (23), (25), and (57) amended, p. 1431, § 6, effective July 1; (8) and (37) amended and (61.5) added, p. 1167, § 14, effective July 1; (32)(a) amended, p. 150, § 2, effective July 1. **L. 98:** (51.3) added and (89) amended, p. 1417, § 2, effective July 1; (82)(b) amended, p. 1404, § 60, effective February 1, 1999. **L. 99:** (87.5) added, p. 1025, § 6, effective May 29; (34.7) and (71.5) added and (107) amended, pp. 1061, 1062, §§ 1, 2, effective June 1; (6.5), (28.5), (63.5), and (85.5) added and (28) amended, p. 1129, § 1, effective July 1; (24.5) added, p. 908, § 2, effective July 1; (112) amended, p. 624, § 21, effective August 4. **L. 2000:** (10.5), (34.6), and (94.3) added, p. 320, § 7, effective April 7; (29.5) added, p. 1723, § 6, effective June 1; (94.3) added, p. 1965, § 9, effective June 2; (14) and (32)(a) amended and (98.5) added, p. 474, § 1, effective July 1; (28.5) and (63.5) amended and (73.5) and (94.2) added, p. 1367, § 1, effective July 1. **L. 2001:** (5) and (89) amended and (83.5) added, p. 841, § 2, effective June 1; (1)(b) and (27) amended, p. 853, § 1, effective July 1. **L. 2002:** (1)(a)(II) amended, p. 568, § 1, effective May 24; (76) and (77) amended and (101.7) added, p. 574, § 4, effective May 24; (65.3), (65.5), and (65.7) added, p. 783, § 2, effective May 30; (1)(a)(II) amended, p. 1192, § 43, effective July 1; (1)(a)(II) amended, p. 1592, § 29, effective July 1. **L. 2003:** (48) amended, p. 1991, § 32, effective May 22; (1)(a) amended, p. 819, § 1, effective July 1; (44.5) and (91.5) added, p. 1266, § 54, effective July 1; (1)(b) and (72) amended, pp. 1622, 1619, §§ 36, 28, effective August 6; (29.5) repealed, p. 1401, § 5, effective January 1, 2004. **L. 2004:** (19.5) added, p. 807, § 2, effective May 21; (78.5) added, p. 430, § 3, effective July 1. **L. 2005:** (1)(a)(VII) added, p. 587, § 1, effective July 1; (6.7), (28.6), (28.7), (103.5), and (111.5) added and (9) and (13) amended, p. 991, § 3, effective July 1. **L. 2006:** (103.7) added and (106) amended, p. 256, § 1, effective March 31; (51.3) amended, p. 507, § 1, effective April 18. **L. 2007:** (30) amended, p. 1506, § 2, effective May 31. **L. 2008:** (44) amended and (94.1) added, p. 225, § 1, effective March 31; (31.5) and (91.7) added, p. 1241, § 2, effective August 5. **L. 2010:** (76) amended, (SB 10-175), ch. 188, p. 788, § 36, effective April 29; (32) and (103) amended and (47.5) added, (SB 10-171), ch. 225, p. 981, § 2, effective May 14; (22) amended, (HB 10-1422), ch. 419, p. 2074, § 34, effective August 11. **L. 2011:** (44) amended, (HB 11-1032), ch. 296, p. 1404, § 9, effective August 10. **L. 2013:** (29.3) and (96.5) added and (112) amended, (SB 13-227), ch. 353, p. 2056, § 1, effective July 1; (44) amended, (HB 13-1254), ch. 341, p. 1982, § 3, effective August 7; (58) amended, (HB 13-1314), ch. 323, p. 1804, § 31, effective March 1, 2014. **L. 2014:** (56.5) added, (HB 14-1362), ch. 374, p. 1787, § 1, effective June 6; (28.7) amended and (35.3) added, (SB 14-051), ch. 260, p. 1047, § 2, effective July 1; IP(96.5) amended, (HB 14-1162), ch. 167, p. 594, § 9, effective July 1; (35.3) added, (HB 14-1042), ch. 261, p. 1050, § 1, effective August 6. **L. 2015:** IP(6.5)(a) and (6.5)(b) amended and (6.5)(a.5) added, (HB 15-1106), ch. 59, p. 141, § 1, effective March 30; (32) amended and (71.3) and (78.7) added, (SB 15-087), ch. 263, p. 1011, § 7, effective June 2; (35.3)(a) amended, (HB 15-1355), ch. 311, p. 1275, § 4, effective June 5. **L. 2016:** (32)(b) amended, (HB 16-1316), ch. 127, p. 363, § 2, effective August 10; (1)(a)(VIII) and (23.5) added, (HB 16-1224), ch. 101, p. 290, § 1, effective January 1, 2017. **L. 2017:** IP and (101.7) amended, (SB 17-242), ch. 263, p. 1309, § 148, effective May 25; IP and (69) amended and (113) added, (HB 17-1329), ch. 381, pp. 1972, 1962, §§ 27, 3, effective June 6; IP and (100) amended, (SB 17-177), ch. 118, p. 418, § 1, effective August 9.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-103 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments to this section in House Bill 96-1006 and House Bill 96-1019 were harmonized. Subsection (66) was originally numbered as section 19-3-303 (4.5), and the amendments to it in House Bill 96-1006 were harmonized with subsection (66) as it appears in this section.

(3) Amendments to subsection (94.3) by House Bill 00-1119 and Senate Bill 00-133 were harmonized.

(4) Amendments to subsection (35.3) by SB 14-051 and HB 14-1042 were harmonized.

(5) Subsection (28.7)(b)(II) provided for the repeal of subsection (28.7)(b), effective January 1, 2016. (See L. 2014, p. 1047.)

Cross references: For the legislative declaration contained in the 1999 act enacting subsection (24.5), see section 1 of chapter 233, Session Laws of Colorado 1999. For the legislative declaration contained in the 2001 act amending subsections (5) and (89) and enacting subsection (83.5), see section 1 of chapter 241, Session Laws of Colorado 2001. For the legislative declaration contained in the 2002 act enacting subsections (65.3), (65.5), and (65.7), see section 1 of chapter 217, Session Laws of Colorado 2002. For the legislative declaration contained in the 2003 act repealing subsection (29.5), see section 1 of chapter 196, Session Laws of Colorado 2003. For the legislative declaration contained in the 2004 act enacting subsection (78.5), see section 1 of chapter 140, Session Laws of Colorado 2004. For the legislative declaration contained in the 2007 act amending subsection (30), see section 1 of chapter 351, Session Laws of Colorado 2007. For the short title ("Heritage Act") and the legislative declaration in HB 15-1355, see section 1 of chapter 311, Session Laws of Colorado 2015. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-1-103.5. Other definitions. (Repealed)

Source: L. 96: Entire section added, p. 82, § 2, effective July 1. **L. 97:** Entire section repealed, p. 1031, § 67, effective August 6.

19-1-104. Jurisdiction. (1) Except as otherwise provided by law, the juvenile court shall have exclusive original jurisdiction in proceedings:

(a) Concerning any child committing a delinquent act, as defined in section 19-1-103 (36);

(b) Concerning any child who is neglected or dependent, as set forth in section 19-3-102;

(c) To determine the legal custody of any child or to appoint a guardian of the person or legal custodian of any child who comes within the juvenile court's jurisdiction under provisions of this section;

(d) To terminate the legal parent-child relationship;

(e) For the issuance of orders of support under article 6 of this title;

(f) To determine the parentage of a child and to make an order of support in connection therewith;

(g) For the adoption of a person of any age;

(h) For judicial consent to the marriage, employment, or enlistment of a child, when such consent is required by law;

(i) For the treatment or commitment pursuant to article 23 of title 17 and article 10.5 of title 27 of a child who has a behavioral or mental health disorder or an intellectual and developmental disability and who comes within the court's jurisdiction under other provisions of this section;

(j) Under the interstate compact on juveniles, part 7 of article 60 of title 24, C.R.S.;

(k) To make a determination concerning a petition filed pursuant to the "School Attendance Law of 1963", article 33 of title 22, C.R.S., and to enforce any lawful order of court made thereunder;

(l) To make a determination concerning a petition for review of need for placement in accordance with the provisions of section 19-1-115 (8);

(m) To decide the appeal of any child found to be in contempt of a municipal court located within the jurisdiction of the juvenile court, if confinement of the child is ordered by the municipal court.

(2) Except as otherwise provided by law, the juvenile court shall have jurisdiction in proceedings concerning any adult who abuses, ill-treats, neglects, or abandons a child who comes within the court's jurisdiction under other provisions of this section.

(3) (a) Upon hearing after prior notice to the child's parent, guardian, or legal custodian, the court may issue temporary orders providing for legal custody, protection, support, medical evaluation or medical treatment, surgical treatment, psychological evaluation or psychological treatment, or dental treatment as it deems in the best interest of any child concerning whom a petition has been filed prior to adjudication or disposition of his case.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), the court may, on the basis of a report that a child's welfare may be endangered, and if the court believes that a medical evaluation or emergency medical or surgical treatment is reasonably necessary, issue ex parte emergency orders. Where the need for a medical evaluation or medical or surgical emergency orders arises and the court is not in regular session, the judge or magistrate may give oral or telephone authorization for the necessary medical evaluation or emergency medical, surgical, or hospital care, which authorization shall have the same force and effect as if written, the same to be followed by a written order to enter on the first regular court day thereafter. Such written order shall make specific findings of fact that such emergency existed. Prior to the entry of any emergency order, reasonable effort shall be made to notify the parents, guardian, or other legal custodian for the purpose of gaining consent for such care; except that, if such consent cannot be secured and the child's welfare so requires, the court may authorize needed medical evaluation or emergency medical, surgical, or hospital care. Such ex parte emergency orders shall expire twenty-four hours after issuance; except that, at any time during such twenty-four-hour period, the parents, guardian, or other legal custodian may apply for a hearing to set aside the ex parte emergency order.

(4) Nothing in this section shall deprive the district court of jurisdiction to appoint a guardian for a child nor of jurisdiction to determine the legal custody of a child upon writ of habeas corpus or when the question of legal custody is incidental to the determination of a cause in the district court; except that:

(a) If a petition involving the same child is pending in juvenile court or if continuing jurisdiction has been previously acquired by the juvenile court, the district court shall certify the question of legal custody to the juvenile court; and

(b) The district court at any time may request the juvenile court to make recommendations pertaining to guardianship or legal custody.

(5) Where a custody award or an order allocating parental responsibilities with respect to a child has been made in a district court in a dissolution of marriage action or another proceeding and the jurisdiction of the district court in the case is continuing, the juvenile court may take jurisdiction in a case involving the same child if he or she comes within the jurisdiction of the juvenile court. The juvenile court shall provide notice in compliance with the Colorado rules of civil procedure; except that service must be effected not less than seven business days prior to the hearing. The notice must be written in clear language stating that the hearing concerns the allocation of parental responsibilities. When creating or modifying an existing order, the juvenile court shall proceed as set forth in subsection (6) of this section for a dependency and neglect proceeding pursuant to article 3 of this title 19, or as set forth in subsection (8) of this section for a juvenile delinquency case pursuant to article 2 of this title 19.

(6) When the juvenile court maintains jurisdiction in a case involving a child who is dependent or neglected and no child custody action or action for the allocation of parental responsibilities concerning the same child is pending in a district court in this state, upon the petition of a party to the dependency or neglect case, the juvenile court may enter an order allocating parental responsibilities and addressing parenting time and child support matters. The parent or person other than a parent with whom the child resides the majority of the time pursuant to the juvenile court's order shall file a certified copy of the order in the district court in the county where the child is permanently resident. Such order shall be treated in the district court as any other decree issued in a proceeding concerning the allocation of parental responsibilities.

(7) Upon motion of the city or county attorney, guardian ad litem, or respondent parent counsel, the district or the juvenile court has jurisdiction to enter a civil protection order pursuant to article 14 of title 13 in actions brought pursuant to article 3 of this title 19. The court shall use the standardized forms developed by the judicial department pursuant to section 13-1-136 and shall follow the standards and procedures for the issuance of civil protection orders set forth in article 14 of title 13, including but not limited to personal service upon the restrained person. Once issued, the clerk of the issuing court shall enter the civil protection order into the computerized central registry of protection orders created pursuant to section 18-6-803.7. If the person who is the subject of the civil protection order has not been personally served pursuant to section 13-14-107 (3), a peace officer responding to a call for assistance shall serve a copy of the civil protection order on the person who is subject to the order. If the civil protection order is made permanent pursuant to the provisions of section 13-14-106, the civil protection order remains in effect upon termination of the juvenile court action. The clerk of the court issuing the order shall file a certified copy of the permanent civil protection order into an existing case in the district court, if applicable, or with the county court in the county where the protected party resides. Civil protection orders issued by the district or the juvenile court pursuant to article 14 of title 13 have the same force and effect as protection orders issued pursuant to article 14 of title 13 by a court with concurrent jurisdiction.

(8) (a) Upon submission of a stipulated agreement of all parties, parents, guardians, and other legal custodians, if the juvenile court finds that it is in the best interests of the juvenile, the juvenile court may enter an order allocating parental responsibilities and addressing parenting time and child support matters when:

(I) The juvenile court has maintained jurisdiction in a case involving an adjudicated juvenile, a juvenile with a deferred adjudication, or a juvenile on a management plan developed pursuant to section 19-2-1303 (3);

(II) A child custody action, a dependency and neglect action, or an action for allocation of parental responsibilities concerning the same juvenile is not pending in a district court of this state, and the court complies, as applicable, with the requirements of the "Uniform Child-custody Jurisdiction and Enforcement Act", as set forth in article 13 of title 14; and

(III) All parties, parents, guardians, and other legal custodians involved are in agreement, or after notice is given to all parents, guardians, and other legal custodians and a response or objection is not filed.

(b) The parent or person other than a parent with whom the juvenile resides the majority of the time pursuant to a juvenile court order shall file a certified copy of the order in the district court in the county where the juvenile is a permanent resident. The district court shall treat the order as with any other decree issued in a proceeding concerning the allocation of parental responsibilities.

Source: L. 87: Entire title R&RE, p. 698, § 1, effective October 1. **L. 91:** (3)(b) amended, p. 360, § 24, effective April 9. **L. 92:** (3) amended, p. 173, § 1, effective April 16. **L. 97:** (6) added, p. 516, § 3, effective July 1. **L. 98:** (1)(a) amended, p. 820, § 21, effective August 5; (5) and (6) amended, p. 1405, § 61, effective February 1, 1999. **L. 2001:** (1)(k) amended, p. 870, § 2, effective June 1. **L. 2006:** (1)(i) amended, p. 1399, § 51, effective August 7. **L. 2008:** (1)(l) amended, p. 1891, § 59, effective August 5. **L. 2017:** (7) added, (HB 17-1111), ch. 96, p. 290, § 1, effective April 4; (1)(i) amended, (SB 17-242), ch. 263, p. 1309, § 149, effective May 25; (5) amended and (8) added, (HB 17-1110), ch. 137, p. 458, § 1, effective August 9.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-1-104 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: (1) For the jurisdiction of the juvenile court of Denver, see § 13-8-103; for the exemption from criminal responsibility for insufficient age, see § 18-1-801.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-1-105. Right to counsel and jury trial. (1) All hearings, including adjudicatory hearings, shall be heard by a judge or magistrate without a jury, except as otherwise provided by this title.

(2) The right to counsel shall be as provided in this title; except that, in all proceedings under the "School Attendance Law of 1963", article 33 of title 22, C.R.S., the court may appoint counsel or a guardian ad litem for the child, unless the child is already represented by counsel. If the court finds that it is in the best interest and welfare of the child, the court may appoint both

counsel and a guardian ad litem. Nothing in this title shall prevent the court from appointing counsel if it deems representation by counsel necessary to protect the interests of the child or other parties. In addition, in all proceedings under the "School Attendance Law of 1963", article 33 of title 22, C.R.S., the court shall make available to the child's parent or guardian ad litem information concerning the truancy process.

Source: L. 87: Entire title R&RE, p. 700, § 1, effective October 1. **L. 91:** (1) amended, p. 360, § 25, effective April 9. **L. 2003:** (2) amended, p. 1320, § 1, effective August 6.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-106 and 19-1-107 as said sections existed in 1986, the year prior to the repeal and reenactment of this title.

19-1-106. Hearings - procedure - record. (1) The Colorado rules of juvenile procedure shall apply in all proceedings under this title.

(2) Hearings may be conducted in an informal manner. The general public shall not be excluded unless the court determines that it is in the best interest of the child or of the community to exclude the general public, and, in such event, the court shall admit only such persons as have an interest in the case or the work of the court, including persons whom the district attorney, the county or city attorney, the child, or the parents, guardian, or other custodian of the child wish to be present.

(3) A verbatim record shall be taken of all proceedings.

(4) When more than one child is named in a petition alleging neglect or dependency, the hearings may be consolidated; except that separate hearings may be held with respect to disposition.

(5) Children's cases shall be heard separately from adults' cases, and the child or his parents, guardian, or other custodian may be heard separately when deemed necessary by the court.

Source: L. 87: Entire title R&RE, p. 700, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-107 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-1-107. Social study and other reports. (1) Unless waived by the court, an agency designated by the court shall make a social study and report in writing in all children's cases; except that:

(a) Repealed.

(b) Adoption reports shall be as provided in article 5 of this title.

(2) For the purpose of determining proper disposition of a child, written reports and other material relating to the child's mental, physical, and social history may be received and considered by the court along with other evidence; but the court, if so requested by the child, his parent or guardian, or other interested party, shall require that the person who wrote the report or

prepared the material appear as a witness and be subject to both direct and cross-examination. In the absence of such request, the court may order the person who prepared the report or other material to appear if it finds that the interest of the child so requires.

(2.5) For purposes of determining the appropriate treatment plan in connection with the disposition of a child who is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2), the report shall include a list of services available to families that are specific to the needs of the child and the child's family and that are available in the community where the family resides. The report shall establish a priority of the services if multiple services are recommended. The services may include, but are not limited to, transportation services, visitation services, psychological counseling, drug screening and treatment programs, marriage and family counseling, parenting classes, housing and day care assistance, and homemaker services.

(3) In any case where placement out of the home is recommended, the social study required by subsection (1) of this section shall include the cost of the recommended placement and an evaluation for placement containing the information required by section 19-1-115 (8)(e). Placement criteria shall be developed jointly by the department of education and the department of human services and, in the case of matters involving juvenile delinquency, in accordance with the criteria for the placement of juveniles specified in section 19-2-212 (1)(a). Such criteria shall be used by the agency designated by the court to determine its recommendation about the need for placement.

(4) The court shall inform the child, his parent or legal guardian, or other interested party of the right of cross-examination concerning any written report or other material as specified in subsection (2) of this section.

Source: L. 87: Entire title R&RE, p. 701, § 1, effective October 1. **L. 93:** (3) amended, p. 1546, § 1, effective July 1; (3) amended, p. 1134, § 65, effective July 1, 1994. **L. 94:** (2.5) added, p. 2051, § 2, effective July 1. **L. 97:** (3) amended, p. 1441, § 17, effective July 1. **L. 2005:** (3) amended, p. 766, § 29, effective June 1. **L. 2008:** (3) amended, p. 1891, § 60, effective August 5. **L. 2015:** IP(1) and (3) amended and (1)(a) repealed, (SB 15-099), ch. 99, p. 290, § 3, effective August 5.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-1-108 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments to subsection (3) in Senate Bill 93-134 and House Bill 93-1317 were harmonized.

Cross references: For the legislative declaration contained in the 1993 act amending subsection (3), see section 1 of chapter 230, Session Laws of Colorado 1993.

19-1-108. Magistrates - qualifications - duties. (1) The juvenile court may appoint one or more magistrates to hear any case or matter under the court's jurisdiction, except where a jury trial has been requested pursuant to section 19-2-107 and in transfer hearings held pursuant to section 19-2-518. Magistrates shall serve at the pleasure of the court, unless otherwise provided by law.

(2) Every magistrate appointed pursuant to this section shall be licensed to practice law in Colorado; except that county judges who are not lawyers may be appointed to serve as magistrates, as authorized by section 13-6-105 (3), C.R.S., to hear detention and bond matters.

(3) (a) Repealed.

(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 (5.5) 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, temporary custody hearings held pursuant to section 19-3-403, proceedings held pursuant to article 4 of this title, and support proceedings held pursuant to article 6 of this title. In proceedings held pursuant to article 4 or 6 of this title, contested final orders regarding allocation of parental responsibilities may be heard by the magistrate only with the consent of all parties.

(b) In proceedings under article 2 of this title, the right to require a hearing before a judge shall be deemed waived unless a request is made by any party that the hearing be held before a judge at the time the matter is set for hearing.

(c) In proceedings under article 3 of this title, the right to require a hearing before a judge is waived unless:

(I) A request is made by a party or the people of the state of Colorado that the hearing be held before the judge at the time the matter is set for hearing, if counsel for the party is present at the time the matter is set; or

(II) A request is made by a party or the people of the state of Colorado in writing within seven days after receipt of notice of the setting if the matter is set for hearing outside of the presence of counsel for a represented party or if the matter is set on notice.

(4) At the conclusion of a hearing, the magistrate shall:

(a) Advise the parties before him of his findings and ruling;

(b) Advise the parties of their right to review by the judge of his findings and ruling;

(c) Prepare findings and a written order that shall become the order of the court, absent a petition for review being filed as provided in subsection (5.5) of this section; and

(d) Advise the parties that they have a right to object to an order allowing the review of any decree for placement of a child to be conducted as an administrative review by the department of human services and that if any party objects to administrative review, the court shall conduct the review.

(5) Repealed.

(5.5) A request for review must be filed within fourteen days for proceedings under articles 2, 4, and 6 of this title or within seven days for proceedings under article 3 of this title after the parties have received notice of the magistrate's ruling and must clearly set forth the grounds relied upon. Such review is solely upon the record of the hearing before the magistrate and is reviewable upon the grounds set forth in rule 59 of the Colorado rules of civil procedure. A petition for review is 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.

(6) A magistrate may issue a lawful warrant taking a child into custody pursuant to section 19-2-503 and may issue search warrants as provided in sections 19-1-112 and 19-2-504.

Source: L. 87: Entire title R&RE, p. 701, § 1, effective October 1. **L. 88:** (3) amended, p. 741, § 2, effective July 1. **L. 91:** Entire section amended, p. 361, § 26, effective April 9. **L. 92:** (4)(d) added, p. 221, § 3, effective July 1. **L. 94:** (4)(d) amended, p. 2658, § 145, effective July 1. **L. 97:** (3) and (5) amended, p. 517, § 4, effective July 1. **L. 99:** (1) and (6) amended, p. 1375, § 11, effective July 1; (5) amended, p. 1086, § 4, effective July 1. **L. 2000:** (3)(c) amended, p. 35, § 1, effective July 1. **L. 2003:** (3)(b) amended, p. 1901, § 1, effective July 1. **L. 2006:** (3)(a) and (5) amended, p. 451, § 2, effective April 18; (3)(a.5) and (5.5) added, p. 452, §§ 3, 4, effective July 1, 2007. **L. 2007:** (3)(a.5) amended, p. 1652, § 9, effective May 31; (3)(a.5) amended, p. 2029, § 35, effective June 1; (4)(c) amended, p. 2029, § 36, effective July 1. **L. 2016:** IP(3)(c), (3)(c)(II), and (5.5) amended, (HB 16-1057), ch. 31, p. 70, § 1, effective July 1.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-110 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Subsection (3)(a)(II) provided for the repeal of subsection (3)(a), effective July 1, 2007. (See L. 2006, p. 451.)

(3) Amendments to subsection (3)(a.5) by House Bill 07-1349 and House Bill 07-1367 were harmonized.

(4) Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 2007. (See L. 2006, p. 451.)

19-1-109. Appeals. (1) An appeal as provided in the introductory portion to section 13-4-102 (1), C.R.S., may be taken from any order, decree, or judgment. Appellate procedure shall be as provided by the Colorado appellate rules. Initials shall appear on the record on appeal in place of the name of the child and respondents. Appeals shall be advanced on the calendar of the appellate court and shall be decided at the earliest practical time.

(2) (a) The people of the state of Colorado shall have the same right to appeal questions of law in delinquency cases as exists in criminal cases.

(b) An order terminating or refusing to terminate the legal relationship between a parent or parents and one or more of the children of such parent or parents on a petition, or between a child and one or both parents of the child, shall be a final and appealable order.

(c) An order decreeing a child to be neglected or dependent shall be a final and appealable order after the entry of the disposition pursuant to section 19-3-508. Any appeal shall not affect the jurisdiction of the trial court to enter such further dispositional orders as the court believes to be in the best interests of the child.

(3) A workgroup to consider necessary changes to practices, rules, and statutes in order to ensure that appeals in cases concerning relinquishment, adoption, and dependency and neglect be resolved within six months after being filed shall be established. The workgroup shall be known as the child welfare appeals workgroup and shall be created in the state judicial department.

Source: L. 87: Entire title R&RE, p. 702, § 1, effective October 1. **L. 97:** (2) amended and (3) added, p. 1433, § 7, effective July 1. **L. 2000:** (3) amended, p. 1546, § 3, effective August 2.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-112 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-1-110. Previous orders and decrees - force and effect. All orders and decrees in proceedings concerning dependency and neglect, delinquency, relinquishment, adoption, paternity, or contributing to dependency or delinquency entered by the court prior to October 1, 1987, shall remain in full force and effect until modified or terminated by the court, as provided in this title.

Source: L. 87: Entire title R&RE, p. 702, § 1, effective October 1; entire section amended, p. 1827, § 1, effective August 27.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-1-111. Appointment of guardian ad litem. (1) The court shall appoint a guardian ad litem for the child in all dependency or neglect cases under this title.

(2) The court may appoint a guardian ad litem in the following cases:

(a) For a child in a delinquency proceeding where:

(I) No parent, guardian, legal custodian, custodian, person to whom parental responsibilities have been allocated, relative, stepparent, or spousal equivalent appears at the first or any subsequent hearing in the case;

(II) The court finds that a conflict of interest exists between the child and parent, guardian, legal custodian, custodian, person to whom parental responsibilities have been allocated, relative, stepparent, or spousal equivalent; or

(III) The court makes specific findings that the appointment of a guardian ad litem is necessary to serve the best interests of the child and such specific findings are included in the court's order of appointment.

(b) For a child in proceedings under the "School Attendance Law of 1963", article 33 of title 22, C.R.S., when the court finds that the appointment is necessary due to exceptional and extraordinary circumstances;

(c) For a parent, guardian, legal custodian, custodian, person to whom parental responsibilities have been allocated, stepparent, or spousal equivalent in dependency or neglect proceedings who has been determined to have a behavioral or mental health disorder or an intellectual and developmental disability by a court of competent jurisdiction; except that, if a conservator has been appointed, the conservator shall serve as the guardian ad litem. If the conservator does not serve as guardian ad litem, the conservator shall be informed that a guardian ad litem has been appointed.

(2.5) A court shall not deem a guardian ad litem who is appointed by the court for a juvenile in a delinquency proceeding pursuant to subsection (2) of this section to be a substitute for defense counsel for the juvenile.

(3) The guardian ad litem for the child shall have the right to participate in all proceedings as a party, except in delinquency cases.

(4) (a) Except as provided in paragraphs (b) and (c) of this subsection (4), the appointment of a guardian ad litem pursuant to this section shall continue until such time as the court's jurisdiction is terminated.

(b) The appointment of the guardian ad litem shall terminate in a delinquency proceeding:

(I) At the time sentence is imposed, unless the court continues the appointment because the child is sentenced to residential or community out-of-home placement as a condition of probation; or

(II) When the child reaches eighteen years of age, unless the child has a developmental disability.

(c) The court may terminate the appointment of a guardian ad litem in a delinquency proceeding on its own motion or on the motion of the guardian ad litem when the appointment is no longer necessary due to any of the following reasons:

(I) The child's parent, guardian, legal custodian, custodian, person to whom parental responsibilities have been allocated, relative, stepparent, or spousal equivalent appears at a hearing in the case;

(II) The conflict of interest described in subparagraph (II) of paragraph (a) of subsection (2) of this section no longer exists; or

(III) The appointment no longer serves the best interests of the child.

(5) The guardian ad litem shall cooperate with any CASA volunteer appointed pursuant to section 19-1-206.

(6) Any person appointed to serve as a guardian ad litem pursuant to this section shall comply with the provisions set forth in any chief justice directive concerning the court appointment of guardians ad litem and other representatives and of counsel for children and indigent persons in titles 14, 15, 19 (dependency and neglect only), 22, and 27, C.R.S., and any subsequent chief justice directive or other practice standards established by rule or directive of the chief justice pursuant to section 13-91-105, C.R.S., concerning the duties or responsibilities of guardians ad litem in legal matters affecting children.

Source: L. 87: Entire title R&RE, p. 702, § 1, effective October 1. **L. 92:** (1) amended, p. 221, § 4, effective July 1. **L. 96:** (5) added, p. 1089, § 2, effective May 23. **L. 98:** (2)(a)(I), (2)(a)(II), and (2)(c) amended, p. 1405, § 62, effective February 1, 1999. **L. 2000:** (6) added, p. 1774, § 4, effective July 1. **L. 2006:** (2)(c) amended, p. 1400, § 52, effective August 7. **L. 2009:** (2)(a)(III), (2)(b), and (4) amended, (SB 09-268), ch. 207, p. 942, § 3, effective May 1. **L. 2014:** (2.5) added, (HB 14-1032), ch. 247, p. 954, § 5, effective November 1. **L. 2015:** (6) amended, (SB 15-264), ch. 259, p. 952, § 41, effective August 5. **L. 2017:** (2)(c) amended, (SB 17-242), ch. 263, p. 1309, § 150, effective May 25.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-105 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-1-111.5. Court-appointed special advocate. The court may appoint a CASA volunteer pursuant to the provisions of part 2 of this article if the court finds that the appointment would be in the best interests of the child. The court may direct the manner in which a CASA volunteer and any guardian ad litem appointed in a case shall collaborate.

Source: L. 96: Entire section added, p. 1089, § 3, effective May 23.

19-1-112. Search warrants for the protection of children. (1) A search warrant may be issued by the juvenile court to search any place for the recovery of any child within the jurisdiction of the court believed to be a delinquent child or a neglected or dependent child.

(2) Such warrant shall be issued only on the conditions that the application for the warrant shall:

(a) Be in writing and supported by affidavit sworn to or affirmed before the court;

(b) Name or describe with particularity the child sought;

(c) State that the child is believed to be a delinquent child or a neglected or dependent child and the reasons upon which such belief is based;

(d) State the address or legal description of the place to be searched;

(e) State the reasons why it is necessary to proceed pursuant to this section.

(3) If the court is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, it shall issue a search warrant identifying by name or describing with particularity the child sought and the place to be searched for the child.

(4) The search warrant shall be directed to any officer authorized by law to execute it in the county wherein the place to be searched is located.

(5) The warrant shall state the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof.

(6) The warrant shall be served in the daytime unless the application for the warrant alleges that it is necessary to conduct the search at some other time, in which case the court may so direct.

(7) A copy of the warrant, the application therefor, and the supporting affidavit shall be served upon the person in possession of the place to be searched and where the child is to be sought.

(8) If the child is found, the child may be taken into custody in conformance with the provisions of section 19-2-201 or section 19-3-401.

(9) The warrant shall be returned to the issuing court.

Source: L. 87: Entire title R&RE, p. 703, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-2-104 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-1-113. Emergency protection orders. (1) The juvenile court is authorized to issue an ex parte written or verbal emergency protection order for the protection of a child pursuant to this section. A judge or magistrate shall be available in the juvenile court in each judicial district to issue by telephone emergency protection orders at all times when the juvenile court is otherwise closed for judicial business.

(2) Any person who has the responsibility of supervising a child placed out of the home by court order may seek an emergency protection order, through a P.O.S.T.-certified peace officer, when such person asserts reasonable grounds to believe that the child is in immediate and present danger based on an allegation that the child is absent without permission from the court-ordered placement.

(3) An emergency protection order may include, but need not be limited to:

(a) Restraining a person from threatening, molesting, or injuring the child;

(b) Restraining a person from interfering with the supervision of the child;

(c) Restraining a person from having contact with the child or the child's court-ordered residence;

(d) Restraining a person from harboring a child who is absent without permission from a court-ordered placement.

(4) An emergency protection order shall expire not later than the close of judicial business on the next day of judicial business following the day of issue, unless otherwise continued by the court. With respect to any continuing order, on two days' notice to the person who obtained the emergency protection order or on such shorter notice to that person as the court may prescribe, the responding person may appear and move for its dissolution or modification. The motion to dissolve or modify the emergency protection order shall be set for hearing at the earliest possible time and shall take precedence over all matters except any emergency protection orders issued earlier, and the court shall determine such motion as expeditiously as the ends of justice require.

(5) (a) An emergency protection order may be issued only if the issuing judge or magistrate finds that an imminent danger exists to the welfare of a child based on an allegation that the child is absent without permission from the court-ordered placement. A verbal order shall be reduced to writing and signed by the peace officer through whom the emergency order was sought and shall include a statement of the grounds for the order asserted through the P.O.S.T.-certified peace officer. An order initially written shall meet the same requirement as an order issued verbally.

(b) The emergency protection order shall be served upon the respondent with a copy given to the person who sought the order and filed with the juvenile court as soon as practicable after issuance. If any person named as a respondent in an order issued pursuant to this section has not been served personally with the order but has received actual notice of the existence and substance of the order from any sheriff, deputy sheriff, or police officer, any act in violation of the order may be deemed by the juvenile court a violation of the order and as such may be sufficient to subject the respondent to the order to any penalty for such violation. If the law

enforcement agency having jurisdiction to enforce the emergency protection order has cause to believe that a violation of the order has occurred, it shall enforce the order.

(6) The issuance of an emergency protection order shall not be considered evidence of any wrongdoing.

(7) A law enforcement officer who acts in good faith and without malice shall not be held civilly or criminally liable for acts performed pursuant to this section.

Source: L. 87: Entire title R&RE, p. 704, § 1, effective October 1. **L. 91:** (1) and (5)(a) amended, p. 362, § 27, effective April 9. **L. 2003:** (2) and (5)(a) amended, p. 1632, § 79, effective August 6.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-110.1 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-1-114. Order of protection. (1) The court may make an order of protection in assistance of, or as a condition of, any decree authorized by this title. The order of protection may set forth reasonable conditions of behavior to be observed for a specified period by the parent, guardian, legal custodian, custodian, person to whom parental responsibilities have been allocated, stepparent, spousal equivalent, or any other person who is party to a proceeding brought under this title.

(2) The order of protection may require any such person:

(a) To stay away from a child or his residence;

(b) To permit a parent to visit a child at stated periods;

(c) To abstain from offensive conduct against a child, the child's parent or parents, the child's guardian or legal custodian, or any other person to whom legal custody of or parental responsibilities with respect to a child has been given;

(d) To give proper attention to the care of the home;

(e) To cooperate in good faith with an agency:

(I) Which has been given legal custody of a child;

(II) Which is providing protective supervision of a child by court order; or

(III) To which the child has been referred by the court;

(f) To refrain from acts of commission or omission that tend to make a home an improper place for a child;

(g) To perform any legal obligation of support; or

(h) To pay for damages recoverable under the provisions of section 13-21-107, C.R.S.

(3) (a) When such an order of protection is made applicable to a parent or guardian, it may specifically require his or her active participation in the rehabilitation process and may impose specific requirements upon such parent or guardian, subject to the penalty of contempt for failure to comply with such order without good cause, as provided in subsection (5) of this section.

(b) The court may, when the court determines that it is in the best interests of the child, make an order of protection which shall be applicable to a parent or guardian of a child and the person with whom the child resides, if other than the child's parent or guardian, subject to the provisions of article 2 of this title. The order shall require the parent or guardian and the person

with whom the child resides, if other than the parent or guardian, to be present at any juvenile proceeding concerning the child.

(4) After notice and opportunity for a hearing is given to a person subject to an order of protection, the order may be terminated, modified, or extended for a specified period of time if the court finds that the best interests of the child and the public will be served thereby.

(5) (a) A person failing to comply with an order of protection without good cause may be found in contempt of court.

(b) The court shall issue a bench warrant for any parent or guardian or person with whom the child resides, if other than the parent or guardian, who, without good cause, fails to appear at any proceeding.

(c) For purposes of this subsection (5), good cause for failing to appear shall include, but shall not be limited to, a situation where a parent or guardian:

(I) Does not have physical custody of the child and resides outside of Colorado;

(II) Has physical custody of the child, but resides outside of Colorado and appearing in court will result in undue hardship to such parent or guardian; or

(III) Resides in Colorado, but is outside of the state at the time of the juvenile proceeding for reasons other than avoiding appearance before the court and appearing in court will result in undue hardship to such parent or guardian.

(d) The general assembly hereby declares that every parent or guardian whose child is the subject of a juvenile proceeding under this article should attend any such proceeding as often as is practicable.

(6) Repealed.

(7) Nothing in this section shall be construed to create a right for any juvenile to have his or her parent or guardian present at any proceeding at which such juvenile is present.

Source: L. 87: Entire title R&RE, p. 705, § 1, effective October 1. **L. 93, 1st Ex. Sess.:** (3) and (5) amended and (6) and (7) added, p. 29, § 1, effective September 13. **L. 96:** (6) repealed, p. 85, § 11, effective March 20. **L. 98:** (1) and (2)(c) amended, p. 1406, § 63, effective February 1, 1999.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-110 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-1-115. Legal custody - guardianship - placement out of the home - petition for review for need of placement. (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).

(b) Any individual, agency, or institution vested by the court with the guardianship of the person of a child shall have the rights and duties defined in section 19-1-103 (60); except that

no guardian of the person may consent to the adoption of a child unless that authority is expressly given by the court.

(2) (a) If legal custody or guardianship of the person is vested in an agency or institution, the court shall transmit, with the court order, copies of the social study, any clinical reports, and other information concerning the care and treatment of the child.

(b) An individual, agency, or institution vested by the court with legal custody or guardianship of the person of a child shall give the court any information concerning the child which the court at any time may require.

(3) (a) Any agency vested by the court with legal custody of a child shall have the right, subject to the approval of the court, to determine where and with whom the child shall live, but this paragraph (a) shall not apply to placement of children committed to the department of human services. In determining where and with whom a child shall live, if in the best interests of the child, preference may be given to the child's grandparent who is appropriate, capable, willing, and available to care for the child.

(b) No individual or agency vested by the court with legal custody of a child or with which a child is placed pursuant to subsection (8) of this section shall remove the child from the state for more than thirty days without court approval. When granting such approval, if appropriate, the court shall enter an order that the individual or agency comply with the requirements of the "Interstate Compact on Placement of Children" set forth in part 18 of article 60 of title 24, C.R.S.

(4) (a) A decree vesting legal custody of a child in an individual, institution, or agency or providing for placement of a child pursuant to section 19-2-906 or 19-3-403 or subsection (8) of this section shall be for a determinate period. Such decree shall be reviewed by the court no later than three months after it is entered, except a decree vesting legal custody of a child with the department of human services.

(b) The individual, institution, or agency vested with the legal custody of a child may petition the court for renewal of the decree. The court, after notice and hearing, may renew the decree for such additional determinate period as the court may determine if it finds such renewal to be in the best interests of the child and of the community. The findings of the court and the reasons therefor shall be entered with the order renewing or denying renewal of the decree.

(c) The court shall review any decree or, if there is no objection by any party to the action, the court may, in its discretion, require an administrative review by the state department of human services of any decree entered in accordance with this subsection (4) each six months after the initial review provided in paragraph (a) of this subsection (4). In the event that an administrative review is ordered, all counsel of record shall be notified and may appear at said review. Periodic reviews shall include the determinations and projections required in section 19-3-702 (6).

(d) (I) A decree vesting legal custody of a child or providing for placement of a child with an agency in which public moneys are expended shall be accompanied by an order of the court that obligates the parent of the child to pay a fee, based on the parent's ability to pay, to cover the costs of the guardian ad litem and of providing for residential care of the child. When custody of the child is given to the county department of social services, such fee for residential care shall be in accordance with the fee requirements as provided by rule of the department of human services, and such fee shall apply, to the extent unpaid, to the entire period of placement. When a child is committed to the department of human services, such fee for care and treatment

shall be in accordance with the fee requirements as provided by rule of the department of human services, and such fee shall apply, to the extent unpaid, to the entire period of placement.

(II) For an adoptive family who receives an approved Title IV-E adoption assistance subsidy pursuant to the federal "Social Security Act", 42 U.S.C. sec. 673 et seq., or an approved payment in subsidization of adoption pursuant to section 26-7-103, C.R.S., the cost of care, as defined in section 19-1-103 (30), shall not exceed the amount of the adoption assistance payment.

(5) No legal custodian or guardian of the person may be removed without his consent until given notice and an opportunity to be heard by the court if he so requests.

(6) Any time the court enters an order awarding legal custody of a child to the department of human services or to a county department pursuant to the provisions of this title, even temporarily, said order shall contain specific findings, if warranted by the evidence, as follows:

(a) That continuation of the child in the home would be contrary to the child's best interests;

(b) That there has been compliance with reasonable efforts requirements regarding removal of the child from the home, as follows:

(I) That reasonable efforts have been made to prevent or eliminate the need for removal of the child from the home; or

(II) That an emergency situation exists which requires the immediate temporary removal of the child from the home and it is reasonable that preventive efforts not be made due to the emergency situation; or

(III) That reasonable efforts to prevent the child's removal from the home are not required because of the existence of a circumstance described in subsection (7) of this section;

(c) That reasonable efforts have been made or will be made to reunite the child and the family or that efforts to reunite the child and the family have failed or that reasonable efforts to reunite the child and the family are not required pursuant to subsection (7) of this section; and

(d) That procedural safeguards with respect to parental rights have been applied in connection with the removal of the child from the home, a change in the child's placement out of the home, and any determination affecting parental visitation.

(6.5) Any time the court enters an order continuing a child in a placement out of the home pursuant to this title, said order shall contain specific findings, if warranted by the evidence, as follows:

(a) The continuation of the child in out-of-home placement is in the best interests of the child;

(b) That reasonable efforts have been made to reunite the child and the family or that reasonable efforts to reunite the child and the family are not required pursuant to subsection (7) of this section; and

(c) That procedural safeguards with respect to parental rights have been applied in connection with the continuation of the child in out-of-home placement, a change in the child's placement out of the home, and any determination affecting parental visitation.

(6.7) Any time the court enters an order related to out-of-home placement pursuant to paragraphs (a), (b), and (c) of subsection (6) or paragraph (b) of subsection (6.5) of this section; paragraph (f) of subsection (8) of this section; section 19-2-508 (3)(a)(VII)(A) and (3)(a)(VII)(B); section 19-2-906.5 (1)(a), (1)(b), and (3)(a)(III); or section 19-3-702 (3.5)(b) and

(6)(a)(II), the order shall be effective as of the date the findings were made by the court, notwithstanding the date that a written order may be signed by the court. Written orders entered pursuant to paragraphs (a), (b), and (c) of subsection (6) or paragraph (b) of subsection (6.5) of this section; paragraph (f) of subsection (8) of this section; section 19-2-508 (3)(a)(VII)(A) and (3)(a)(VII)(B); section 19-2-906.5 (1)(a), (1)(b), and (3)(a)(III); or section 19-3-702 (3.5)(b) and (6)(a)(II) shall state "the effective date of this order is" and shall not use the words "nunc pro tunc".

(7) Reasonable efforts are not required to prevent the child's removal from the home or to reunify the child and the family in the following circumstances:

(a) When the court finds that the parent has subjected the child to aggravated circumstances as described in sections 19-3-604 (1) and (2); or

(b) When the parental rights of the parent with respect to a sibling of the child have been involuntarily terminated; unless the prior sibling termination resulted from a parent delivering a child to a firefighter or a hospital staff member pursuant to the provisions of section 19-3-304.5; or

(c) When the court finds that the parent has been convicted of any of the following crimes:

(I) Murder of another child of the parent;

(II) Voluntary manslaughter of another child of the parent;

(III) Aiding, abetting, or attempting the commission of or conspiring or soliciting to commit the crimes in subparagraphs (I) and (II) of this paragraph (c); or

(IV) A felony assault that resulted in serious bodily injury to the child or to another child of the parent.

(8) (a) Whenever it appears necessary that the placement of a child out of the home will be for longer than ninety days, the placement is voluntary and not court-ordered, and the placement involves the direct expenditure of funds appropriated by the general assembly to the department of human services, a petition for review of need for placement shall be filed by the department or agency with which the child has been placed before the expiration of ninety days in the placement. A decree providing for voluntary placement of a child with an agency in which public moneys are expended shall be renewable in circumstances where there is documentation that the child has an emotional, a physical, or an intellectual disability that necessitates care and treatment for a longer duration than ninety days as provided pursuant to this paragraph (a). The court shall not transfer or require relinquishment of legal custody of, or otherwise terminate the parental rights with respect to, a child who has an emotional, a physical, or an intellectual disability and who was voluntarily placed out of the home for the purposes of obtaining special treatment or care solely because the parent or legal guardian is unable to provide the treatment or care. Whenever a child fifteen years of age or older consents to placement in a mental health facility pursuant to section 27-65-103, C.R.S., the review under section 27-65-103 (5), C.R.S., shall be conducted in lieu of and shall fulfill the requirements for review under this paragraph (a).

(b) (I) The petition and all subsequent court documents in any proceedings brought under paragraph (a) of this subsection (8) shall be titled "The People of the State of Colorado, in the Interest of _____, a child (or children) and Concerning _____, Respondent." The petition shall be verified, and the statements in the petition may be made upon information and belief.

(II) The petition shall set forth plainly the facts that bring the child within the court's jurisdiction, specifying that the child is subject to immediate placement out of the home or has been in voluntary placement out of the home and it appears that continuation of the placement is necessary for a time exceeding ninety days and continuation of the placement is necessary and is in the best interest of the child, the family, and the community. The petition shall also state the name, age, and residence of the child and the names and residences of his or her parents, guardian, or other legal custodian or of his or her nearest known relative if no parent, guardian, or other legal custodian is known.

(III) All petitions filed pursuant to this subsection (8) shall include the following statement: "If the child is placed out of the home for a period of twelve months or longer, the court shall hold a permanency hearing within said twelve months to determine the future status of the child. The review of any decree of placement of a child subsequent to the three-month review required by section 19-1-115 (4)(a), Colorado Revised Statutes, may be conducted as an administrative review by the department of human services. If you are a party to the action, you have a right to object to an administrative review, and, if you object, the review shall be conducted by the court."

(c) After a petition has been filed, the court shall promptly issue a summons reciting briefly the substance of the petition. The summons shall be substantially in the form specified in section 19-3-502 and be dealt with in the manner provided in section 19-3-503 and shall set forth the constitutional and legal rights of the child, his or her parents or guardian, and any other respondent, including the right to have an attorney present at the hearing on the petition. The petitioner shall send the summons to the child and his or her parents, guardian, or legal custodian by certified mail. Notice of the hearing shall be given by the court 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. Nothing in this subsection (8) shall require the presence of any person before the court unless the court so directs.

(d) The court shall appoint a guardian ad litem to protect the interest of the child for any child who is the subject of a petition for review of placement, unless the court makes specific findings that no useful purpose would be served by such appointment.

(e) For purposes of determining proper placement of the child, the petition for review of placement or social study shall be accompanied by an evaluation for placement prepared by the department or agency that recommends placement or with which the child has been placed. The evaluation for placement shall include an assessment of the child's physical and mental health, developmental status, family and social history, and educational status. The petition shall also be accompanied by recommended placements for the child and the monthly cost of each and a treatment plan that contains, at a minimum, the goals to be achieved by the placement; the services to be provided; the intensity, duration, and provider of the services; identification of the services that can be provided only in a residential setting; and the recommended duration of the placement. The petition or social study shall also be accompanied by the required fee to be charged to the parents pursuant to paragraph (d) of subsection (4) of this section. In addition, if a change in legal custody is recommended, the evaluation for placement shall include other alternatives that have been explored and the reason for their rejection, and the evaluation for placement shall contain an explanation of any particular placements that were considered and rejected and the reason for their rejection.

(f) The petition for review of need for placement shall request the court to determine, by a preponderance of the evidence, whether placement or continued placement is necessary and in the best interest of the child, the family, and the community and whether reasonable efforts have been made to return the child to a safe home or whether the child should be permanently removed from his or her home. If the court makes such findings, it shall enter a decree ordering the child's placement out of the home 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 or the evaluation for placement required by paragraph (e) of this subsection (8) that shall state the cost of recommended placement. If the evaluation for placement recommends placement in a facility located in Colorado that can provide appropriate treatment and that will accept the child, then the court shall not place the child in a facility outside this state. 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 Colorado supreme court, who shall report annually to the joint budget committee and the health and human services committees of the house of representatives and senate of the general assembly, or any successor committees, on such orders. If the court commits the child to the department of human services, it shall not make a specific placement, nor shall the provisions of this paragraph (f) relating to specific findings of fact be applicable. If the court makes a finding that continued placement is not necessary and is not in the best interest of the child, the family, and the community, the court shall dismiss the petition for review of need for placement and shall order that the child be returned home. The court may require a continued hearing of the petition for review of need for placement for a period not to exceed fourteen days if it finds that the materials submitted are insufficient to make a finding as provided in this paragraph (f).

(g) A petition for review of need for placement shall not be handled as an informal adjustment in accordance with the provisions of section 19-3-501 (2).

Source: L. 87: Entire title R&RE, p. 706, § 1, effective October 1. **L. 89:** (4)(c) amended, p. 930, § 1, effective April 23. **L. 90:** (4)(d) amended, p. 1014, § 2, effective July 1. **L. 91:** (1)(a) and (3)(a) amended, p. 264, § 6, effective May 31. **L. 92:** (3)(b) and (4) amended and (6) added, p. 221, § 5, effective July 1. **L. 93:** (4)(c) and (6) amended, p. 388, § 1, effective April 19; (4)(d) amended, p. 1546, § 2, effective July 1. **L. 94:** (3)(a), (4)(a), (4)(c), and (4)(d) amended, p. 2659, § 146, effective July 1. **L. 98:** (1) amended, p. 820, § 22, effective August 5. **L. 2001:** (6) amended and (7) added, p. 842, § 3, effective June 1. **L. 2003:** (7)(b) amended, p. 769, § 2, effective March 25; (1)(a) amended, p. 2629, § 12, effective June 5; IP(6) and (6)(b)(II) amended and (6.5) added, p. 2486, § 1, effective July 1. **L. 2004:** (6.7) added, p. 357, § 1, effective July 1. **L. 2007:** (4)(d) amended and (8) added, p. 1506, § 4, effective May 31. **L. 2008:** (3)(b), (4)(a), and (6.7) amended, p. 1891, § 61, effective August 5. **L. 2009:** (4)(a) amended, (SB 09-292), ch. 369, p. 1949, § 34, effective August 5. **L. 2010:** (8)(a) amended, (SB 10-175), ch. 188, p. 788, § 37, effective April 29.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-3-115 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2001 act amending subsection (6) and enacting subsection (7), see section 1 of chapter 241, Session Laws of Colorado 2001. For the legislative declaration contained in the 2007 act amending subsection (4)(d) and enacting subsection (8), see section 1 of chapter 351, Session Laws of Colorado 2007.

19-1-115.3. Missing children and youth from out-of-home placement - required reporting to law enforcement. If a child or youth for whom the department of human services or a county department of human or social services has legal custody pursuant to the provisions of this title is determined by the agency to be missing, the agency having legal custody of said child or youth shall report the disappearance immediately, and in no case later than twenty-four hours after learning of the disappearance, to the National Center for Missing and Exploited Children and to law enforcement. Law enforcement authorities shall notify the Colorado bureau of investigation for transmission to the federal bureau of investigation for entry into the national crime information center database pursuant to section 16-2.7-103, C.R.S. Notwithstanding the provisions of this section, the reporting requirements set forth for foster parents and out-of-home placement facilities in section 19-2-920 shall still apply.

Source: L. 2015: Entire section added, (HB 15-1078), ch. 41, p. 101, § 1, effective January 1, 2016.

19-1-115.5. Placement of children out of home - legislative declaration. (1) (a) (I) The general assembly hereby finds that the number of children in out-of-home placement has increased significantly. The general assembly further finds that the facility in which a child is placed out of home is often not located in the same school district as the child's school district of residence. Nevertheless, the general assembly finds that, under the provisions of the "Public School Finance Act of 1994", article 54 of title 22, C.R.S., children in foster home placement are considered residents of the school district in which the foster home is located. Accordingly, the school district in which the child is placed must accommodate the child and provide the child with the necessary educational services that serve the child's best interests while absorbing the costs associated with such services within the constraints of the school district's existing budget. The general assembly finds that in many circumstances it is not possible to meet the best interests of the child in out-of-home placement and the needs of other children enrolled in the school district within the confines of the district's budget.

(II) The general assembly determines that the number of children in out-of-home placement and the severity of their attendant needs are increasing. The ability to meet the needs of the children in out-of-home placement is frequently restricted by the limited resources available to a school district. Furthermore, the general assembly finds that there is a disproportionately larger number of children in out-of-home placement in some school districts than in others, thereby directly impacting the ability of certain school districts to effectively manage and finance the provision of quality educational services to all students in those districts.

(b) The general assembly therefore determines that it would serve the best interests of all children enrolled in a school district if the number of children placed in out-of-home placement facilities by county departments of social services in each of the various school districts is monitored so that the financial impact on all school districts throughout the state is manageable and equitable and so that the best interests of all children, whether or not in out-of-home placement, can be served.

(2) (a) Contingent upon implementation of the children, youth, and families automation project in the department of human services, the department shall make the following information available to all county departments throughout the state:

(I) Vacancies in out-of-home placement facilities within each county;

(II) The number of out-of-home placement children enrolled in each school district in relation to the total number of students enrolled in the school district;

(III) A list of all out-of-home placement facilities in each school district; and

(IV) To the extent known and within available resources, a list of the types of services available in each school district to meet the special needs of children in out-of-home placement.

(b) In every proceeding pursuant to this title in which the court contemplates placing a child out of home, the county department shall make recommendations to the court concerning the proposed placement. Such recommendations shall include information about placement facilities that are most able to serve appropriately the best interests of the child. In making its recommendations to the court, the county department shall consider:

(I) The special needs, if any, of the child to be placed, including the ability of the proposed out-of-home placement facility and the school district in which the proposed out-of-home placement facility is located to provide the necessary services to meet those needs;

(II) The proximity of the proposed out-of-home placement facility to the child's parents' home, if parental rights have not been terminated;

(III) Whether the proposed placement facility is in the same school district as the child's parents' residence;

(IV) If the proposed placement facility is not in the same school district as the child's parents' residence and if the information is available through the children, youth, and families automation project, the number of children placed out of home by the court who are already enrolled in the school district in which the proposed out-of-home placement facility is located.

(c) If the recommendation of the county department is to place the child in a placement facility that is not located in the same school district as the child's parents' residence, the placing county department shall inform the school district in which the child's parents reside of the recommended placement.

(d) In placing a child out of home, the court shall consider the recommendations of the county department and any information it may have concerning whether the child's educational needs can be met adequately if the child is placed in an out-of-home placement facility located in a school district other than the district in which the child's parents reside.

(e) Upon entry of the court's order placing a child in an out-of-home placement facility located in a school district other than the school district in which the child's parents reside, the county department shall advise the school district in which the child's parents reside of the court's order.

(f) When a school district is advised by the county department that a child residing in that school district is to be placed in an out-of-home placement facility in another school district

pursuant to a court order, the school district shall contact the school district in which the child is to be placed concerning:

(I) The special educational needs, if any, of the child; and

(II) The resources necessary to meet those special needs.

(3) The state board of education shall provide the department of human services with all aggregate, nonidentifying information concerning student enrollment in every school district in the state that the department of human services may request for purposes of implementing this section.

Source: L. 97: Entire section added, p. 147, § 1, effective July 1.

19-1-116. Funding - alternatives to placement out of the home - services to prevent continued involvement in child welfare system. (1) The state department of human services shall reimburse allowable expenses to county departments of social services for foster care. The state department's budget request for foster care shall be based upon the actual aggregate expenditure of federal, state, and local funds of all counties during the preceding twenty-four months on foster care. Special purpose funds, not to exceed five percent of the total appropriation for foster care, shall be retained by the department of human services for purposes of meeting emergencies and contingencies in individual counties. The amount thus reimbursed to each county shall represent the total expenditure by an individual county for foster care and for alternative services provided in conformance with the plan prepared and approved pursuant to paragraph (b) of subsection (2) and subsection (4) of this section.

(1.5) No later than July 1, 1994, each county in the state shall assure access to alternatives to out-of-home placements for families with children at imminent risk of out-of-home placements. Beginning September 1, 2011, a county may also provide access for families to alternative services to prevent continued involvement with the county department child welfare system. Two or more counties may jointly provide or purchase alternative services to families in the respective counties. Such services shall either be provided for under the plan adopted by placement alternative commissions in accordance with paragraph (b) of subsection (2) of this section or purchased by the county if such county does not have a placement alternative commission for the county. If a county purchases alternative services, the county shall ensure that the services purchased meet the goals of placement alternative commission plans, as described in subparagraph (I) of paragraph (b) of subsection (2) of this section.

(2) (a) The county commissioners in each county may appoint a placement alternatives commission consisting, where possible, of a physician or a licensed health professional, an attorney, representatives of a local law enforcement agency, representatives recommended by the court and probation department, representatives from the county department of social services, a local mental health clinic, and the county, district, or municipal public health agency, a representative of a local school district specializing in special education, a representative of a local community centered board, representatives of a local residential child care facility and a private not for profit agency providing nonresidential services for children and families, a representative specializing in occupational training or employment programs, a foster parent, and one or more representatives of the lay community. At least fifty percent of the commission members shall represent the private sector. The county commissioners of two or more counties may jointly establish a district placement alternatives commission. A placement alternatives

commission may be consolidated with other local advisory boards pursuant to section 24-1.7-103, C.R.S.

(b) (I) On or before July 1, 1994, the commission, if established, shall annually prepare a plan for the provision of services. The primary goals under the plan shall be to prevent imminent placement of children out of the home and to reunite children who have been placed out of the home with their families. If a county provides services to children who, without intervention, risk continued involvement with the child welfare system, the county shall include in the plan the goals to be achieved by providing said services. The plan shall be prepared using all available sources of information in the community, including public hearings. The plan shall specify the nature of the expenditures to be made and shall identify the services which are intended to prevent or minimize placement out of the home and to what extent. The plan shall contain, whenever practicable, a vocational component to provide assistance to older children concerning a transition into the work force upon completion of school. Upon approval of the plan by the county commissioners, the counties shall submit the plan to the department of human services.

(II) On and after July 1, 1994, the commissions shall prepare multi-year plans for services which contain the same goals as described in subparagraph (I) of this paragraph (b), and the period for the plans shall be determined in state board rules. The multi-year plans may be amended annually for budgetary or programmatic changes that are necessary to enhance service delivery or as otherwise deemed necessary to accomplish the goals of the plan, which reasons shall be set forth in state board rules. Counties shall submit the multi-year plans for approval by the state board.

(c) The commission shall review, on an ongoing basis, the effectiveness of programs within its jurisdiction which are designed to prevent or reduce placement and shall report its findings to the county commissioners annually.

(d) Repealed.

(e) Upon approval by the state board of human services of the plan submitted pursuant to paragraph (b) of this subsection (2), the department of human services shall reimburse county departments, as described in section 26-1-122, C.R.S., for eighty percent of the expenditures made in conformance with the plan.

(3) Repealed.

(4) (a) The departments of human services and education and the judicial department shall jointly develop guidelines for the content and submission of plans as described in paragraph (b) of subsection (2) of this section. Said guidelines shall include but not be limited to the information that is gathered by the commission, the goals to be addressed by the plan, the form of the budget for expenditures that are to be made under the plan, the services that are to be provided which are intended to prevent or minimize placement out of the home and to reunite children with their families and to what extent, and the method by which the plan may be amended during the year to meet the changing local conditions; except that amendments to the plan on and after July 1, 1994, shall be in accordance with subparagraph (II) of paragraph (b) of subsection (2) of this section. On and after July 1, 1993, any amendments to the guidelines shall be developed by the department of human services. Said guidelines shall then be submitted to the state board of human services, which shall promulgate rules for the submission of plans.

(b) In addition to the duties described in paragraph (a) of this subsection (4), the state board of human services is hereby authorized to develop through the adoption of rules categories

of programs and services that promote the primary goals of the plan established in accordance with paragraph (b) of subsection (2) of this section. Any plan established on and after July 1, 1994, shall provide for the availability and provision of services or programs within such categories. Any plan established before July 1, 1994, shall be amended on or before that date to provide for the availability and provision of services or programs within such categories. The department of human services shall monitor the implementation of the plans as approved by the state board.

(5) Children currently residing in institutions whose condition would permit them to be discharged to less restrictive settings shall be so transferred at the earliest possible date. Moneys appropriated and available to the department of human services shall be allocated on a priority basis by the department to county departments for the purposes of providing care to children who are discharged from the institution in which they reside if such children then receive care that is less intensive, closer to the residence of the parents or family, or in a less restrictive setting.

(6) It is the intent of the general assembly that no state moneys appropriated for placements out of the home shall be used by county boards of social services for the development of new county-run programs or for the expansion of existing staff or programs, if such development or expansion duplicates services already provided in the community, including, but not limited to, day care programs, independent living programs, home based care, transitional care, alternative school programs, counseling programs, street academies, tutorial programs, and in-home treatment and counseling programs.

(7) (a) Any county is hereby authorized to establish a program under which a multidisciplinary, noncategorical program fund for the county shall be created and moneys from such fund shall be used to provide child welfare services to at-risk children and their families. Except as otherwise provided by federal law, the moneys in the county's fund contributed by state agencies shall be exempt from restrictive, categorical rules otherwise governing the use of such funds, including the "M" notation in the state's annual appropriations act which describes the general and federal fund contributions for federally supported programs.

(b) Such services shall include, but are not limited to, assessment, intervention, treatment, supervision, and shelter when and if appropriate.

(c) (I) The fund for each county shall consist of contributions, which shall be made by any state, county, or local agency, of federal, state, or local funds appropriated to or contributed by such agencies for child welfare services for at-risk children and their families. Appropriated funds shall include, but shall not be limited to, those appropriated to county departments of social services, the state department of human services, the department of public health and environment, the department of education, the department of public safety, the judicial department, and the job training partnership office in the governor's office. Each state agency's contribution to a county's fund shall be contingent upon and equal to contributions from the participating county and any other local agency that participates and seeks money from the fund. Nothing in this subsection (7) shall be construed to allow the allocation of general fund moneys to any other participating county in the same manner that such moneys are allocated to Mesa county in accordance with section 2 of HB 93-1171, as enacted during the first regular session of the fifty-ninth general assembly.

(II) The fund for each county may also consist of contributions from the fund of any other participating county.

(d) The county board of social services for a county shall convene a meeting of the local and state agencies that provide child welfare services to at-risk children and their families, that will participate in the program, and that seek moneys from the county's fund. The meeting shall be for the purpose of developing and adopting a memorandum of understanding between such agencies and the county's board of social services concerning the amount of contributions to the fund described in paragraph (c) of this subsection (7) and the allocation and use of moneys allocated from the fund. The memorandum of understanding shall provide for the designation of a governing entity to oversee the administration of the fund and a fiscal agent, a three-year plan, provisions for evaluating the programmatic and fiscal impact and overall effectiveness of the program, and a process for submitting the results of such evaluation to the general assembly and state officials on an annual basis.

(e) The three-year plan described in paragraph (d) of this subsection (7) shall be reviewed for approval by the state agencies affected by the implementation of such plan. The state agencies shall act on such plan within ninety days after such plan is submitted to the state agencies. It is the intent of the general assembly that the plan described in said paragraph (d) be implemented and that the state agencies cooperate in the development and implementation of such plan. Prior to the implementation of the program, a copy of the approved plan shall be submitted to the joint budget committee of the general assembly. Prior to the expiration of the three-year plan, the county board of social services shall follow the procedures described in paragraph (d) of this subsection (7) for readoption of or revisions to the three-year plan.

Source: L. 87: Entire title R&RE, p. 707, § 1, effective October 1. **L. 90:** (1), (2)(b), (2)(e), and (3) amended and (2)(d) repealed, pp. 1013, 1015, §§ 1, 4, effective July 1. **L. 93:** (1.5) added and (2) and (4) amended, p. 2002, § 2, effective June 9; (7) added, p. 2095, § 1, effective July 1; (4) amended, p. 1135, § 66, effective July 1, 1994. **L. 94:** (1), (2)(a), (2)(b)(I), (2)(e), (3), (4)(b), (5), and (7)(c) amended, pp. 2659, 2736, §§ 147, 363, effective July 1; (7) amended, p. 1798, § 1, effective July 1. **L. 96:** (2)(b)(I) amended, p. 82, § 3, effective March 20; (3) amended, p. 1256, § 143, effective August 7. **L. 97:** (2)(a) amended, p. 1191, § 12, effective July 1. **L. 98:** (3) amended, p. 729, § 16, effective May 18; (4)(a) amended, p. 821, § 23, effective August 5. **L. 2001:** (3) repealed, p. 1176, § 5, effective August 8. **L. 2010:** (2)(a) amended, (HB 10-1422), ch. 419, p. 2075, § 35, effective August 11. **L. 2011:** (1.5) and (2)(b)(I) amended, (HB 11-1196), ch. 160, p. 553, § 3, effective August 10.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-120 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments to subsection (4) in Senate Bill 93-254 and House Bill 93-1317 were harmonized. Amendments to subsection (2)(a) in section 147 of House Bill 94-1029 were superseded by amendments in section 363 of House Bill 94-1029. Amendments to subsection (7) in House Bill 94-1357 and House Bill 94-1029 were harmonized.

Cross references: For the legislative declaration contained in the 1993 act amending subsection (4), see section 1 of chapter 230, Session Laws of Colorado 1993. For the legislative declaration contained in the 1996 act amending subsection (3), see section 1 of chapter 237, Session Laws of Colorado 1996.

19-1-117. Visitation rights of grandparents or great-grandparents. (1) Any grandparent or great-grandparent of a child may, in the manner set forth in this section, seek a court order granting the grandparent or great-grandparent reasonable grandchild or great-grandchild visitation rights when there is or has been a child custody case or a case concerning the allocation of parental responsibilities relating to that child. Because cases arise that do not directly deal with child custody or the allocation of parental responsibilities but nonetheless have an impact on the custody of or parental responsibilities with respect to a child, for the purposes of this section, a "case concerning the allocation of parental responsibilities with respect to a child" includes any of the following, whether or not child custody was or parental responsibilities were specifically an issue:

(a) That the marriage of the child's parents has been declared invalid or has been dissolved by a court or that a court has entered a decree of legal separation with regard to such marriage;

(b) That legal custody of or parental responsibilities with respect to the child have been given or allocated to a party other than the child's parent or that the child has been placed outside of and does not reside in the home of the child's parent, excluding any child who has been placed for adoption or whose adoption has been legally finalized; or

(c) That the child's parent, who is the child of the grandparent or grandchild of the great-grandparent, has died.

(2) A party seeking a grandchild or great-grandchild visitation order shall submit, together with his or her motion for visitation, to the district court for the district in which the child resides an affidavit setting forth facts supporting the requested order and shall give notice, together with a copy of his or her affidavit, to the party who has legal custody of the child or to the party with parental responsibilities as determined by a court pursuant to article 10 of title 14, C.R.S. The party with legal custody or parental responsibilities as determined by a court pursuant to article 10 of title 14, C.R.S., may file opposing affidavits. If neither party requests a hearing, the court shall enter an order granting grandchild or great-grandchild visitation rights to the petitioning grandparent or great-grandparent only upon a finding that the visitation is in the best interests of the child. A hearing shall be held if either party so requests or if it appears to the court that it is in the best interests of the child that a hearing be held. At the hearing, parties submitting affidavits shall be allowed an opportunity to be heard. If, at the conclusion of the hearing, the court finds it is in the best interests of the child to grant grandchild or great-grandchild visitation rights to the petitioning grandparent or great-grandparent, the court shall enter an order granting such rights.

(3) A grandparent or great-grandparent shall not file an affidavit seeking an order granting grandchild or great-grandchild visitation rights more than once every two years absent a showing of good cause. If the court finds there is good cause to file more than one such affidavit, it shall allow such additional affidavit to be filed and shall consider it. The court may order reasonable attorney fees to the prevailing party. The court may not make any order restricting the movement of the child if such restriction is solely for the purpose of allowing the grandparent or great-grandparent the opportunity to exercise his grandchild or great-grandchild visitation rights.

(4) The court may make an order modifying or terminating grandchild or great-grandchild visitation rights whenever such order would serve the best interests of the child.

(5) Any order granting or denying parenting time rights to the parent of a child shall not affect visitation rights granted to a grandparent or great-grandparent pursuant to this section.

Source: L. 87: Entire title R&RE, p. 709, § 1, effective October 1. **L. 91:** (5) added, p. 262, § 3, effective May 31. **L. 93:** (5) amended, p. 581, § 18, effective July 1. **L. 98:** IP(1), (1)(b), and (2) amended, p. 1406, § 64, effective February 1, 1999. **L. 2014:** IP(1), (1)(c), (2), (3), (4), and (5) amended, (HB 14-1362), ch. 374, p. 1787, § 2, effective June 6.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-116 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 1993 act amending subsection (5), see section 1 of chapter 165, Session Laws of Colorado 1993.

19-1-117.5. Disputes concerning grandparent or great-grandparent visitation. (1) Upon a verified motion by a grandparent or great-grandparent who has been granted visitation or upon the court's own motion alleging that the person with legal custody or parental responsibilities of the child as determined by a court pursuant to article 10 of title 14, C.R.S., with whom visitation has been granted is not complying with a grandparent or great-grandparent visitation order or schedule, the court shall determine from the verified motion, and response to the motion, if any, whether there has been or is likely to be a substantial and continuing noncompliance with the grandparent or great-grandparent visitation order or schedule and either:

(a) Deny the motion, if there is an inadequate allegation; or

(b) Set the matter for hearing with notice to the grandparent or great-grandparent and the person with legal custody or parental responsibilities of the child as determined by the court of the time and place of the hearing; or

(c) Require said parties to seek mediation and report back to the court on the results of the mediation within sixty days. Mediation services shall be provided in accordance with section 13-22-305, C.R.S. At the end of the mediation period, the court may approve an agreement reached by the parties or shall set the matter for hearing.

(2) After the hearing, if a court finds that the person with legal custody or parental responsibilities of the child as determined by the court has not complied with the visitation order or schedule and has violated the court order, the court, in the best interests of the child, may issue orders which may include but need not be limited to:

(a) Imposing additional terms and conditions which are consistent with the court's previous order;

(b) Modifying the previous order to meet the best interests of the child;

(c) Requiring the violator to post bond or security to insure future compliance;

(d) Requiring that makeup visitation be provided for the aggrieved grandparent or great-grandparent and child under the following conditions:

(I) That such visitation is of the same type and duration of visitation as that which was denied, including but not limited to visitation during weekends, on holidays, and on weekdays and during the summer;

(II) That such visitation is made up within one year after the noncompliance occurs;

(III) That such visitation is in the manner chosen by the aggrieved grandparent or great-grandparent if it is in the best interests of the child;

(e) Finding the person who did not comply with the visitation schedule in contempt of court and imposing a fine or jail sentence;

(f) Awarding to the aggrieved party, where appropriate, actual expenses, including attorney fees, court costs, and expenses incurred by a grandparent or great-grandparent because of the other person's failure to provide or exercise court-ordered visitation. Nothing in this section shall preclude a party's right to a separate and independent legal action in tort.

Source: L. 91: Entire section added, p. 262, § 4, effective May 31. **L. 98:** IP(1), (1)(b), and IP(2) amended, p. 1407, § 65, effective February 1, 1999. **L. 2014:** IP(1), (1)(b), IP(2)(d), (2)(d)(III), and (2)(f) amended, (HB 14-1362), ch. 374, p. 1788, § 3, effective June 6.

19-1-117.6. Definitions. (Repealed)

Source: L. 91: Entire section added, p. 262, § 4, effective May 31. **L. 96:** Entire section repealed, p. 85, § 11, effective March 20.

19-1-117.7. Requests for placement - legal custody by grandparents. Whenever a grandparent seeks the placement of his or her grandchild in the grandparent's home or seeks the legal custody of his or her grandchild pursuant to the provisions of this title, the court entering such order shall consider any credible evidence of the grandparent's past conduct of child abuse or neglect. Such evidence may include, but shall not be limited to, medical records, school records, police reports, information contained in records and reports of child abuse or neglect, and court records received by the court pursuant to section 19-1-307 (2)(f).

Source: L. 91: Entire section added, p. 262, § 4, effective May 31. **L. 2003:** Entire section amended, p. 1401, § 6, effective January 1, 2004.

Cross references: For the legislative declaration contained in the 2003 act amending this section, see section 1 of chapter 196, Session Laws of Colorado 2003.

19-1-118. Court records - inspection. (Repealed)

Source: L. 87: Entire title R&RE, p. 710, § 1, effective October 1. **L. 89:** (4) and (5) added, p. 914, § 1, effective July 1. **L. 90:** Entire section repealed, p. 1012, § 8, effective July 1.

19-1-119. Confidentiality of juvenile records - delinquency. (Repealed)

Source: L. 90: Entire section added, p. 1007, § 2, effective July 1. **L. 91:** IP(1)(a) amended and (1)(b.5) added, p. 205, § 1, effective July 1. **L. 93:** Entire section amended, p. 932, § 2, effective May 28; (1)(a), (1)(b), and (2)(a) amended, p. 1547, § 3, effective July 1; (1)(a)(VII) amended, p. 969, § 5, effective July 1; (5) amended, p. 453, § 4, effective July 1. **L. 93, 1st Ex. Sess.:** (1)(b.5) amended, p. 36, § 1, effective September 13. **L. 94:** (1)(b.5), IP(1)(c)(II), IP(2)(a), and (5) amended and (1)(b.7) added, p. 910, § 6, effective April 28; (1)(a)(X), (1)(a)(XIII)(A), (1)(c)(V), (2)(a)(X), (2)(a)(XIV)(A), and (6) amended, p. 2661, § 148,

effective July 1. **L. 96:** (1)(a)(XIV) added, p. 1585, § 8, effective July 1; entire section repealed, p. 1173, § 7, effective January 1, 1997.

Editor's note: This section was relocated to § 19-1-304 in 1997.

19-1-120. Confidentiality of records - dependency and neglect. (Repealed)

Source: L. 90: Entire section added, (2)(k) and (2)(k)(I) amended, and (2)(l) added, pp. 1009, 1031, 1845, §§ 2, 21, 27, effective July 1; (2)(j) amended, p. 1845, § 37, effective October 1. **L. 91:** (2)(k) amended and (2)(m) to (2)(o) and (2.5) added, pp. 221, 222, §§ 1, 2, effective May 24. **L. 92:** (2)(a) amended, p. 406, § 21, effective June 3; (2)(a) amended, p. 1103, § 1, effective July 1. **L. 93:** (2)(k) and (2)(l) amended, p. 1779, § 42, effective June 6. **L. 94:** (2)(p) added, p. 2084, § 3, effective June 3; (2)(k), IP(2)(m), and (2)(o) amended, p. 2662, § 149, effective July 1. **L. 96:** (2)(q) added and (2.5) amended, p. 1586, §§ 9, 10, effective July 1; entire section repealed, p. 1173, § 7, effective January 1, 1997.

Editor's note: This section was relocated to § 19-1-307 in 1997.

19-1-121. Confidentiality of records - "Uniform Parentage Act". (Repealed)

Source: L. 90: Entire section added, p. 1011, § 2, effective July 1. **L. 94:** Entire section amended, p. 1540, § 12, effective May 31. **L. 96:** Entire section repealed, p. 1173, § 7, effective January 1, 1997.

Editor's note: This section was relocated to § 19-1-308 in 1997.

19-1-122. Confidentiality of records - relinquishments and adoptions. (Repealed)

Source: L. 90: Entire section added, p. 1011, § 2, effective July 1. **L. 93:** Entire section amended, p. 656, § 2, effective July 1. **L. 96:** Entire section repealed, p. 1173, § 7, effective January 1, 1997.

Editor's note: This section was relocated to § 19-1-309 in 1997.

19-1-123. Expedited procedures for permanent placement - children under the age of six years - designated counties. (1) (a) The expedited procedures for the permanent placement of children under the age of six years required by article 3 of this title shall be implemented on a county-by-county basis beginning July 1, 1994. The department of human services, in consultation with the judicial department and the governing boards of each county department of social services, shall have the responsibility for establishing an implementation schedule which provides for statewide implementation of such expedited procedures by June 30, 2004. A designated county shall be required to implement the expedited procedures on and after the implementation date applicable to the county as specified in the implementation schedule for each new case filed in the county involving a child who is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2).

(b) (Deleted by amendment, L. 2000, p. 73, § 1, effective March 10, 2000.)

(2) (a) The implementation of expedited procedures in additional counties shall be subject to specific appropriation by the general assembly or by determination by a county that no additional resources are needed.

(b) (Deleted by amendment, L. 2004, p. 193, § 6, effective August 4, 2004.)

Source: L. 94: Entire section added, p. 2052, § 3, effective July 1. **L. 98:** (2)(a) amended, p. 730, § 17, effective May 18. **L. 2000:** (1)(b) and (2)(a) amended, p. 73, § 1, effective March 10. **L. 2004:** (2) amended, p. 193, § 6, effective August 4.

19-1-124. Providers of children's services using federal or state moneys - use of state accounting standards. In order to ensure financial accountability, on and after July 1, 1997, all service providers receiving federal or state moneys through the state for the provision of services to children, youth, and families pursuant to this title shall use the accounting standards of the governmental accounting standards board.

Source: L. 96: Entire section added, p. 1155, § 5, effective January 1, 1997.

19-1-125. Family stabilization services. (1) It is the intent of the general assembly to assist in the provision of appropriate and necessary short-term services to help stabilize families that are at risk of having their children placed in out-of-home placement when those families voluntarily request such services. It is further the intent of the general assembly that county departments provide for family stabilization services through contracts with private or nonprofit organizations or entities whenever possible.

(2) Repealed.

(3) County departments shall use any moneys allocated pursuant to this section to provide for family stabilization services, defined by rule of the state board of human services, that may include but not be limited to:

(a) Less than twenty-four-hour respite care for parents and children;

(b) In-home services that may include kinship care and counseling; or

(c) Services that assist the family to reintegrate following a separation or out-of-home placement.

Source: L. 2001: Entire section added, p. 739, § 1, effective June 1. **L. 2002:** (1) and (2) amended, p. 528, § 2, effective May 24. **L. 2003:** (2) amended, p. 386, § 1, effective March 5. **L. 2004:** (2)(d) added, p. 1555, § 3, effective May 28.

Editor's note: Subsection (2)(d)(I) provided for the repeal of subsection (2), effective July 1, 2006. (See L. 2004, p. 1555.)

19-1-126. Compliance with the federal "Indian Child Welfare Act". (1) Commencing thirty days after May 30, 2002, in each case filed pursuant to this title to which the terms of the federal "Indian Child Welfare Act", 25 U.S.C. sec. 1901, et seq., apply, including but not limited to certain juvenile delinquency proceedings, dependency or neglect proceedings,

termination of parental rights proceedings, and pre-adoptive and adoption proceedings, the petitioning or filing party shall:

(a) Make continuing inquiries to determine whether the child who is the subject of the proceeding is an Indian child and, if so, shall determine the identity of the Indian child's tribe;

(b) If the petitioning or filing party knows or has reason to believe that the child who is the subject of the proceeding is an Indian child, send notice by registered mail, return receipt requested, to the parent or Indian custodian of such child, to the tribal agent of the Indian child's tribe as designated in title 25 of the code of federal regulations, part 23, or, if such agent has not been designated, to the highest-elected or highest-appointed official of the Indian child's tribe, to the highest-elected or highest-appointed tribal judge of the Indian child's tribe, and to the social service department of the Indian child's tribe; and

(c) Disclose in the complaint, petition, or other commencing pleading filed with the court that the child who is the subject of the proceeding is an Indian child and the identity of the Indian child's tribe or what efforts the petitioning or filing party has made in determining whether the child is an Indian child. If the child who is the subject of the proceeding is determined to be an Indian child, the petitioning or filing party shall further identify what reasonable efforts have been made to send notice to the persons identified in paragraph (b) of this subsection (1). The postal receipts indicating that notice was properly sent by such petitioning or filing party to the parent or Indian custodian of the Indian child and to the Indian child's tribe shall be attached to the complaint, petition, or other commencing pleading filed with the court; except that, if notification has not been perfected at the time the initial complaint, petition, or other commencing pleading is filed with the court or if the postal receipts have not been received back from the post office, the petitioning or filing party shall identify such circumstances to the court and shall thereafter file the postal receipts with the court within ten days after the filing of the complaint, petition, or other commencing pleading.

(2) In any of the cases identified in subsection (1) of this section in which the initial complaint, petition, or other commencing pleading does not disclose whether the child who is the subject of the proceeding is an Indian child, the court shall inquire of the parties at the first hearing whether the child is an Indian child and, if so, whether the parties have complied with the procedural requirements set forth in the federal "Indian Child Welfare Act", 25 U.S.C. sec. 1901, et seq.

(3) The state department of human services and the county departments of social services are encouraged to work cooperatively in the sharing of information that any of such agencies obtains or receives concerning any federally recognized tribal entities existing outside the state of Colorado, including but not limited to information about the appropriate person from any such tribal entity to contact with the notice prescribed by this section.

(4) (a) In any of the cases identified in subsection (1) of this section involving an Indian child, in determining whether to transfer such a case to a tribal court, the court is encouraged to consider the following guidelines:

(I) The court may find that good cause exists to deny a transfer of the proceeding to the tribal court if the Indian child's tribe does not have a tribal court; or

(II) The court may find that good cause exists to deny a transfer of the proceeding to the tribal court if:

(A) Either of the Indian child's parents objects to such a transfer; or

(B) The proceeding was at an advanced stage when the petition to transfer the proceeding to the tribal court was received from the Indian child's tribe and the petitioning party did not file the petition to transfer to the tribal court promptly after receiving the notice of hearing.

(b) The burden of proof under this subsection (4) shall be on the party opposing a transfer of the case.

Source: L. 2002: Entire section added, p. 784, § 3, effective May 30.

Cross references: For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 217, Session Laws of Colorado 2002.

19-1-127. Responsibility for placement and care. (1) "Responsibility for placement and care", for purposes of compliance with federal requirements pursuant to the federal "Social Security Act", 42 U.S.C. sec. 672 (2), means the specified entity is considered to have the responsibility for placement and care of a child if:

(a) A county department of social services has entered into a voluntary placement agreement with the parent or guardian of the child;

(b) A court, as a result of a petition for review of need of placement, has determined that a county department of social services shall have continuing placement and care responsibility of the child who entered care pursuant to a voluntary placement;

(c) A court has awarded legal custody of the child to a county department of social services, or has committed the child to the custody of the state department of human services; or

(d) An agency, such as a tribal agency, with which the state department of human services has a contract pursuant to the federal "Social Security Act", has placement and care responsibility of the child pursuant to a voluntary placement agreement or a court order awarding custody of the child to the agency.

Source: L. 2006: Entire section added, p. 507, § 2, effective April 18.

19-1-128. Foster care sibling visits - rules. (1) If a child in foster care and his or her sibling mutually request an opportunity to visit each other, the county department that has legal custody of the child shall arrange the visit within a reasonable amount of time and document the visit.

(2) If a child in foster care and his or her sibling mutually request an opportunity to visit each other on a regular basis, the county department that has legal custody of the child shall arrange the visits and ensure that the visits occur with sufficient frequency and duration to promote continuity in the siblings' relationship.

(3) If, in arranging sibling visits pursuant to this section, a county department determines that a requested visit between the siblings would not be in the best interests of one or both of the siblings, the county department shall deny the request and document its reasons for making the determination. In determining whether a requested visit would be in the best interests of one or both of the siblings, the county department shall ascertain whether there is pending in any jurisdiction a criminal action in which either of the siblings is either a victim or a witness. If such a criminal action is pending, the county department, before arranging any visit between the

siblings, shall consult with the district attorney for the jurisdiction in which the criminal action is pending to determine whether the requested visit may have a detrimental effect upon the prosecution of the pending criminal action.

(4) Nothing in this section shall be construed to require or permit a county department to arrange a sibling visit if such visit would violate an existing protection order in any case pending in this state or any other state.

(5) As used in this section, "sibling" means:

(a) A sibling from birth who is descended from one or two mutual parents; or

(b) A stepbrother or former stepbrother or a stepsister or former stepsister.

(6) The state board of human services, created in section 26-1-107, C.R.S., may promulgate rules for the implementation of this section.

Source: L. 2008: Entire section added, p. 1, § 1, effective August 5.

PART 2

COURT-APPOINTED SPECIAL ADVOCATE PROGRAM

Law reviews: For article "CASA--A Powerful Voice for a Child", see 36 Colo. Law. 97 (Oct. 2007).

19-1-201. Legislative intent. (1) (a) The general assembly hereby finds and declares that quality representation for children requires legal expertise and thorough case monitoring.

(b) The work of community volunteers has been proven to be effective in addressing the needs of children. Partnerships between guardians ad litem and community volunteers can enhance the quality of representation for children.

(c) The general assembly further finds and declares that the state should promote volunteerism and the exercise of responsible citizenship to enable members of local communities to become advocates for children.

(2) Therefore, the general assembly hereby authorizes the creation of volunteer court-appointed special advocate (CASA) programs in order to enhance the quality of representation of children.

Source: L. 96: Entire part added, p. 1090, § 4, effective May 23. **L. 2003:** (2) amended, p. 754, § 5, effective March 25.

19-1-202. Creation of CASA programs. (1) CASA programs may be established in each judicial district or any two or more judicial districts and shall operate pursuant to a memorandum of understanding between the chief judge of the judicial district and the CASA program. The memorandum of understanding must identify the roles and responsibilities of any CASA volunteer appointed in the judicial district or districts and must indicate whether any CASA volunteer may be made a party to the action. The memorandum of understanding may be amended or modified at any time to add or delete roles and responsibilities pursuant to this part 2.

(2) A CASA program established pursuant to the provisions of this part 2 must:

(a) Be a community organization that screens, trains, and supervises CASA volunteers to advocate for the best interests of children in actions brought pursuant to this title and titles 14 and 15, C.R.S., or for a child in a truancy proceeding pursuant to the "School Attendance Law of 1963", part 1 of article 33 of title 22, C.R.S.;

(b) Be a member in good standing of the Colorado CASA association and the national CASA association and adhere to the guidelines established by those associations;

(c) Appoint a program director who shall have the responsibilities set forth in section 19-1-203;

(d) Have adequate supervisory and support staff who shall be easily accessible, hold regular case conferences with CASA volunteers to review case progress, and conduct annual performance reviews for all CASA volunteers;

(e) Provide staff and CASA volunteers with written program policies, practices, and procedures;

(f) Provide the training required pursuant to section 19-1-204; and

(g) Attempt to maintain a CASA volunteer-to-supervisor ratio of thirty-to-one.

Source: L. 96: Entire part added, p. 1090, § 4, effective May 23. **L. 2008:** (1) amended, p. 30, § 1, effective March 13. **L. 2015:** (1), IP(2), and (2)(a) amended, (SB 15-004), ch. 254, p. 925, § 1, effective August 5.

19-1-203. Program director. (1) The program director shall be responsible for the administration of the CASA program, including recruitment, selection, training, and supervision and evaluation of staff and CASA volunteers.

(2) The program director shall serve as a professional liaison between the court and community agencies serving children.

Source: L. 96: Entire part added, p. 1091, § 4, effective May 23.

19-1-204. Training requirements. (1) All CASA volunteers shall participate fully in preservice training, including instruction on recognizing child abuse and neglect, cultural awareness, child development, education standards, the juvenile court process, permanency planning, volunteer roles and responsibilities, advocacy, information gathering, and documentation. CASA volunteers shall be required to participate in observation of court proceedings prior to appointment.

(2) All CASA volunteers shall receive a training manual that shall include guidelines for their service and duties.

(3) Each CASA program shall provide a minimum of ten hours of in-service training per year to CASA volunteers.

Source: L. 96: Entire part added, p. 1091, § 4, effective May 23. **L. 2015:** (1) amended, (SB 15-004), ch. 254, p. 926, § 2, effective August 5.

19-1-205. Selection of CASA volunteers. (1) Each CASA program shall adopt regulations consistent with subsection (2) of this section and with the Colorado CASA association and national CASA association guidelines governing qualifications and selection of

CASA volunteers. Each CASA program's regulations shall include provisions that qualified adults shall not be discriminated against based on gender, socioeconomic, religious, racial, ethnic, or age factors.

(2) The minimum qualifications for any prospective CASA volunteer are that he or she shall:

(a) Be at least twenty-one years of age or older and have demonstrated an interest in children and their welfare;

(b) Be willing to commit to the court for a minimum of one year of service to a child;

(c) Complete an application, including providing background information required pursuant to subsection (3) of this section;

(d) Participate in a screening interview;

(e) Participate in the training required pursuant to section 19-1-204; and

(f) Meet other qualifications as determined by the CASA program director and the chief judge of the judicial district.

(3) A prospective CASA volunteer's application shall include:

(a) A copy of any criminal history record and motor vehicle record;

(a.5) Written authorization for the CASA program to obtain information contained in any records or reports of child abuse or neglect concerning the prospective CASA volunteer;

(b) At least three references who can address his or her character, judgment, and suitability for the position; and

(c) Records from any other jurisdictions in which he or she resided during the one-year time period prior to the date of the application if the prospective CASA volunteer has resided in the state of Colorado for less than twelve months.

Source: L. 96: Entire part added, p. 1091, § 4, effective May 23. **L. 2003:** (3)(a) amended and (3)(a.5) added, p. 1401, § 7, effective January 1, 2004.

Cross references: For the legislative declaration contained in the 2003 act amending subsection (3)(a) and enacting subsection (3)(a.5), see section 1 of chapter 196, Session Laws of Colorado 2003.

19-1-206. Appointment of CASA volunteers. (1) (a) A judge or magistrate may appoint a CASA volunteer in any action brought pursuant to this title and titles 14 and 15, C.R.S., when, in the opinion of the judge or magistrate, a child who may be affected by such action requires services that a CASA volunteer can provide. At the discretion of the judge or magistrate, a CASA volunteer may be a party to the action if so provided for in the memorandum of understanding.

(b) A judge or magistrate may appoint a CASA volunteer in any action brought in a proceeding pursuant to the "School Attendance Law of 1963", part 1 of article 33 of title 22, C.R.S., provided that at least one parent or legal guardian of the child involved is provided with notice of the appointment of a CASA volunteer.

(2) A CASA volunteer shall be appointed at the earliest stages of an action pursuant to a court order that gives him or her the authority to review all relevant documents and interview all parties involved in the case, including parents, other parties in interest, and any other persons having significant information relating to the child.

(3) The CASA volunteer's appointment concludes:

(a) When the court's jurisdiction over the child terminates; or

(b) Upon discharge by the court on its own motion or at the request of the program director of the CASA program to which the CASA volunteer is assigned.

Source: L. 96: Entire part added, p. 1092, § 4, effective May 23. **L. 2015:** (1) and IP(3) amended, (SB 15-004), ch. 254, p. 926, § 3, effective August 5.

19-1-207. Restrictions. (1) A CASA volunteer shall not:

(a) Accept any compensation for the duties and responsibilities of his or her appointment;

(b) Have any association that creates a conflict of interest with his or her duties;

(c) Be related to any party or attorney involved in a case;

(d) Be employed in a position that could result in a conflict of interest or give rise to the appearance of a conflict;

(e) Use the CASA volunteer position to seek or accept gifts or special privileges.

Source: L. 96: Entire part added, p. 1093, § 4, effective May 23.

19-1-208. Duties of CASA volunteer. (1) **Independent case investigation.** Upon appointment in an action, a CASA volunteer may have the duty to:

(a) Conduct an independent investigation regarding the best interests of the child that will provide factual information to the court regarding the child and the child's family. The investigation shall include interviews with and observations of the child, interviews with other appropriate individuals, and the review of relevant records and reports.

(b) Determine if an appropriate treatment plan, as described in section 19-1-103 (10), has been created for the child, whether appropriate services are being provided to the child and family, and whether the treatment plan is progressing in a timely manner;

(c) Determine if additional services are necessary to ensure educational success for a child in a proceeding pursuant to the "School Attendance Law of 1963", part 1 of article 33 of title 22, C.R.S.

(2) **Recommendations.** Unless otherwise ordered by the court, the CASA volunteer, with the support and supervision of the CASA program staff, shall make recommendations consistent with the best interests of the child regarding placement, visitation, and appropriate services for the child and family and shall prepare a written report to be distributed to the parties of the action.

(3) **Reports.** The CASA volunteer shall assure that the child's best interests are being advocated at every stage of the case and prepare written reports to be distributed to the parties of the action.

(4) **Case monitoring.** The CASA volunteer shall monitor the case to which he or she has been appointed to assure that the child's essential needs are being met and that the terms of the court's orders have been fulfilled in an appropriate and timely manner.

(5) **Witness.** The CASA volunteer may be called as a witness in an action by any party or the court and may request of the court the opportunity to appear as a witness.

Source: L. 96: Entire part added, p. 1093, § 4, effective May 23. **L. 98:** (1)(b) amended, p. 821, § 24, effective August 5. **L. 2015:** (1)(c) added, (SB 15-004), ch. 254, p. 926, § 4, effective August 5.

19-1-209. Role and responsibilities of guardians ad litem - other parties. (1) (a) Any guardian ad litem, and all state and local agencies, departments, authorities, and institutions shall cooperate and share information with any CASA volunteer appointed to serve on a case and with each local CASA program to facilitate the implementation of its program.

(b) The CASA program will help facilitate the cooperation and sharing of information among CASA volunteers, the attorneys, the county department of social services, and other community agencies.

(2) In any case in which the court has appointed both a CASA volunteer and a guardian ad litem, the CASA volunteer and the guardian ad litem shall cooperate to represent the best interests of the child.

(3) The CASA volunteer shall be notified of hearings, staffings, meetings, and any other proceedings concerning the case to which he or she has been appointed.

Source: L. 96: Entire part added, p. 1094, § 4, effective May 23.

19-1-210. Access to information. Upon appointment of a CASA volunteer, the court shall issue an order authorizing access to such records and other information relating to the child, parent, legal guardian, or other parties in interest as the court deems necessary.

Source: L. 96: Entire part added, p. 1094, § 4, effective May 23.

19-1-211. Confidentiality. A CASA volunteer shall not disclose the contents of any document, record, or other information relating to a case to which the CASA volunteer has access in the course of an investigation. All such information shall be considered confidential and shall not be disclosed to persons other than the court and parties to the action.

Source: L. 96: Entire part added, p. 1094, § 4, effective May 23.

19-1-212. Liability. CASA program directors and volunteers participating in a CASA program shall have the same civil immunity and liability as described in sections 13-21-115.5 and 13-21-115.7, C.R.S.

Source: L. 96: Entire part added, p. 1094, § 4, effective May 23.

PART 3

RECORDS AND INFORMATION

Editor's note: This part 3 was added with relocations in 1996, effective January 1, 1997. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

19-1-301. Short title. This part 3 shall be known and may be cited as the "Children's Code Records and Information Act".

Source: L. 96: Entire part added with relocations, p. 1156, § 6, effective January 1, 1997.

19-1-302. Legislative declaration. (1) (a) The general assembly declares that information obtained by public agencies in the course of performing their duties and functions under this title is considered public information under the "Colorado Open Records Act", part 2 of article 72 of title 24, C.R.S. The general assembly, however, recognizes that certain information obtained in the course of the implementation of this title is highly sensitive and has an impact on the privacy of children and members of their families. The disclosure of sensitive information carries the risk of stigmatizing children; however, absolute confidentiality of such information may result in duplicated services in some cases, fragmented services in others, and the delivery of ineffective and costly programs and, in some situations, may put other members of the public at risk of harm. In addition, disclosure may result in serving the best interests of the child and may be in the public interest.

(b) Furthermore, the general assembly specifically finds that schools, school districts, and criminal justice agencies attempting to protect children and the public are often frustrated by their lack of ability to exchange information concerning disruptive children who may have experienced disciplinary actions at school or whose actions outside of a school setting may have resulted in contact with local law enforcement. The general assembly finds that schools, school districts, and criminal justice agencies are often better able to assist such disruptive children and to preserve school safety when they are equipped with knowledge concerning a child's history and experiences. The general assembly, however, recognizes that any such sharing of information among and between schools, school districts, and agencies to promote school safety or otherwise to assist disruptive children mandates an awareness of the responsibility on the part of those schools, school districts, and agencies receiving or providing the information that it be used only for its intended and limited purpose as authorized by law and that the confidential nature of the information be preserved. The general assembly finds, therefore, that it is desirable to authorize and encourage open communication among appropriate agencies, including criminal justice agencies, assessment centers for children, school districts, and schools, in order to assist disruptive children and to maintain safe schools.

(c) The general assembly further finds that partners in multi-agency assessment centers for children are often frustrated by their lack of ability to exchange information with each other when attempting to serve children and the public. The general assembly finds that assessment centers for children are better able to assist children when they are equipped with knowledge concerning a child's history and experiences. The general assembly, however, recognizes that any such sharing of information among agencies who are part of a multi-agency assessment center for children mandates an awareness of the responsibility on the part of the agencies receiving or providing the information that it be used only for its intended and limited purpose as authorized by law and that the confidential nature of the information be preserved.

(d) The general assembly recognizes the importance of children receiving support from all responsible parties and further finds that the state child support enforcement agency and the delegate child support enforcement units have a need to exchange information with other state, federal, and local agencies in order to effectively locate responsible parties; establish paternity

and child support, including child support debt pursuant to section 14-14-104, C.R.S.; enforce support orders; disburse collected child support payments; and facilitate the efficient and effective delivery of services under articles 13 and 13.5 of title 26, C.R.S. Therefore, the general assembly recognizes that the state child support enforcement agency and the delegate child support enforcement units need access to the records and databases of the judicial department, the contents of which are otherwise protected under the provisions of this part 3. The general assembly, however, recognizes that any such information sharing mandates an awareness of responsibility on the part of the state child support enforcement agency and the delegate child support enforcement units receiving information that it be used only for its intended purposes as authorized by law and in accordance with the provisions of section 26-13-102.7, C.R.S., and that the confidential nature of the information be preserved.

(e) The general assembly recognizes the need to make recommendations to the court concerning the many aspects of a child's legal status, including but not limited to existing court orders on placement of the child, legal custody of the child, and orders of protection. Because the population of this state is transitory, and jurisdictional lines for the purpose of court actions are arbitrary, communication of certain information available electronically on a statewide basis may assist state and county agencies, attorneys representing state or county agencies, and attorneys appointed by the court in making recommendations to the court. The general assembly recognizes that any such sharing of information among agencies, attorneys representing agencies, and attorneys appointed by the court mandates an awareness of the responsibility on the part of these agencies, attorneys representing agencies, and attorneys appointed by the court in receiving and providing the information that it be used only for its intended and limited purpose as authorized by law and that the confidential nature of the information be preserved.

(f) (I) The general assembly further recognizes the need for the command authority of military installations under the United States secretary of defense to receive notice and information regarding any report that is assigned for an assessment by the state department of human services or a county department of known or suspected instances of child abuse or neglect in which the person having care of the child in question is a member of the armed forces or a spouse, or a significant other or family member residing in the home of the member of the armed forces. The general assembly recognizes the need for the state department of human services and county departments to collect information concerning the military affiliation of the individual having custody or control of a child who is the subject of an investigation of child abuse or neglect.

(II) To further the fulfillment of these needs, the state department of human services and county departments should be able to enter into memorandums of understanding with the command authority of military installations. The memorandums of understanding may establish protocols for the sharing of information related to assessments of known or suspected instances of child abuse or neglect and for collaboration on the oversight of child abuse or neglect investigations involving a member of the armed forces or a spouse, or a significant other or family member residing in the home of the member of the armed forces.

(III) The general assembly, however, recognizes that any sharing of such information is critical for an awareness of the responsibility of the involved agencies and military installations that receive or provide the information that it be used only for its intended and limited purpose as authorized by law and that the confidential nature of the information must be preserved.

(IV) The general assembly finds, therefore, that it is desirable to authorize and encourage open communication between the state department of human services, county departments, and command authority of military installations to better serve children and families of Colorado.

(2) Therefore, in an effort to balance the best interests of children and the privacy interests of children and their families with the need to share information among service agencies and schools and the need to protect the safety of schools and the public at large, the general assembly enacts the provisions of this part 3.

Source: L. 96: Entire part added with relocations, p. 1156, § 6, effective January 1, 1997. **L. 2000:** Entire section amended, p. 314, § 1, effective April 7. **L. 2003:** (1)(d) added, p. 1266, § 55, effective July 1. **L. 2008:** (1)(e) added, p. 1241, § 3, effective August 5. **L. 2009:** (1)(a) amended, (SB 09-292), ch. 369, p. 1949, § 35, effective August 5. **L. 2017:** (1)(f) added, (SB 17-028), ch. 332, p. 1782, § 1, effective August 9.

19-1-303. General provisions - delinquency and dependency and neglect cases - exchange of information - civil penalty - rules - definitions. (1) (a) The judicial department or any agency that performs duties and functions under this title with respect to juvenile delinquency or dependency and neglect cases or any other provisions of this title may exchange information, to the extent necessary, for the acquisition, provision, oversight, or referral of services and support with the judicial department or any other agency or individual, including an attorney representing state or county agencies and an attorney appointed by the court, that performs duties and functions under this title with respect to such cases. In order to receive such information, the judicial department, attorney, or agency shall have a need to know for purposes of investigations and case management in the provision of services or the administration of their respective programs. The judicial department or the agencies shall exchange information in accordance with paragraph (b) of this subsection (1).

(b) The judicial department, an agency, an attorney representing an agency, or an attorney appointed by the court described in paragraph (a) of this subsection (1) shall exchange information with the judicial department or similar agencies or individuals who have a need to know to the extent necessary for the acquisition, provision, oversight, and referral of services and support and if provided in the course of an investigation or for case management purposes. The provision of information by the judicial department shall include electronic read-only access to the name index and register of actions for agencies or attorneys appointed by the court to those case types necessary to carry out their statutory purpose and the duties of their court appointment as provided in this part 3. The state court administrator of the judicial department and the executive directors of the affected agencies shall ensure that there is a process for electronically exchanging information pursuant to this section. Agencies, attorneys, and individuals shall maintain the confidentiality of the information obtained.

(c) Nothing in this section shall require the exchange of information that is subject to the attorney-client privilege under section 13-90-107 (1)(b), C.R.S.

(2) (a) School personnel may obtain from the judicial department or agencies described in paragraph (a) of subsection (1) of this section any information required to perform their legal duties and responsibilities. Said personnel shall maintain the confidentiality of the information obtained.

(b) Notwithstanding any other provision of law to the contrary, any criminal justice agency or assessment center for children in the state may share any information or records concerning a specific child who is or will be enrolled as a student at a school with that school's principal or with the principal's designee and, if the student is or will be enrolled at a public school, with the superintendent of the school district in which the student is or will be enrolled or the superintendent's designee as follows:

(I) Any information or records, except mental health or medical records, relating to incidents that, in the discretion of the agency or center, rise to the level of a public safety concern including, but not limited to, any information or records of threats made by the child, any arrest or charging information, any information regarding municipal ordinance violations, and any arrest or charging information relating to acts that, if committed by an adult, would constitute misdemeanors or felonies; or

(II) Any records, except mental health or medical records, of incidents that such agency or center may have concerning the child that, in the discretion of the agency or center, do not rise to the level of a public safety concern but that relate to the adjudication or conviction of a child for a municipal ordinance violation or that relate to the charging, adjudication, deferred prosecution, deferred judgment, or diversion of a child for an act that, if committed by an adult, would have constituted a misdemeanor or a felony.

(c) Notwithstanding any other provision of law to the contrary, a criminal justice agency investigating a criminal matter or a matter under the "School Attendance Law of 1963", part 1 of article 33 of title 22, C.R.S., concerning a child may seek disciplinary and truancy information from the principal of a school, or the principal's designee, at which the child is or will be enrolled as a student and, if the student is enrolled in a public school, from the superintendent of the school district in which the student is enrolled, or such superintendent's designee. Upon written certification by the criminal justice agency that the information will not be disclosed to any other party, except as specifically authorized or required by law, without the prior written consent of the child's parent, either the principal of the school in which the child is enrolled, or such principal's designee, or, if the student is enrolled in a public school, the superintendent of the school district in which the student is enrolled, or such superintendent's designee, shall provide the child's attendance and disciplinary records to the requesting criminal justice agency. The criminal justice agency receiving such information shall use it only for the performance of its legal duties and responsibilities and shall maintain the confidentiality of the information received.

(d) School and school district personnel receiving information pursuant to this subsection (2) shall use it only in the performance of their legal duties and responsibilities and shall otherwise maintain the confidentiality of the information received. Any information received by a school or a school district pursuant to this subsection (2) that is shared with another school or a school district to which a student may be transferring shall only be shared in compliance with the requirements of federal law.

(2.5) (a) Notwithstanding any other provision of law to the contrary and in addition to the provisions of subsections (1) and (2) of this section, assessment centers for children and the agencies, other than schools and school districts, participating in the local assessment centers for children are authorized to provide and share information, except for mental health or medical records and information, with each other, without the necessity of signed releases, concerning children who have been taken into temporary custody by law enforcement or who have been

referred to the assessment center for children for case management purposes. Agencies shall have annually updated signed agreements with assessment centers for children to be considered a participating agency.

(b) For purposes of sharing information pursuant to this subsection (2.5) only, "mental health or medical records and information" does not include the standardized behavioral or mental health disorder screening. An assessment center that conducts a standardized behavioral or mental health disorder screening on a child who has been taken into temporary custody by law enforcement or has been referred to the assessment center for children for case management purposes may share the results of such screening, without the necessity of a signed release, with the agencies, other than schools and school districts, participating in the assessment center for children. To receive the results of the standardized behavioral or mental health disorder screening, a participating agency must have a need to know for purposes of investigations and case management in the administration of its respective programs. Any participating agency receiving such information shall use it only for the performance of its legal duties and responsibilities and shall maintain the confidentiality of the information received, except as may be required pursuant to rule 16 of the Colorado rules of criminal procedure.

(2.6) (a) The state department of human services and county departments:

(I) Shall collect information concerning the military affiliation of any person who has custody or control of a child who is the subject of an investigation of child abuse or neglect;

(II) Shall provide notice and information to the command authority of military installations under the United States secretary of defense regarding any report received of known or suspected instances of child abuse or neglect that is assigned for an assessment and in which the person having custody or control of the child is a member of the armed forces or a spouse, or a significant other or family member residing in the home of the member of the armed forces assigned to that military installation; and

(III) May enter into memorandums of understanding with the command authority of military installations establishing protocols for the sharing of information and for collaboration on the oversight of investigations involving a member of the armed forces or a spouse, or a significant other or family member residing in the home of the member of the armed forces. The military installation receiving information shall ensure it is used only for its intended and limited purpose as authorized by law and that the confidential nature of the information is preserved.

(b) The state board of human services may promulgate any rules necessary for the implementation of this subsection (2.6).

(2.7) (a) Upon the receipt of written notice sent by a foster parent, employees of the department of human services and of county departments, or other individuals with a need to know, shall be prohibited from releasing personally identifiable information about a foster parent, other than the foster parent's first name, to any adult member of the foster child's family, unless the foster parent subsequently provides his or her express written consent for the release of the information. The consent may consist of a hand-written note by the foster parent specifying the foster child's name, the consent for release of information to the foster child's family, the foster parent's signature, and the date. The consent shall be given individually for each foster child, unless the foster children are members of a sibling group.

(b) The civil penalty described in subsection (4.7) of this section shall not apply to any foster child or siblings of the foster child.

(3) and (4) (Deleted by amendment, L. 2000, p. 315, § 2, effective April 7, 2000.)

(4.3) School and school district personnel, employees of the state judicial department, employees of state agencies, employees of criminal justice agencies, and employees of assessment centers for children who share information concerning a child pursuant to this part 3 shall be immune from civil and criminal liability if such personnel or employee acted in good faith compliance with the provisions of this part 3.

(4.4) The judicial department, with respect to dependency or neglect cases or any other provisions under this title, shall exchange information, to the extent necessary, with the state child support enforcement agency and the delegate child support enforcement units for the purposes of effectively locating responsible parties, establishing paternity and child support, including child support debt pursuant to section 14-14-104, C.R.S., enforcing support orders, disbursing collected child support payments, and facilitating the efficient and effective delivery of services under articles 13 and 13.5 of title 26, C.R.S.

(4.7) Any person who knowingly violates the confidentiality provisions of this section shall be subject to a civil penalty of up to one thousand dollars.

(5) The provisions of this section are in addition to and not in lieu of other statutory provisions of law pertaining to the release of information. Access to or exchange of information not otherwise addressed by this section is governed as otherwise provided by law.

(6) For purposes of this section:

(a) "Assessment center for children" is defined in section 19-1-103 (10.5).

(a.1) "Case management purposes" is defined in section 19-1-103 (16.5).

(a.3) "Criminal justice agency" is defined in section 19-1-103 (34.6).

(b) "Need to know" is defined in section 19-1-103 (77.5).

(c) "School" is defined in section 19-1-103 (94.3).

(7) This section shall be interpreted to promote the best interests of the child and, where possible, the child's family.

(8) to (10) (Deleted by amendment, L. 2008, p. 1242, § 4, effective August 5, 2008.)

Source: L. 96: Entire part added with relocations, p. 1156, § 6, effective January 1, 1997. **L. 2000:** Entire section amended, p. 315, § 2, effective April 7. **L. 2001:** (2)(c) amended, p. 870, § 1, effective June 1. **L. 2002:** (2.5) amended, p. 575, § 5, effective May 24. **L. 2003:** (4.4) added, p. 1267, § 56, effective July 1. **L. 2004:** (2.7) added, p. 973, § 2, effective August 4. **L. 2007:** (8), (9), and (10) added, p. 1300, § 1, effective July 1. **L. 2008:** (1), (8), (9), and (10) amended, p. 1242, § 4, effective August 5. **L. 2016:** (5) amended, (HB 16-1098), ch. 103, p. 297, § 1, effective April 15. **L. 2017:** (2.5)(b) amended, (SB 17-242), ch. 263, p. 1309, § 151, effective May 25; (2.6) added, (SB 17-028), ch. 332, p. 1783, § 2, effective August 9.

Editor's note: Subsection (6)(c) was originally enacted as subsection (6)(a.7) in House Bill 00-1119 but was renumbered on revision in 2003 for ease of location.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-1-304. Juvenile delinquency records - division of youth services critical incident information - definitions. (1) (a) **Court records - open.** Except as provided in subsection (1)(b.5) of this section, court records in juvenile delinquency proceedings or proceedings

concerning a juvenile charged with the violation of any municipal ordinance except a traffic ordinance are open to inspection to the following persons without court order:

(I) The juvenile named in said record;

(II) **[*Editor's note: This version of subparagraph (II) is effective until November 1, 2017.*]** The juvenile's parent, guardian, or legal custodian;

(II) **[*Editor's note: This version of subparagraph (II) is effective November 1, 2017.*]** The juvenile's parent, guardian, legal custodian, or attorney;

(III) Any attorney of record;

(IV) The juvenile's guardian ad litem;

(V) The juvenile probation department and the adult probation department for purposes of a presentence investigation and the preparation of a presentence report as described in section 16-11-102 (1)(a), C.R.S.;

(VI) Any agency to which legal custody of the juvenile has been transferred;

(VII) Any law enforcement agency or police department in the state of Colorado;

(VII.5) The Colorado bureau of investigation for purposes of conducting a criminal background investigation relating to authorization of a firearm purchase;

(VIII) A court which has jurisdiction over a juvenile or domestic action in which the juvenile is named;

(IX) Any attorney of record in a juvenile or domestic action in which the juvenile is named;

(X) The state department of human services;

(XI) Any person conducting an evaluation pursuant to section 14-10-127, C.R.S.;

(XII) All members of a child protection team, if one exists pursuant to section 19-3-308 (6)(a);

(XIII) Any person or agency for research purposes, if all of the following conditions are met:

(A) The person or agency conducting the research is employed by the state of Colorado or is under contract with the state of Colorado and is authorized by the department of human services to conduct the research; except that the department of public safety is not required to obtain prior authorization from the department of human services for purposes of this subsection (1)(a)(XIII);

(B) The person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to such documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed; and

(C) Any data released must only be in aggregate form;

(XIV) The victim and the complaining party, if different, identified in the court file;

(XV) The department of corrections for aid in determinations of recommended treatment, visitation approval, and supervised conditions;

(XVI) The principal, or the principal's designee, of a school in which the juvenile is or will be enrolled as a student and, if the student is or will be enrolled in a public school, to the superintendent of the school district in which the student is or will be enrolled, or such superintendent's designee;

(XVII) The department of education when acting pursuant to section 22-2-119, C.R.S., or pursuant to the "Colorado Educator Licensing Act of 1991", article 60.5 of title 22, C.R.S.

(b) **Court records - limited.** With consent of the court, records of court proceedings in delinquency cases may be inspected by any other person having a legitimate interest in the proceedings.

(b.5) **[*Editor's note: This version of the introductory portion to paragraph (b.5) is effective until November 1, 2017.*] Arrest and criminal records - certain juveniles - public access - information limited.** The public has access to arrest and criminal records information, as defined in section 24-72-302 (1), C.R.S., and including a person's physical description, that:

(b.5) **[*Editor's note: This version of the introductory portion to paragraph (b.5) is effective November 1, 2017.*] Arrest and criminal records - certain juveniles - public access - information limited.** The public has access to information reporting the arrest or other formal filing of charges against a juvenile; the identity of the criminal justice agency taking such official action relative to an accused juvenile; the date and place that such official action was taken relative to an accused juvenile; the nature of the charges brought or the offenses alleged; and one or more dispositions relating to the charges brought against an accused juvenile, when this information:

(I) Is in the custody of the investigating law enforcement agency, the agency responsible for filing a petition against the juvenile, and the court; and

(II) Concerns a juvenile who:

(A) Is adjudicated a juvenile delinquent or is subject to a revocation of probation for committing the crime of possession of a handgun by a juvenile or for committing an act that would constitute a class 1, 2, 3, or 4 felony or would constitute any crime that involves the use or possession of a weapon if such act were committed by an adult; or

(B) Is charged with the commission of any act described in sub-subparagraph (A) of this subparagraph (II).

(b.7) **[*Editor's note: This version of paragraph (b.7) is effective until November 1, 2017.*]** The information which shall be open to the public pursuant to paragraph (b.5) regarding a juvenile who is charged with the commission of a delinquent act shall not include records of investigation as such records are described in section 24-72-305 (5), C.R.S. In addition, any psychological profile of any such juvenile, any intelligence test results for any such juvenile, or any information regarding whether such juvenile has been sexually abused shall not be open to the public unless released by an order of the court.

(b.7) **[*Editor's note: This version of paragraph (b.7) is effective November 1, 2017.*]** The information that is open to the public pursuant to subsection (1)(b.5) of this section regarding a juvenile who is charged with the commission of a delinquent act shall not include records of investigation as such records are described in section 24-72-305 (5). In addition, any psychological profile of any such juvenile, any intelligence test results for any such juvenile, or any information regarding whether such juvenile has been sexually abused is not open to the public unless released by an order of the court. The information that is open to the public pursuant to subsection (1)(b.5) of this section regarding a juvenile who is charged with a delinquent act shall not include the juvenile's name, birth date, or photograph.

(b.8) **[*Editor's note: This version of paragraph (b.8) is effective until November 1, 2017.*]** The court shall report the final disposition concerning a juvenile who has been adjudicated a juvenile delinquent to the Colorado bureau of investigation in a form that is

electronically consistent with applicable law. The report shall be made within seventy-two hours after the final disposition; except that the time period shall not include Saturdays, Sundays, or legal holidays. The report shall include the information provided to the court in accordance with paragraph (b.7) of this subsection (1), the disposition of each charge, and the court case number, and the Colorado bureau of investigation shall reflect any change of status but shall not delete or eliminate information concerning the original charge.

(b.8) **[*Editor's note: This version of paragraph (b.8) is effective November 1, 2017.*]** The court shall report the final disposition concerning a juvenile who has been adjudicated a juvenile delinquent to the Colorado bureau of investigation in a form that is electronically consistent with applicable law. The report must be made within seventy-two hours after the final disposition; except that the time period shall not include Saturdays, Sundays, or legal holidays. The report must include the disposition of each charge and the court case number, and the Colorado bureau of investigation shall reflect any change of status but shall not delete or eliminate information concerning the original charge. Colorado bureau of investigation records regarding juvenile offenses are not open to the public.

(c) **Probation records - limited access.** Except as otherwise authorized by section 19-1-303, a juvenile probation officer's records, whether or not part of the court file, are not open to inspection except as provided in subsection (1)(c)(I) to (1)(c)(XI) of this section:

(I) To persons who have the consent of the court;

(II) To law enforcement officers, as defined in section 19-1-103 (72), and to fire investigators, as defined in section 19-1-103 (51). The inspection shall be limited to the following information:

(A) Basic identification information as defined in section 24-72-302 (2), C.R.S.;

(B) Details of the offense and delinquent acts charged;

(C) Restitution information;

(D) Juvenile record;

(E) Probation officer's assessment and recommendations;

(F) Conviction or plea and plea agreement, if any;

(G) Sentencing information; and

(H) Summary of behavior while the juvenile was in detention, if any;

(II.5) To the Colorado bureau of investigation for purposes of conducting a criminal background investigation relating to authorization of a firearm purchase. The inspection shall be limited to the information identified in sub-subparagraphs (A) to (H) of subparagraph (II) of this paragraph (c).

(III) To a court which has jurisdiction over a juvenile or domestic action in which the juvenile is named;

(IV) To any attorney of record in a juvenile or domestic action in which the juvenile is named;

(V) To the state department of human services;

(VI) To any person conducting an evaluation pursuant to section 14-10-127, C.R.S.;

(VII) To all members of a child protection team, if one exists pursuant to section 19-3-308 (6)(a);

(VII.5) **[*Editor's note: Subparagraph (VII.5) is effective November 1, 2017.*]** To the juvenile named in the record;

(VIII) **[*Editor's note: This version of subparagraph (VIII) is effective until November 1, 2017.*]** To the juvenile's parent, guardian, or legal custodian;

(VIII) **[*Editor's note: This version of subparagraph (VIII) is effective November 1, 2017.*]** To the juvenile's parent, guardian, legal custodian, or attorney;

(IX) To the juvenile's guardian ad litem;

(X) To the principal of a school, or such principal's designee, in which the juvenile is or will be enrolled as a student and, if the student is or will be enrolled in a public school, to the superintendent of the school district in which the student is or will be enrolled, or such superintendent's designee; or

(XI) To the department of education when acting pursuant to section 22-2-119, C.R.S., or pursuant to the "Colorado Educator Licensing Act of 1991", article 60.5 of title 22, C.R.S.

(d) **[*Editor's note: This version of paragraph (d) is effective until November 1, 2017.*] Social and clinical studies - closed - court authorization.** Except as otherwise authorized by section 19-1-303, any social and clinical studies, whether or not part of the court file, shall not be open to inspection except by consent of the court.

(d) **[*Editor's note: This version of paragraph (d) is effective November 1, 2017.*] Social and clinical studies - closed - court authorization.** Except as otherwise authorized by section 19-1-303, any social and clinical studies, including all formal evaluations of the juvenile completed by a professional, whether or not part of the court file or any other record, are not open to inspection, except:

(I) To the juvenile named in the record;

(II) To the juvenile's parent, guardian, legal custodian, or attorney; or

(III) By order of the court, upon a finding of a legitimate interest in and need to review the social and clinical studies.

(2) (a) **[*Editor's note: This version of the introductory portion to paragraph (a) is effective until November 1, 2017.*] Law enforcement records in general - closed.** Except as otherwise provided by subsection (1)(b.5) of this section and otherwise authorized by section 19-1-303, the records of law enforcement officers concerning juveniles, including identifying information, must be identified as juvenile records and not inspected by or disclosed to the public, except:

(a) **[*Editor's note: This version of the introductory portion to paragraph (a) is effective November 1, 2017.*] Law enforcement records in general - closed.** Except as otherwise provided by subsection (1)(b.5) of this section and otherwise authorized by section 19-1-303, the records of law enforcement officers concerning juveniles, including identifying information, must be identified as juvenile records and must not be inspected by or disclosed to the public, except:

(I) **[*Editor's note: This version of subparagraph (I) is effective until November 1, 2017.*]** To the juvenile and the juvenile's parent, guardian, or legal custodian;

(I) **[*Editor's note: This version of subparagraph (I) is effective November 1, 2017.*]** To the juvenile and the juvenile's parent, guardian, legal custodian, or attorney;

(II) To other law enforcement agencies and to fire investigators, as defined in section 19-1-103 (51), who have a legitimate need for such information;

(II.5) To the Colorado bureau of investigation for purposes of conducting a criminal background investigation relating to authorization of a firearm purchase;

(III) To the victim and the complaining party, if different, in each case after authorization by the district attorney or prosecuting attorney;

(IV) When the juvenile has escaped from an institution to which such juvenile has been committed;

(V) When the court orders that the juvenile be tried as an adult criminal;

(VI) When there has been an adult criminal conviction and a presentence investigation has been ordered by the court;

(VII) By order of the court;

(VIII) To a court which has jurisdiction over a juvenile or domestic action in which the juvenile is named;

(IX) To any attorney of record in a juvenile or domestic action in which the juvenile is named;

(X) To the state department of human services;

(XI) To any person conducting an evaluation pursuant to section 14-10-127, C.R.S.;

(XII) To all members of a child protection team, if one exists pursuant to section 19-3-308 (6)(a);

(XIII) To the juvenile's guardian ad litem;

(XIV) To any person or agency for research purposes, if all of the following conditions are met:

(A) **[*Editor's note: This version of sub-subparagraph (A) is effective until November 1, 2017.*]** The person or agency conducting such research is employed by the state of Colorado or is under contract with the state of Colorado and is authorized by the department of human services to conduct such research; and

(A) **[*Editor's note: This version of sub-subparagraph (A) is effective November 1, 2017.*]** The person or agency conducting such research is employed by the state of Colorado or is under contract with the state of Colorado and is authorized by the department of human services to conduct such research; except that the department of public safety does not need to obtain prior authorization from the department of human services for the purposes of this subsection (2)(a)(XIV)(A); and

(B) The person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to such documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

(XV) To the principal of a school, or such principal's designee, in which the juvenile is or will be enrolled as a student and, if the student is or will be enrolled in a public school, to the superintendent of the school district in which the student is or will be enrolled, or such superintendent's designee;

(XVI) To assessment centers for children;

(XVII) To the department of education when acting pursuant to section 22-2-119, C.R.S., or pursuant to the "Colorado Educator Licensing Act of 1991", article 60.5 of title 22, C.R.S.

(b) The fingerprints, photograph, name, address, and other identifying information regarding a juvenile may be transmitted to the Colorado bureau of investigation to assist in any

apprehension or investigation and for purposes of conducting a criminal background investigation relating to authorization of a firearm purchase.

(2.5) **[*Editor's note: This version of subsection (2.5) is effective until November 1, 2017.*] Parole records.** Parole records shall be open to inspection by the principal of a school, or such principal's designee, in which the juvenile is or will be enrolled as a student and, if the student is or will be enrolled in a public school, by the superintendent of the school district in which the student is or will be enrolled, or such superintendent's designee. Parole records shall also be open to inspection by assessment centers for children.

(2.5) **[*Editor's note: This version of subsection (2.5) is effective November 1, 2017.*] Parole records.** Parole records are open to inspection by the principal of a school, or such principal's designee, in which the juvenile is or will be enrolled as a student and, if the student is or will be enrolled in a public school, by the superintendent of the school district in which the student is or will be enrolled, or such superintendent's designee. Parole records are also open to inspection by assessment centers for children and by the juvenile named in the record and the juvenile's parent, guardian, legal custodian, or attorney.

(3) **[*Editor's note: This version of subsection (3) is effective until November 1, 2017.*]** Prior to adjudication, the defense counsel, the district attorney, the prosecuting attorney, or any other party with consent of the court shall have access to records of any proceedings pursuant to this title, except as provided in section 19-1-309, which involve a juvenile against whom criminal or delinquency charges have been filed. No new criminal or delinquency charges against such juvenile shall be brought based upon information gained initially or solely from such examination of records.

(3) **[*Editor's note: This version of subsection (3) is effective November 1, 2017.*]** Prior to adjudication, the defense counsel, the district attorney, the prosecuting attorney, or any other party to a pending delinquency petition with consent of the court must have access to records of any proceedings pursuant to this title 19, except as provided in section 19-1-309, which involve a juvenile against whom criminal or delinquency charges have been filed. No new criminal or delinquency charges against such juvenile may be brought based upon information gained initially or solely from such examination of records.

(4) For the purpose of making recommendations concerning sentencing after an adjudication of delinquency, the defense counsel and the district attorney or prosecuting attorney shall have access to records of any proceedings involving the adjudicated juvenile pursuant to this title, except as provided in sections 19-1-307, 19-1-308, and 19-1-309. No new criminal or delinquency charges against the adjudicated juvenile shall be brought based upon information gained initially or solely from such examination of records.

(5) **Direct filings - arrest and criminal records open.** Whenever a petition filed in juvenile court alleges that a juvenile between the ages of twelve to eighteen years has committed an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., or a crime of violence, as defined in section 18-1.3-406, C.R.S., if committed by an adult or whenever charges filed in district court allege that a juvenile has committed such an offense, then the arrest and criminal records information, as defined in section 24-72-302 (1), C.R.S., and including a juvenile's physical description, concerning such juvenile shall be made available to the public. The information is available only from the investigative law enforcement agency, the agency responsible for filing a petition, and the court, and shall not include records of investigation as such records are described in section 24-72-305 (5), C.R.S. Basic identification

information, as defined in section 24-72-302 (2), C.R.S., along with the details of the alleged delinquent act or offense, shall be provided immediately to the school district in which the juvenile is enrolled. Such information shall be used by the board of education for purposes of section 22-33-105 (5), C.R.S., but information made available to the school district and not otherwise available to the public shall remain confidential.

(5.5) **[*Editor's note: This version of subsection (5.5) is effective until November 1, 2017.*]** Whenever a petition is filed in juvenile court involving a felony or a class 1 misdemeanor or the following offenses of any degree: Menacing, in violation of section 18-3-206, C.R.S.; harassment, in violation of section 18-9-111, C.R.S.; fourth degree arson, in violation of section 18-4-105, C.R.S.; theft, in violation of section 18-4-401, C.R.S.; aggravated motor vehicle theft, in violation of section 18-4-409, C.R.S.; criminal mischief, in violation of section 18-4-501, C.R.S.; defacing property, in violation of section 18-4-509, C.R.S.; disorderly conduct, in violation of section 18-9-106, C.R.S.; hazing, in violation of section 18-9-124, C.R.S.; or possession of a handgun by a juvenile, in violation of section 18-12-108.5, C.R.S., the prosecuting attorney, within three working days after the petition is filed, shall make good faith reasonable efforts to notify the principal of the school in which the juvenile is enrolled and shall provide such principal with the arrest and criminal records information, as defined in section 24-72-302 (1), C.R.S. In the event the prosecuting attorney, in good faith, is not able to either identify the school which the juvenile attends or contact the principal of the juvenile's school, then the prosecuting attorney shall contact the superintendent of the juvenile's school district.

(5.5) **[*Editor's note: This version of subsection (5.5) is effective November 1, 2017.*]** Whenever a petition is filed in juvenile court alleging a class 1, class 2, class 3, or class 4 felony; a level 1, level 2, or level 3 drug felony; an offense involving unlawful sexual behavior as defined in section 16-22-102 (9); a crime of violence as described in section 18-1.3-406; a burglary offense as described in part 2 of article 4 of title 18; felony menacing, in violation of section 18-3-206; harassment, in violation of section 18-9-111; fourth degree arson, in violation of section 18-4-105; aggravated motor vehicle theft, in violation of section 18-4-409; hazing, in violation of section 18-9-124; or possession of a handgun by a juvenile, in violation of section 18-12-108.5, or when a petition is filed in juvenile court in which the alleged victim of the crime is a student or staff person in the same school as the juvenile or in which it is alleged that the juvenile possessed a deadly weapon during the commission of the alleged crime, the prosecuting attorney, within three working days after the petition is filed, shall make good faith reasonable efforts to notify the principal of the school in which the juvenile is enrolled and shall provide such principal with the arrest and criminal records information, as defined in section 24-72-302 (1). In the event the prosecuting attorney, in good faith, is not able to either identify the school that the juvenile attends or contact the principal of the juvenile's school, then the prosecuting attorney shall contact the superintendent of the juvenile's school district.

(6) **[*Editor's note: This version of subsection (6) is effective until November 1, 2017.*]** The department of human services shall release to the committing court, the district attorney, the Colorado bureau of investigation, and local law enforcement agencies basic identification information as defined in section 24-72-302 (2), C.R.S., concerning any juvenile released or released to parole supervision or any juvenile who escapes.

(6) **[*Editor's note: This version of subsection (6) is effective November 1, 2017.*]** The department of human services shall release to the committing court, the prosecuting attorney, the Colorado bureau of investigation, and local law enforcement agencies basic identification

information as defined in section 24-72-302 (2) concerning any juvenile released or released to parole supervision or any juvenile who escapes. This information is not open to the public.

(7) **[*Editor's note: This version of the introductory portion to subsection (7) is effective until November 1, 2017.*]** In addition to the persons who have access to court records pursuant to paragraph (a) of subsection (1) of this section, statewide electronic read-only access to the name index and register of actions of the judicial department must be allowed to the following agencies or attorneys appointed by the court:

(7) **[*Editor's note: This version of the introductory portion to subsection (7) is effective November 1, 2017.*]** In addition to the persons who have access to court records pursuant to subsection (1)(a) of this section, statewide electronic read-only access to the name index and register of actions of the judicial department must be allowed to the following agencies or persons:

(a) County departments, as defined in section 19-1-103 (32), and attorneys who represent the county departments as county attorneys, as defined in section 19-1-103 (31.5), as it relates to the attorneys' work representing the county;

(b) The office of the state public defender, created in section 21-1-101, C.R.S.;

(c) Guardians ad litem under contract with the office of the child's representative, created in section 13-91-104, C.R.S., or authorized by the office of the child's representative to act as a guardian ad litem, as it relates to a case in which they are appointed by the court;

(d) Attorneys under contract with the office of the alternate defense counsel, created in section 21-2-101, as it relates to a case in which they are appointed by the court;

(e) A respondent parent's counsel under contract with the office of the respondent parents' counsel, created in section 13-92-103, or authorized by the office of the respondent parents' counsel to act as a respondent parent's counsel, as it relates to a case in which they are appointed by the court; and

(f) **[*Editor's note: Paragraph (f) is effective November 1, 2017.*]** A licensed attorney working with a nonprofit association providing free legal assistance as it relates to screening an applicant for eligibility for free services or to a case in which the organization has entered an appearance to provide free representation, if the office of the alternate defense counsel agrees to monitor the attorney's use of the electronic name index and register of actions.

(8) **Division of youth services critical incident information.** (a) For the purposes of this subsection (8), "critical incident" means any of the following:

(I) An intentional physical or sexual act of aggression that:

(A) Causes or attempts to cause serious bodily injury;

(B) Causes bodily injury that requires only first aid or lesser attention; or

(C) Causes no bodily injury;

(II) Unauthorized physical or sexual contact caused through recklessness or negligence, where physical or sexual harm was not intended; or

(III) An attempt to harm or gain power by blows or with weapons.

(b) The department of human services, the division of youth services, or any agency with relevant information shall release the following information related to any critical incident, or aggregate of critical incidents, that occurred in a facility operated by the division of youth services upon request so long as the disclosing agency, except as described in subsection (8)(b)(V) of this section, redacts any identifying information, any information concerning

security procedures or protocols, and any information that would jeopardize the safety of the community, youths, or staff:

(I) The type of critical incident that occurred or a summary of types of critical incidents that have occurred within a given time frame;

(II) A summary of whether the number and types of critical incidents are increasing or decreasing in frequency and severity;

(III) On average, how many of the youth have been involved in multiple critical incidents and the average length of detainment;

(IV) A summary of responses to critical incidents by the facility involved, such as de-escalation or typical consequence imposed; and

(V) A summary of any critical incident that has occurred, which summary must include a summary of any use of force on a youth, including any physical-management techniques or restraints utilized and any seclusion of a youth. The division shall not redact the information other than to protect the personal identifying information of any individual.

(c) The division of youth services, the department of human services, or any agency with relevant information related to a critical incident shall provide redacted records related to the critical incident, provided confidentiality is maintained. The division may charge a fee in accordance with section 24-72-205.

(d) The division of youth services may release to the public information at any time to correct inaccurate information pertaining to the critical incident that was reported in the news media, so long as the release of information by the division protects the confidentiality of any youth involved; is not explicitly in conflict with federal law; is not contrary to the best interest of the child who is the subject of the report, or his or her siblings; is in the public's best interest; and is consistent with the federal "Child Abuse Prevention and Treatment Reauthorization Act of 2010", Pub.L. 111-320.

(e) Except as otherwise authorized by section 19-1-303, all records prepared or obtained by the department of human services in the course of carrying out its duties pursuant to article 2 of this title are confidential and privileged.

Source: L. 96: Entire part added with relocations, p. 1158, § 6, effective January 1, 1997; (1)(a)(XV) added, p. 1587, § 15, effective January 1, 1997. **L. 98:** (1)(a)(XI), (1)(c)(VI), and (2)(a)(XI) amended, p. 1407, § 66, effective February 1, 1999. **L. 99:** (1)(a)(V) amended, p. 316, § 5, effective July 1; (5) amended, p. 1144, § 1, effective July 1. **L. 2000:** (1)(b.8) added, p. 12, § 5, effective March 7; (1)(a)(VII.5), (1)(c)(II.5), and (2)(a)(II.5) added and (2)(b) amended, pp. 226, 227, §§ 1, 2, 3, 4, effective March 29; (1)(a)(XVI), (1)(c)(X), (2)(a)(XV), (2)(a)(XVI), and (2.5) added and IP(1)(c) and (5) amended, pp. 319, 320, §§ 3, 4, 5, 6, 9, effective April 7; (1)(a)(XVI), (1)(c)(X), and (5.5) added and IP(1)(c) amended, pp. 1964, 1965, §§ 6, 7, 8, effective June 2. **L. 2001:** (5.5) amended, p. 138, § 3, effective July 1. **L. 2002:** (5) amended, p. 1187, § 23, effective July 1; (5) amended, p. 1522, § 222, effective October 1. **L. 2003:** (1)(c)(II.5) amended, p. 1991, § 33, effective May 22. **L. 2008:** (1)(a)(XVII), (1)(c)(XI), and (2)(a)(XVII) added and IP(1)(c), (1)(c)(IX), and (1)(c)(X) amended, pp. 1667, 1668, §§ 10, 11, 12, effective May 29; (7) added, p. 1243, § 5, effective August 5. **L. 2015:** (8) added, (HB 15-1131), ch. 164, p. 499, § 2, effective May 8. **L. 2016:** IP(1)(a) and (1)(a)(XIII) amended, (HB 16-1098), ch. 103, p. 297, § 2, effective April 15; IP(7) and (7)(e) amended, (HB 16-1193), ch. 81, p. 207, § 2, effective July 1. **L. 2017:** IP(8)(b), (8)(b)(V), (8)(c), and (8)(d) amended, (HB

17-1329), ch. 381, p. 1965, § 6, effective June 6; IP(1)(a), (1)(a)(XII), IP(1)(c), (1)(c)(VII), IP(2)(a), and (2)(a)(XII) amended, (SB 17-016), ch. 107, p. 391, § 3, effective August 9; IP(1)(a), (1)(a)(II), (1)(a)(XIII)(A), IP(1)(b.5), (1)(b.7), (1)(b.8), IP(1)(c), (1)(c)(VIII), (1)(d), IP(2)(a), (2)(a)(I), (2)(a)(XIV)(A), (2.5), (3), (5.5), (6), IP(7), (7)(d), and (7)(e) amended and (1)(c)(VII.5) and (7)(f) added, (HB 17-1204), ch. 206, p. 771, § 1, effective November 1.

Editor's note: (1) This section was formerly numbered as § 19-1-119.

(2) Amendments to subsection (1)(a)(XVI) by Senate Bill 00-133 and House Bill 00-1119 were harmonized.

(3) (a) Amendments to the introductory portion to subsection (1)(c) by Senate Bill 00-133 and House Bill 00-1119 were harmonized.

(b) Subsection (1)(c)(XI) as enacted by Senate Bill 00-133 was renumbered as (1)(c)(X) and harmonized with subsection (1)(c)(X) as enacted by House Bill 00-1119.

(4) Amendments to subsection (5) by House Bill 02-1046 and Senate Bill 02-010 were harmonized.

(5) Subsection (7) was originally numbered as (8.5) in House Bill 08-1264 but has been renumbered on revision for ease of location.

(6) Amendments to subsection IP(2)(a) by SB 17-016 and HB 17-1204 were harmonized, effective November 1, 2017.

Cross references: For the legislative declaration contained in the 2000 act enacting subsection (1)(b.8), see section 1 of chapter 5, Session Laws of Colorado 2000. For the legislative declaration contained in the 2002 act amending subsection (5), see section 1 of chapter 318, Session Laws of Colorado 2002.

19-1-305. Operation of juvenile facilities. (1) Except as otherwise authorized by section 19-1-303 or 19-1-304 (8), all records prepared or obtained by the department of human services in the course of carrying out its duties pursuant to article 2 of this title are confidential and privileged. Said records may be disclosed only:

(a) To the parents, legal guardian, legal custodian, attorney for the juvenile, district attorney, guardian ad litem, law enforcement official, and probation officer;

(b) In communications between appropriate personnel in the course of providing services or in order to facilitate appropriate referrals for services;

(c) To the extent necessary to make application for or to make claims on behalf of the juvenile who is eligible to receive aid, insurance, federal or state assistance, or medical assistance;

(d) To the court as necessary for the administration of the provisions of article 2 of this title;

(e) To persons authorized by court order after notice and a hearing, to the juvenile, and to the custodian of the record;

(f) For research or evaluation purposes pursuant to rules regarding research or evaluation promulgated by the department of human services. Any rules so promulgated shall require that persons receiving information for research or evaluation purposes are required to keep such information confidential; and

(g) To the department of revenue pursuant to sections 39-22-120 and 39-22-2003, C.R.S.

(2) Nothing in this section shall be construed to limit the effect of any other provision of this part 3 which requires the confidentiality of records under the control of the department of human services.

Source: L. 96: Entire part added with relocations, p. 1163, § 6, effective January 1, 1997. **L. 98, 2nd Ex. Sess.:** (1)(e) and (1)(f) amended and (1)(g) added, p. 7, § 3, effective September 16. **L. 99:** (1)(g) amended, p. 1317, § 4, effective August 4. **L. 2015:** IP(1) amended, (HB 15-1131), ch. 164, p. 499, § 1, effective May 8.

Editor's note: (1) This section was formerly numbered as 19-2-1104.5.

(2) Section 4 of chapter 164 (HB 15-1131), Session Laws of Colorado 2015, provides that changes to this section by the act apply to critical incidents that occur on or after January 1, 2014.

19-1-306. Expungement of juvenile delinquent records. [*Editor's note: This version of this section is effective until November 1, 2017.*] (1) For the purposes of this section, "expungement" is defined in section 19-1-103 (48). Upon the entry of an expungement order, the person, agency, and court may properly indicate that no record exists.

(2) (a) At the time of the adjudication, the court shall advise the adjudicated juvenile and any respondent parent or guardian of the right to petition the court for the expungement of the juvenile's record. The court, on its own motion or the motion of the juvenile probation department, the juvenile parole department, the juvenile, a respondent parent or guardian, or a court-appointed guardian ad litem, may initiate expungement proceedings concerning the record of any juvenile who has been under the jurisdiction of the court.

(b) Expungement shall be effectuated by physically sealing or conspicuously indicating on the face of the record or at the beginning of the computerized file of the record that said record has been designated as expunged.

(3) After expungement, basic identification information on the juvenile and a list of any state and local agencies and officials having contact with the juvenile, as they appear from the records, shall not be open to the public but shall be available to a district attorney, local law enforcement agency, the department of human services, the state judicial department, and the victim as defined in section 24-4.1-302 (5), C.R.S.; except that such information shall not be available to an agency of the military forces of the United States.

(4) Records designated as expunged may only be inspected by order of the court, after a hearing and good cause shown. Notice of said hearing shall be given to all interested parties at least five days in advance of such hearing.

(5) (a) Expungement proceedings shall be initiated by the filing of a petition in the appropriate juvenile court requesting an order of expungement. No filing fee shall be required. Any record that is ordered expunged shall, notwithstanding any such order for expungement, be available to any judge and the probation department for use in any future juvenile or adult sentencing hearing regarding the person whose record was expunged.

(a.5) Notwithstanding any order for expungement pursuant to this section, any criminal justice record of a juvenile who has been charged, adjudicated, or convicted as a repeat or mandatory juvenile offender shall be available for use by a court, a district attorney, any law enforcement agency, or any agency of the state judicial department in any subsequent criminal

investigation, prosecution, or adjudication under this title or during probation or parole supervision, if otherwise permitted by law.

(b) Upon the filing of a petition, the court shall set a date for a hearing on the petition for expungement and shall notify the appropriate prosecuting agency and anyone else whom the court has reason to believe may have relevant information related to the expungement of the record.

(c) The court may order expunged all records in the petitioner's case in the custody of the court and any records in the custody of any other agency or official if at the hearing the court finds that:

(I) The petitioner who is the subject of the hearing has not been convicted of, or adjudicated a juvenile delinquent for, any felony offense or a misdemeanor offense involving domestic violence, unlawful sexual behavior, or possession of a weapon since the termination of the court's jurisdiction or the petitioner's unconditional release from parole supervision;

(II) No proceeding concerning a felony, misdemeanor, or delinquency action is pending or being instituted against the petitioner;

(II.5) (A) The petitioner has satisfied court-ordered restitution or is current on a restitution repayment agreement with the court collections investigator that has been entered in the electronic case record to make payment on a schedule pursuant to section 16-18.5-104 (4), C.R.S.

(B) If, following the entry of an order of expungement under this section, a petitioner fails to make required payments on a restitution repayment agreement, a court collections investigator may, following notice to the petitioner, file a motion with the court that entered the order to have the order of expungement reversed.

(III) The rehabilitation of the petitioner has been attained to the satisfaction of the court; and

(IV) The expungement is in the best interests of the petitioner and the community.

(d) The court shall order expunged all records in the custody of the court and any records in the custody of any other agency or official that pertain to the petitioner's conviction for prostitution, as described in section 18-7-201, C.R.S.; soliciting for prostitution, as described in section 18-7-202, C.R.S.; keeping a place of prostitution, as described in section 18-7-204, C.R.S.; public indecency, as described in section 18-7-301, C.R.S.; soliciting for child prostitution, as described in section 18-7-402, C.R.S.; or any corresponding municipal code or ordinance if, at the hearing, the court finds that the petitioner who is the subject of the hearing has established by a preponderance of the evidence that, at the time he or she committed the offense, he or she:

(I) Had been trafficked by another person, as described in section 18-3-503 or 18-3-504, C.R.S., for the purpose of performing the offense; or

(II) Was coerced by another person, as described in section 18-3-503, C.R.S., to perform the offense.

(6) A person is eligible to petition for an expungement order:

(a) Immediately upon:

(I) A finding of not guilty at an adjudicatory trial;

(II) Dismissal of the petition in its entirety as a result of nonprosecution of the offense; or

(III) Successful completion of a juvenile diversion program, a deferred adjudication, or an informal adjustment;

(a.5) At any time for the purposes described in paragraph (d) of subsection (5) of this section;

(b) One year from the date of:

(I) A law enforcement contact that did not result in a referral to another agency; or

(II) The termination of the court's jurisdiction over the petitioner after successful completion of probation;

(c) Three years from the date of:

(I) (Deleted by amendment, L. 2013.)

(II) The petitioner's unconditional release from commitment to the department of human services; or

(III) The petitioner's unconditional release from parole supervision; or

(IV) (Deleted by amendment, L. 96, p. 1163, 6, effective January 1, 1997.)

(d) Five years from the date of the termination of the court's jurisdiction over the petitioner or the petitioner's unconditional release from probation or parole supervision, whichever date is later, if the juvenile has been adjudicated a repeat or mandatory juvenile offender and if the juvenile has not further violated any criminal statute.

(7) The following persons are not eligible to petition for the expungement of any juvenile record:

(a) Any person who has been adjudicated as an aggravated juvenile offender pursuant to section 19-2-516 (4) or a violent juvenile offender pursuant to section 19-2-516 (3);

(b) (Deleted by amendment, L. 2013.)

(c) Any person who, as a juvenile, has been charged by the direct filing of an information in the district court or by indictment pursuant to section 19-2-517, unless the person was sentenced as a juvenile in the same matter;

(d) Any person who has been adjudicated for an offense involving unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.

(e) Repealed.

(8) A person may file a petition with the court for expungement of his or her record only once during any twelve-month period.

(9) Repealed.

(10) Nothing in this section shall be construed to authorize the physical destruction of any criminal justice record.

19-1-306. Expungement of juvenile delinquent records - definition. [*Editor's note: This version of this section is effective November 1, 2017.*] (1) (a) For the purposes of this section, "expungement" is defined in section 19-1-103 (48). Upon the entry of an expungement order, the person who is the subject of the record that has been expunged may assert that he or she has no juvenile delinquency record. Further, the person who is the subject of the record that has been expunged may lawfully deny that he or she has ever been arrested, charged, adjudicated, convicted, or sentenced in regard to the expunged case, matter, or charge.

(b) The court, law enforcement, and all other agencies shall reply to any inquiry regarding an expunged record that no record exists with respect to the person named in the

record, unless information may be shared with the inquiring party pursuant to subsection (3) of this section.

(2) (a) At the time of the adjudication, the court shall advise the adjudicated juvenile and any respondent parent or guardian, in writing, of the right to expunge and the time period and process for expunging the order. The court, on its own motion or the motion of the juvenile probation department, the juvenile parole department, the juvenile, a respondent parent or guardian, or a court-appointed guardian ad litem, may initiate expungement proceedings concerning the record of any juvenile who has been under the jurisdiction of the court.

(b) If a juvenile is supervised by probation, the probation department, upon the termination of the juvenile's supervision period, shall provide the juvenile with a written advisement of the right to expungement and the time period and process for expunging the record.

(c) If a juvenile is supervised by parole, the department or division supervising the juvenile's parole, upon the termination of the juvenile's parole supervision period, shall provide the juvenile with a written advisement of the right to expungement and the time period and process for expunging the record.

(d) If the juvenile is supervised by a diversion officer or agency other than probation, the agency supervising the diversion program, upon the termination of the juvenile's diversion period, shall provide the juvenile with a written advisement of the right to expungement and the time period and process for expunging the record.

(e) If a juvenile is sentenced in municipal court, the municipal court, at sentencing, shall provide the juvenile and any respondent parent or guardian with a written advisement of the right to expungement and the time period and process for expunging the record. The municipal court may provide the notice through a municipal diversion program, the city attorney, or a municipal probation program.

(f) If a juvenile is committed to the division of youth services and is released without a requirement to complete further parole, the division shall provide the juvenile with a written advisement of the right to expungement and the time period and process for expunging the record.

(g) Expungement must be effectuated by physically sealing or conspicuously indicating on the face of the record or at the beginning of the computerized file of the record that the record has been designated as expunged.

(h) The prosecuting attorney shall not require as a condition of a plea agreement that the juvenile waive his or her right to expungement under this section upon the completion of the juvenile's sentence.

(i) Prior to the court ordering any records expunged, the court shall determine whether the juvenile has any felony, drug felony, misdemeanor, drug misdemeanor, petty offense, or delinquency actions pending, and, if the court determines that there is a felony, drug felony, misdemeanor, drug misdemeanor, petty offense, or delinquency action pending against the juvenile, the court shall stay the petition for expungement proceedings until the resolution of the pending case.

(3) (a) After expungement, basic identification information on the juvenile and a list of any state and local agencies and officials having contact with the juvenile, as they appear in the records, are not open to the public but are available to a prosecuting attorney, local law enforcement agency, the department of human services, the state judicial department, and the

victim as defined in section 24-4.1-302 (5); except that such information is not available to an agency of the military forces of the United States.

(b) Notwithstanding any order for expungement pursuant to this section, any record that is ordered expunged is available to any judge and the probation department for use in any future proceeding in which the person whose record was expunged is charged with an offense as either a juvenile or as an adult. A new criminal or delinquency charge may not be brought against the juvenile based upon information gained initially or solely from examination of the expunged records.

(c) Notwithstanding an order for expungement pursuant to this section, any criminal justice record of a juvenile who has been charged, adjudicated, or convicted of any offense shall be available for use by the juvenile, the juvenile's attorney, a prosecuting attorney, any law enforcement agency, or any agency of the state judicial department in any subsequent criminal investigation or prosecution as a substantive predicate offense conviction or adjudication of record.

(d) Notwithstanding any order for expungement issued pursuant to this section, nothing prevents the prosecuting attorney, including the staff of a prosecuting attorney's office or a victim or witness assistance program or a law enforcement agency or law enforcement victim assistance program, from discussing with the victim the case, the results of any expungement proceedings, information regarding restitution, and information related to any victim services available to the victim as defined in section 24-4.1-302 (5), but copies of expunged records must not be provided to the victim. The victim may petition the court and request that a copy of the expunged records be provided to the victim. If the court finds that there are compelling reasons for the release, a copy of the expunged records may be released to the victim. If the court orders the release of a copy of the expunged records to the victim, the court must issue a protective order regarding the usage of the expunged records.

(e) Notwithstanding any order for expungement issued pursuant to this section, any information, including police affidavits and reports and records related to any prior conviction or adjudication, are available without court order to the persons, government agencies, or entities allowed access to or allowed to exchange such information pursuant to section 19-1-303 for the purposes described therein. Any person who knowingly violates the confidentiality provisions of section 19-1-303 is subject to the penalty in section 19-1-303 (4.7).

(f) Notwithstanding any order for expungement issued pursuant to this section, nothing in this section precludes a county department of human or social services employee from reviewing internal department records that are ordered expunged and are in the county department's possession for purposes of department investigations and case management in the provision of child welfare services.

(4) (a) The court shall order all records in a juvenile delinquency case in the custody of the court, and any records related to the case and charges in the custody of any other agency, person, company, or organization, expunged within forty-two days after:

(I) A finding of not guilty at an adjudicatory trial;

(II) Dismissal of the petition in its entirety; or

(III) The completion of a sentence for a petty offense, drug petty offense, class 2 or class 3 misdemeanor offense, or level 1 or level 2 drug misdemeanor if the offense does not involve unlawful sexual behavior as defined in section 16-22-102 (9), is not an act of domestic violence

as defined in section 18-6-800.3, or is not a crime listed under section 24-4.1-302 (1), and the defendant was under eighteen years of age at the time the offense was committed.

(b) When an expungement order is issued pursuant to this section, the court shall send a copy of the order to the juvenile, the juvenile's last attorney of record, the prosecuting attorney, the law enforcement agency or agencies that investigated the case, the state court administrator's office, the division of youth services, and the Colorado bureau of investigation, directing the entity to expunge the records in its custody as directed in the order. The person who is the subject of records expunged pursuant to this section may petition the court to permit inspection of the records held by persons named in the order, and the court may so order.

(c) The court shall, on or before November 1 of each year, review all juvenile delinquency court files during the two previous years that resulted in a finding of not guilty; a dismissal of the petition; a sentence for a petty offense; a sentence for a drug petty offense; a sentence for a drug misdemeanor offense; or a sentence for a class 2 or class 3 misdemeanor offense if the offense does not involve unlawful sexual behavior as defined in section 16-22-102 (9), is not an act of domestic violence as defined in section 18-6-800.3, or is not a crime listed under section 24-4.1-302 (1), and the defendant was under eighteen years of age at the time the offense was committed. The court shall enter an expungement order for all juveniles eligible for expungement pursuant to this subsection (4), if the expungement order was not previously made.

(5) (a) The court shall send notice to the prosecuting attorney and supervising agency of the juvenile at least ninety-one days prior to the end of the juvenile's diversion program, deferred adjudication, informal adjustment, or sentence that all records in a juvenile delinquency case in the custody of the court, and any records related to the case and charges in the custody of any other agency, person, company, or organization, will be expunged after completion of:

(I) A juvenile diversion program, a deferred adjudication, or an informal adjustment;

(II) A juvenile sentence for an adjudication for a class 1 misdemeanor or a petty or a misdemeanor offense that is not eligible for expungement under subsection (4) of this section, if the offense did not involve unlawful sexual behavior as defined in section 16-22-102 (9);

(III) A juvenile sentence for an adjudication for a misdemeanor offense involving unlawful sexual contact as described in section 18-3-404; or

(IV) A juvenile sentence for an adjudication for a felony offense or felony drug offense if:

(A) The felony offense did not constitute unlawful sexual behavior as defined in section 16-22-102 (9);

(B) The felony offense was not a crime of violence as described in section 18-1.3-406;

(C) The felony offense was not a class 1 or class 2 felony; and

(D) The juvenile had no prior felony adjudications.

(b) Upon receipt of the notice from the court in subsection (5)(a) of this section, the prosecuting attorney shall contact the victim regarding expungement.

(c) Upon issuance of the notice from the court in subsection (5)(a) of this section, the supervising agency must prepare a report and summary of supervision outlining the performance of the juvenile while under supervision. If the juvenile is no longer under supervision, the supervising agency must contact the juvenile and summarize the juvenile's activities since termination of supervision to assist the court in making its determination of the appropriateness for expungement. The supervising agency shall provide the report to the court, the prosecuting

attorney, the juvenile, and the juvenile's attorney of record within twenty-eight days of the notice from the court.

(d) If neither the prosecuting attorney nor a victim files an objection within eighty-four days after the issuance of the notice pursuant to subsection (5)(a) of this section, the court shall order all records in the juvenile delinquency case in the custody of the court, and any records related to the case and charges in the custody of any other agency, person, company, or organization, expunged.

(e) If the prosecuting attorney or a victim files an objection within eighty-four days after receipt of the notice by the prosecuting attorney pursuant to subsection (5)(a) of this section, the court shall schedule a hearing on the issue of expungement. The court shall notify all objecting parties of the hearing date. The hearing must be set at least thirty-five days after the date the court sends notice of the hearing.

(f) If a hearing is scheduled pursuant to subsection (5)(e) of this section, the court shall send notice to the last known address of the juvenile notifying the juvenile of the date of the hearing and of the juvenile's right to appear at the hearing and to present evidence to the court in writing prior to the hearing and in person at the hearing. The notice must indicate that, at the hearing, the court will consider whether the juvenile has been rehabilitated and whether expungement is in the best interest of the juvenile and the community. The juvenile is not required to appear at the hearing.

(g) At a hearing held pursuant to this subsection (5), the court shall order all records of the case in the custody of the court, and any records related to the case or charges in the custody of any other agency, person, company, or organization, expunged if the court makes written findings that:

(I) The rehabilitation of the juvenile has been attained to the satisfaction of the court; and

(II) The expungement is in the best interest of the juvenile and the community.

(h) The court shall, starting on November 1, 2019, and each November 1 thereafter, review all juvenile delinquency court files during the two previous years that resulted in participation in diversion, a deferred adjudication, or an informal adjustment; a sentence for a class 1 misdemeanor offense, any drug felony offense, or a misdemeanor offense involving domestic violence as defined in section 18-6-800.3; or a felony offense that did not constitute unlawful sexual behavior as defined in section 16-22-102 (9), was not a crime of violence as described in section 18-1.3-406, and was not a class 1 or class 2 felony. The court shall send the notice required for all records eligible for a notice pursuant to this subsection (5) if the notice was not previously sent and an expungement order was not previously made. After the notice is sent, the provisions of subsections (5)(b) to (5)(g) of this section apply.

(i) With the victim's consent, or if there is no named victim, the prosecuting attorney may agree at the time of a plea that there will be no objection to expungement upon the completion of the juvenile's sentence. In such a case, the court shall order all records of the case in the custody of the court, and any records related to the case or charges in the custody of any other agency, person, company, or organization, expunged upon completion of the juvenile's sentence. A hearing is not required.

(j) A juvenile who was adjudicated as a mandatory sentence offender pursuant to section 19-2-516 (1) or as a repeat juvenile offender pursuant to section 19-2-516 (2) is not eligible for

expungement under this subsection (5), but may petition for expungement pursuant to subsection (6)(e) of this section.

(6) (a) A person may petition the juvenile court to expunge records in a closed case pursuant to subsection (4) of this section if the records are otherwise eligible for expungement, have not been expunged by the court, and a proceeding concerning a felony, misdemeanor, or delinquency action is not pending against the petitioner. A filing fee, notarization, or other formalities are not required. If the court determines the records are eligible for expungement pursuant to the requirements of subsection (4) of this section, the court shall grant the petition to expunge without a hearing and shall issue an order pursuant to subsection (4) of this section.

(b) A person may petition the juvenile court to expunge records in a closed case pursuant to subsection (5) of this section if the records are otherwise eligible for expungement, have not been expunged by the court, and a proceeding concerning a felony, misdemeanor, or delinquency action is not pending against the petitioner. A filing fee, notarization, or other formalities are not required. If the records are eligible for expungement pursuant to subsection (5) of this section, the court shall issue a notice pursuant to subsection (5)(a) of this section and the provisions of subsection (5) of this section apply.

(c) A person may petition the juvenile court to expunge records related to a law enforcement contact that did not result in referral to another agency after one year has passed since the law enforcement contact and a proceeding concerning a felony, misdemeanor, or delinquency action is not pending against the petitioner. A filing fee, notarization, or other formalities are not required. If the records are eligible for expungement pursuant to subsection (5) of this section, the court shall issue a notice pursuant to subsection (5)(a) of this section and the provisions of subsection (5) of this section apply.

(d) A person may petition the juvenile court to expunge records in a closed case pursuant to subsection (5) of this section if the person was previously denied an expungement order for those same records pursuant to subsection (5) of this section and at least twelve months have passed since the date of the original denial order, the petitioner provides new information not previously considered by the prior reviewing court, and a proceeding concerning a felony, misdemeanor, or delinquency action is not pending against the petitioner. The court shall schedule a hearing and notify the prosecuting attorney of the hearing date. The court shall set the hearing at least thirty-five days after the court sends the notice of the hearing. All other provisions of subsection (5) of this section apply.

(e) A juvenile who was adjudicated as a mandatory sentence offender pursuant to section 19-2-516 (1) or as a repeat offender pursuant to section 19-2-516 (2), and is not otherwise ineligible for expungement pursuant to the provisions of subsection (8) of this section and does not have a proceeding concerning a felony, misdemeanor, or delinquency action pending against himself or herself, may petition the court to request expungement of his or her record thirty-six months after the date of the petitioner's unconditional release from his or her juvenile sentence. A filing fee, notarization, or other formalities are not required. The court shall issue a notice pursuant to subsection (5)(a) of this section, and the provisions of subsection (5) of this section apply.

(7) Unless otherwise stated in the applicable section, a person may file a petition with the court for expungement of his or her record pursuant to subsections (4), (5), and (6) of this section only once during a twelve-month period.

(8) Notwithstanding the provisions of subsections (4), (5), and (6) of this section, a court shall not expunge the record of a person who is:

(a) Adjudicated as an aggravated juvenile offender pursuant to section 19-2-516 (4) or as a violent juvenile offender pursuant to section 19-2-516 (3);

(b) Adjudicated of homicide and related offenses pursuant to part 1 of article 3 of title 18;

(c) Adjudicated for a felony offense involving unlawful sexual behavior as described in section 16-22-102 (9); or

(d) Charged, adjudicated, or convicted of any offense or infraction pursuant to title 42.

(9) **Municipal court records.** (a) The court shall send notice to the prosecuting attorney that all records in a case charging a juvenile with a violation of a municipal code or ordinance, excluding offenses charged pursuant to title 42, all records of the case in the custody of the court, and any records related to the case or charges in the custody of any other agency, person, company, or organization will be expunged forty-two days after completion of the municipal sentence.

(b) If the prosecuting attorney does not file an objection within forty-two days after receipt of the notice from the court pursuant to subsection (9)(a) of this section, the municipal court shall order all records related to the case and charges in the custody of any other agency, person, company, or organization expunged.

(c) If the prosecuting attorney files an objection within forty-two days after receipt of the notice by the court pursuant to subsection (9)(a) of this section, the court shall schedule a hearing on the issue of expungement. The court shall notify the prosecuting attorney of the hearing date.

(d) If a hearing is scheduled pursuant to subsection (9)(c) of this section, the court shall send notice to the last known address of the juvenile notifying the juvenile of the date of the hearing and of the juvenile's right to appear at the hearing and to present evidence to the court in writing prior to the hearing and in person at the hearing. The notice must indicate that, at the hearing, the court will consider whether the juvenile has been rehabilitated and whether the expungement is in the best interest of the juvenile and the community. The juvenile is not required to appear at the hearing.

(e) At a hearing held pursuant to this subsection (9), the court shall order all records of the case in the custody of the court, and any records related to the case or charges in the custody of any other agency, person, company, or organization, expunged if the court makes written findings that the juvenile successfully completed the sentence or the municipal court case is closed.

(f) On November 1 of each year, the municipal court shall review all juvenile court files during the two previous years that resulted in a finding of not guilty or guilty or resulted in diversion, deferred judgment, dismissal, or other disposition or resolution, and enter an expungement order for all juveniles eligible for expungement pursuant to this subsection (9) if the expungement order was not previously made.

(g) In the event that municipal records have not been expunged pursuant to this section, an individual may petition the juvenile court in the judicial district where the municipality is located to expunge records of a municipal case brought against a juvenile. Expungement proceedings pursuant to this subsection (9) must be initiated by the filing of a petition requesting an order of expungement. A filing fee, notarization, or other formalities shall not be required. If

the petition is not granted without a hearing, the court shall set a date for a hearing on the petition for expungement and shall notify the appropriate prosecuting attorney.

(h) The court shall order all records related to the municipal case in the custody of the court, and any records related to the case and charges in the custody of any other agency, person, company, or organization, expunged pursuant to this subsection (9) if the court finds that the sentence has been completed or the municipal court case is closed.

(10) Upon the entry of an order expunging a record pursuant to this section, the court shall order, in writing, the expungement of all case records in the custody of the court and any records related to the case and charges in the custody of any other agency, person, company, or organization. The court may order expunged any records, but, at a minimum, the following records must be expunged pursuant to every expungement order:

(a) All court records;

(b) All records retained within the office of the prosecuting attorney;

(c) All probation and parole records;

(d) All law enforcement records;

(e) All department of human services records, including disassociating the offense and the disposition information from the name of the youth in the management information system;

(f) All division of youth servicess records;

(g) All department of corrections records; and

(h) References to the criminal case or charge contained in the school records.

(11) When an expungement order is issued pursuant to this section, the court shall send a copy of the order to the juvenile, the juvenile's last attorney of record, and each agency, person, company, or organization named therein, directing the entity to expunge its records within thirty-five days after the receipt of the order. Each such agency, person, company, or organization shall expunge the records in its custody as directed by the order. The person who is the subject of records expunged pursuant to this section may petition the court to permit inspection of the records held by persons named in the order, and the court may so order.

(12) Any agency, person, company, or organization that violates this section and knew that the records in question were subject to an expungement order may be subject to criminal and civil contempt of court and may be punished by a fine.

(13) Employers; educational institutions; landlords; and state and local government agencies, officials, and employees shall not, in any application or interview or in any other way, require an applicant to disclose any information contained in expunged records. In answer to any question concerning arrest or juvenile and criminal records information that has been expunged, an applicant need not include a reference to or information concerning the expunged information and may state that no record exists. An application may not be denied solely because of the applicant's refusal to disclose records or information that has been expunged.

(14) Nothing in this section authorizes the physical destruction of any juvenile or criminal justice record.

Source: L. 96: Entire part added with relocations, p. 1163, § 6, effective January 1, 1997; (9) added, p. 1588, § 18, effective January 1, 1997. **L. 98:** (7)(d) added and (9) repealed, p. 399, §§ 4, 5, effective April 21. **L. 2002:** (7)(d) amended, p. 1187, § 24, effective July 1; (7)(b) amended, p. 1523, § 223, effective October 1. **L. 2009:** (7)(c) amended, (HB 09-1044), ch. 19, p. 96, § 1, effective September 1. **L. 2012:** (5)(d) and (6)(a.5) added, (HB 12-1151), ch. 174, p.

623, § 6, effective August 8. **L. 2013:** (2)(a), (3), (5)(c)(I), (6), and (7) amended and (5)(a.5) and (10) added, (HB 13-1082), ch. 238, p. 1155, § 1, effective August 7. **L. 2014:** (5)(d)(I) amended, (HB 14-1273), ch. 282, p. 1157, § 21, effective July 1. **L. 2016:** (5)(c)(II.5) added and (7)(e) repealed, (SB 16-065), ch. 277, p. 1143, § 3, effective July 1. **L. 2017:** Entire section R&RE, (HB 17-1204), ch. 206, p. 775, § 2, effective November 1.

Editor's note: This section was formerly numbered as 19-2-902. The said section 19-2-902 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-111 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (7)(b), see section 1 of chapter 318, Session Laws of Colorado 2002.

19-1-307. Dependency and neglect records and information - access - fee - rules - records and reports fund - misuse of information - penalty - adult protective services data system check. (1) (a) **Identifying information - confidential.** Except as otherwise provided in this section and section 19-1-303, reports of child abuse or neglect and the name and address of any child, family, or informant or any other identifying information contained in such reports shall be confidential and shall not be public information.

(b) **Good cause exception.** Disclosure of the name and address of the child and family and other identifying information involved in such reports shall be permitted only when authorized by a court for good cause. Such disclosure shall not be prohibited when there is a death of a suspected victim of child abuse or neglect and the death becomes a matter of public record or the alleged juvenile offender is or was a victim of abuse or neglect or the suspected or alleged perpetrator becomes the subject of an arrest by a law enforcement agency or the subject of the filing of a formal charge by a law enforcement agency.

(c) Any person who violates any provision of this subsection (1) is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

(2) **Records and reports - access to certain persons - agencies.** Except as otherwise provided in section 19-1-303, only the following persons or agencies shall have access to child abuse or neglect records and reports:

(a) The law enforcement agency, district attorney, coroner, or county or district department of social services investigating a report of a known or suspected incident of child abuse or neglect or treating a child or family which is the subject of the report;

(b) A physician who has before him or her a child whom the physician reasonably suspects to be abused or neglected;

(c) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, legal custodian, or other person who is responsible for the child's health or welfare, including, in the case of an anatomical gift, a coroner and a procurement organization, as those terms are defined in section 15-19-202;

(d) Any person named in the report or record who was alleged as a child to be abused or neglected or, if the child named in the report or record is a minor or is otherwise incompetent at the time of the request, his or her guardian ad litem;

(e) A parent, guardian, legal custodian, or other person responsible for the health or welfare of a child named in a report, or the assigned designee of any such person acting by and through a validly executed power of attorney, with protection for the identity of reporters and other appropriate persons;

(e.5) (I) **[*Editor's note: This version of the introductory portion to subparagraph (I) is effective until December 31, 2017.]*** A mandatory reporter specified in this subparagraph (I) who is and continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report, but only with regard to information that the mandatory reporter has a need to know in order to fulfill his or her professional and official role in maintaining the child's safety. A county department shall request written affirmation from a mandatory reporter stating that the reporter continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report and describing the nature of the involvement, unless the county department has actual knowledge that the mandatory reporter continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report. This subparagraph (I) applies to:

(I) **[*Editor's note: This version of the introductory portion to subparagraph (I) is effective December 31, 2017.]*** A mandatory reporter specified in this subsection (2)(e.5)(I) who is and continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report, but only with regard to information that the mandatory reporter has a need to know in order to fulfill his or her professional and official role in maintaining the child's safety. A county department shall request written affirmation from a mandatory reporter stating that the reporter continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report and describing the nature of the involvement, unless the county department has actual knowledge that the mandatory reporter continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report. This subsection (2)(e.5)(I) applies to:

(A) Hospital personnel engaged in the admission, care, or treatment of children;

(B) Mental health professionals;

(C) Physicians or surgeons, including physicians in training;

(D) Registered nurses or licensed practical nurses;

(E) Dentists;

(F) Psychologists;

(G) Registered psychotherapists;

(H) Licensed professional counselors;

(I) Licensed marriage and family therapists;

(J) Public or private school officials or employees;

(K) Social workers or workers with any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.;

(L) Victim's advocates, as defined in section 13-90-107 (1)(k)(II), C.R.S.;

(M) Clergy members, as defined in section 19-3-304 (2)(aa)(III);

(N) **[*Editor's note: This version of sub-subparagraph (N) is effective until December 31, 2017.*]** Educators providing services through a federal special supplemental nutrition program for women, infants, and children, as provided for in 42 U.S.C. sec. 1786; and

(N) **[*Editor's note: This version of sub-subparagraph (N) is effective December 31, 2017.*]** Educators providing services through a federal special supplemental nutrition program for women, infants, and children, as provided for in 42 U.S.C. sec. 1786;

(O) **[*Editor's note: This version of sub-subparagraph (O) is effective until December 31, 2017.*]** A person who is registered as a psychologist candidate pursuant to section 12-43-304 (7), C.R.S., marriage and family therapist candidate pursuant to section 12-43-504 (5), C.R.S., or licensed professional counselor candidate pursuant to section 12-43-603 (5), C.R.S., or who is described in section 12-43-215, C.R.S.

(O) **[*Editor's note: This version of sub-subparagraph (O) is effective December 31, 2017.*]** A person who is registered as a psychologist candidate pursuant to section 12-43-304 (7), marriage and family therapist candidate pursuant to section 12-43-504 (5), or licensed professional counselor candidate pursuant to section 12-43-603 (5), or who is described in section 12-43-215; and

(P) **[*Editor's note: Sub-subparagraph (P) is effective December 31, 2017.*]** Officials or employees of county departments of health, human services, or social services.

(II) **[*Editor's note: This version of the introductory portion to subparagraph (II) is effective until December 31, 2017.*]** Within thirty calendar days after receipt of a report of suspected child abuse or neglect from a mandatory reporter specified in subparagraph (I) of this paragraph (e.5), a county department shall provide the following information to the mandatory reporter for the purpose of assisting the mandatory reporter in his or her professional and official role in maintaining the child's safety:

(II) **[*Editor's note: This version of the introductory portion to subparagraph (II) is effective December 31, 2017.*]** Within sixty calendar days after receipt of a report of suspected child abuse or neglect from a mandatory reporter specified in subsection (2)(e.5)(I) of this section, a county department shall provide the following information to the mandatory reporter for the purpose of assisting the mandatory reporter in his or her professional and official role in maintaining the child's safety:

(A) The name of the child and the date of the report;

(B) Whether the referral was accepted for assessment;

(C) Whether the referral was closed without services;

(D) Whether the assessment resulted in services related to the safety of the child;

(E) The name of and contact information for the county caseworker responsible for investigating the referral; and

(F) Notice that the reporting mandatory reporter may request updated information identified in sub-subparagraphs (A) to (E) of this subparagraph (II) within ninety calendar days after the county department received the report and information concerning the procedure for obtaining updated information.

(III) Information disclosed to a mandatory reporter pursuant to this paragraph (e.5) is confidential and shall not be disclosed by the mandatory reporter to any other person except as provided by law.

(IV) Unless requested by a county department, a mandatory reporter shall not have the authority to participate in any decision made by the county department concerning a report of abuse or neglect.

(V) In accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., the state department shall promulgate any rules necessary for the implementation of this paragraph (e.5).

(f) A court, upon its finding that access to such records may be necessary for determination of an issue before such court, but such access shall be limited to in camera inspection unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it;

(g) (Deleted by amendment, L. 2003, p. 1401, § 8, effective January 1, 2004.)

(h) All members of a child protection team, if one exists pursuant to section 19-3-308 (6)(a);

(i) Such other persons as a court may determine, for good cause;

(j) The state department of human services or a county or district department of social services or a child placement agency investigating an applicant for a license to operate a child care facility or agency pursuant to section 26-6-107, C.R.S., when the applicant, as a requirement of the license application, has given written authorization to the licensing authority to obtain information contained in records or reports of child abuse or neglect. Access to the records and reports of child abuse or neglect granted to the named department or agencies shall serve only as the basis for further investigation.

(j.5) The state department of human services or a county or district department of social services investigating an exempt family child care home provider pursuant to section 26-6-120, C.R.S., as a prerequisite to issuance or renewal of a contract or any payment agreement to receive moneys for the care of a child from publicly funded state child care assistance programs. Access to the records and reports of child abuse or neglect granted to the named department or agencies shall serve only as the basis for further investigation.

(j.7) The state department of human services investigating an applicant for an employee or volunteer position with, or an employee or volunteer of, a licensed neighborhood youth organization pursuant to section 26-6-103.7 (4), C.R.S., when the applicant, employee, or volunteer has given written authorization to the state department of human services to check records or reports of child abuse or neglect;

(k) The state department of human services, when requested in writing by any operator of a facility or agency that is licensed by the state department of human services pursuant to section 26-6-107, C.R.S., to check records or reports of child abuse or neglect for the purpose of screening an applicant for employment or a current employee. Any such operator who requests such information concerning an individual who is neither a current employee nor an applicant for employment commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. Within ten days of the operator's request, the state department of human services shall provide the date of the report of the incident, the location of investigation, the type of abuse and neglect, and the county which investigated the incident contained in the confirmed reports of child abuse and neglect. Any such operator who releases any information obtained under this paragraph (k) to any other person shall be deemed to have violated the provisions of subsection (4) of this section and shall be subject to the penalty therefor.

(k.5) The state department of human services, when requested in writing by a qualified county department, individual, or child placement agency approved to conduct home study investigations and reports pursuant to section 19-5-207.5 (2)(b)(I) for purposes of screening a prospective adoptive parent or any adult residing in the home under section 19-5-207 (2.5)(c), or investigating a prospective foster care parent, kinship care parent, or an adult residing in the home under section 26-6-107 (1)(a.7), C.R.S. Within ten days after the request, the state department of human services shall provide the date of the report of the incident, the location of investigation, the type of abuse and neglect, and the county that investigated the incident contained in the confirmed reports of child abuse or neglect. The county department, individual, or child placement agency shall be subject to the fee assessment established in subsection (2.5) of this section. With respect to screening a prospective adoptive parent, any employee of the county department or the child placement agency or any individual who releases any information obtained under this paragraph (k.5) to any person other than the adoption court shall be deemed to have violated the provisions of subsection (4) of this section and shall be subject to penalty therefor.

(l) The state department of human services, when requested in writing by the department of education to check records or reports of child abuse or neglect for the purpose of aiding the department of education in its investigation of an allegation of abuse by an employee of a school district in this state. Within ten days of the department of education's request, the state department of human services shall provide the date of the report of the incident, the location of investigation, the type of abuse or neglect, and the county which investigated the incident contained in the confirmed reports of child abuse or neglect. The department of education shall be subject to the fee assessment established in subsection (2.5) of this section. Any employee of the department of education who releases any information obtained under this paragraph (l) to any person not authorized to receive such information pursuant to the provisions of section 22-32-109.7, C.R.S., or any member of the board of education of a school district who releases such information obtained pursuant to said section shall be deemed to have violated the provisions of subsection (4) of this section and shall be subject to the penalty therefor.

(m) The state department of human services and the county departments of social services, for the following purposes:

(I) Screening any person who seeks employment with, is currently employed by, or who volunteers for service with the state department of human services, department of health care policy and financing, or a county department of social services, if such person's responsibilities include direct contact with children;

(II) Conducting evaluations pursuant to section 14-10-127, C.R.S.;

(III) Screening any person who will be responsible to provide child care pursuant to a contract with a county department for placements out of the home or private child care;

(IV) Screening prospective adoptive parents;

(n) Private adoption agencies, including private adoption agencies located in other states, for the purpose of screening prospective adoptive parents;

(o) A person, agency, or organization engaged in a bona fide research or evaluation project, but without information identifying individuals named in a report, unless having said identifying information open for review is essential to the research and evaluation, in which case the executive director of the state department of human services shall give prior written approval

and the child through a legal representative shall give permission to release the identifying information;

(o.5) An auditor conducting a financial or performance audit of a county department of human or social services pursuant to section 26-1-114.5, C.R.S.;

(p) The governing body as defined in section 19-1-103 (54) and the citizen review panels created pursuant to section 19-3-211, for the purposes of carrying out their conflict resolution duties as set forth in section 19-3-211 and rules promulgated by the state department of human services;

(q) (Deleted by amendment, L. 2003, p. 1401, § 8, effective January 1, 2004.)

(r) The state department of human services investigating an applicant for a supervisory employee position or an employee of a guest child care facility or a public services short-term child care facility pursuant to section 26-6-103.5, C.R.S., when the applicant or employee, as a requirement of application for employment, has given written authorization to the state department of human services to check records or reports of child abuse or neglect;

(s) The state department of human services investigating a prospective CASA volunteer for the CASA program when the prospective CASA volunteer has given written authorization to the CASA program to check any records or reports of child abuse or neglect pursuant to section 19-1-205 (3)(a.5);

(t) State, county, and local government agencies of other states and child placement agencies located in other states, for the purpose of screening prospective foster or adoptive parents or any adult residing in the home of the prospective foster or adoptive parents;

(u) The child protection ombudsman program created in section 19-3.3-102, when conducting an investigation pursuant to article 3.3 of this title;

(v) A licensed child placement agency, for the purpose of screening prospective foster parents, any adult residing in the home of the prospective foster parent, and specialized group facilities, pursuant to the following conditions:

(I) Access is limited to information concerning a current or prospective foster parent, an adult residing in the home of the current or prospective foster parent, or a specialized group facility and includes only the following information:

(A) Whether a report of child abuse or neglect has been made regarding the person;

(B) The general nature of the alleged incident of child abuse or neglect, including the category of the allegation, and the name and relationship of the perpetrator and victim;

(C) Whether the report of child abuse or neglect was screened for assessment;

(D) The outcome of the investigation including the investigator's summary of the reason or reasons for his or her finding or conclusions; and

(E) Child care and child welfare licensing history;

(II) (A) Access is limited to one person at each child placement agency, as designated by the agency and reported to the state department of human services.

(B) The state department of human services shall monitor a child placement agency's access to the records and reports of child abuse or neglect to ensure that the child placement agency is accessing the records and reports of child abuse or neglect in accordance with this paragraph (v).

(C) An unaccepted referral or an unfounded or inconclusive assessment pursuant to subparagraph (I) of this paragraph (v) does not necessarily require that a current or prospective foster parent be denied placement pursuant to this article.

(w) The designated authorities at the military base of assignment or installation for a member of the armed forces or a spouse, or a significant other or family member residing in the home of the member of the armed forces who is the individual responsible for the abused or neglected child. The authorities may be designated in a memorandum of understanding as described and authorized in section 19-1-303 (2.6).

(2.3) The following agencies or attorneys appointed by the court shall be granted statewide read-only access to the name index and register of actions for the judiciary department:

(a) Criminal justice agencies as described in section 24-72-302 (3), C.R.S.;

(b) County departments as defined in section 19-1-103 (32) and attorneys who represent the county departments as county attorneys, as defined in section 19-1-103 (31.5), as it relates to the attorneys' work representing the county;

(c) Guardians ad litem under contract with the office of the child's representative, created in section 13-91-104, C.R.S., or authorized by the office of the child's representative to act as a guardian ad litem, as it relates to a case in which they are appointed by the court; and

(d) Respondent parent counsel appointed by the court and paid by the judicial department as it relates to a case in which they are appointed by the court.

(2.5) (a) **Fee - rules - records and reports fund.** Any person or agency provided information from the state department of human services pursuant to subsections (2)(i), (2)(k) to (2)(o), and (2)(t) of this section and any child placement agency shall be assessed a fee that shall be established and collected by the state department of human services pursuant to parameters set forth in rule established by the state board of human services. At a minimum, the rules shall include a provision requiring the state department of human services to provide notice of the fee to interested persons and the maximum fee amount that the department shall not exceed without the express approval of the state board of human services. The fee established shall not exceed the direct and indirect costs of administering subsections (2)(i), (2)(k) to (2)(o), and (2)(t) of this section and the direct and indirect costs of administering section 19-3-313.5 (3) and (4).

(b) All fees collected in accordance with subsection (2.5)(a) of this section shall be transmitted to the state treasurer who shall credit the same to the records and reports fund, which fund is hereby created. The fund also consists of fees credited to the fund pursuant to section 26-3.1-111. The money in the records and reports fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of administering subsections (2)(i), (2)(k) to (2)(o), and (2)(t) of this section, for the direct and indirect costs of administering section 19-3-313.5 (3) and (4), and for the direct and indirect costs described in section 26-3.1-111.

(3) After a child who is the subject of a report to the state department of human services reaches the age of eighteen years, access to that report shall be permitted only if a sibling or offspring of such child is before any person mentioned in subsection (2) of this section and is a suspected victim of child abuse or neglect.

(4) Any person who improperly releases or who willfully permits or encourages the release of data or information contained in the records and reports of child abuse or neglect to persons not permitted access to such information by this section or by section 19-1-303 commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

Source: L. 96: Entire part added with relocations, p. 1166, § 6, effective January 1, 1997; (2)(q) added and (2.5) amended, pp. 1587, 1588, §§ 16, 17, effective January 1, 1997. **L. 98:** IP(2) and (2)(p) amended, p. 821, § 25, effective August 5; (2)(m)(II) amended, p. 1408, §

67, effective February 1, 1999. **L. 99:** (2)(k.5) added, p. 1025, § 10, effective May 29. **L. 2002:** (2)(e) amended, p. 1809, § 2, effective July 1; (2)(r) added, p. 411, § 3, effective July 1; (2)(k) amended, p. 1523, § 224, effective October 1. **L. 2003:** (2), (2.5), and (3) amended and (4) added, p. 1401, § 8, effective January 1, 2004. **L. 2006:** (2)(j.5) added, p. 1084, § 5, effective May 25. **L. 2007:** (2)(j.5) amended, p. 318, § 3, effective April 2; (2)(r) amended, p. 866, § 3, effective May 14; (2)(k.5), (2)(n), and (2.5) amended and (2)(t) added, p. 1015, § 1, effective May 22; (2)(c) amended, p. 798, § 7, effective July 1. **L. 2008:** (2.3) added, p. 1243, § 6, effective August 5; (2.5) amended, p. 1892, § 62, effective August 5. **L. 2010:** (2)(j.7) added, (HB 10-1044), ch. 85, p. 288, § 3, effective April 14; (2)(u) added, (SB 10-171), ch. 225, p. 982, § 3, effective May 14; (2)(e.5) added, (SB 10-152), ch. 224, p. 971, § 1, effective September 1. **L. 2011:** IP(2)(e.5)(I) and (2)(e.5)(I)(G) amended, (SB 11-187), ch. 285, p. 1327, § 70, effective July 1; (2)(j.7) amended, (HB 11-1145), ch. 163, p. 563, § 5, effective August 10; IP(2)(e.5)(I), (2)(e.5)(I)(L), and (2)(e.5)(I)(M) amended and (2)(e.5)(I)(N) added, (SB 11-034), ch. 125, p. 390, § 2, effective January 1, 2012. **L. 2013:** (2)(e.5)(I)(M) and (2)(e.5)(I)(N) amended and (2)(e.5)(I)(O) added, (HB 13-1104), ch. 77, p. 248, § 5, effective August 7. **L. 2015:** (2)(k.5) amended, (SB 15-087), ch. 263, p. 1019, § 13, effective June 2; (2)(o) amended and (2)(o.5) added, (HB 15-1370), ch. 324, p. 1326, § 3, effective June 5; (2)(v) added, (HB 15-1248), ch. 306, p. 1253, § 1, effective July 1; (2.5) amended, (SB 15-264), ch. 259, p. 952, § 42, effective August 5. **L. 2017:** (2.5) amended, (HB 17-1284), ch. 272, p. 1503, § 7, effective May 31; IP(2) amended and (2)(w) added, (SB 17-028), ch. 332, p. 1784, § 3, effective August 9; (2)(c) amended, (SB 17-223), ch. 158, p. 563, § 16, effective August 9; (2)(h) amended, (SB 17-016), ch. 107, p. 392, § 4, effective August 9; IP(2)(e.5)(I), (2)(e.5)(I)(N), (2)(e.5)(I)(O), and IP(2)(e.5)(II) amended and (2)(e.5)(I)(P) added, (HB 17-1185), ch. 194, p. 709, § 1, effective December 31.

Editor's note: (1) This section was formerly numbered as § 19-1-120.

(2) Amendments to the introductory portion to subsection (2)(e.5)(I) by Senate Bill 11-187 and Senate Bill 11-034 were harmonized, effective January 1, 2012.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2)(k), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration contained in the 2003 act amending subsections (2), (2.5), and (3) and enacting subsection (4), see section 1 of chapter 196, Session Laws of Colorado 2003. For the legislative declaration in HB 15-1370, see section 1 of chapter 324, Session Laws of Colorado 2015.

19-1-308. Parentage information. Notwithstanding any other law concerning public hearings and records, any hearing or trial held under article 4 of this title shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. In addition to access otherwise provided for pursuant to section 19-1-303, all papers and records pertaining to the action or proceeding which are part of the permanent record of the court are subject to inspection by the parties to the action and their attorneys of record, and such parties and their attorneys shall be subject to a court order which shall be in effect against all parties to the action prohibiting such parties from disclosing the genetic testing information contained in the court's record. Such court papers and records shall not be subject to inspection by any person

not a party to the action except the state child support enforcement agency or delegate child support enforcement units for the purposes set forth in section 19-1-303 (4.4) or upon consent of the court and all parties to the action, or, in exceptional cases only, upon an order of the court for good cause shown. All papers and records in the custody of the county department of social services shall be available for inspection by the parties to the action only upon the consent of all parties to the action and as provided by section 26-1-114, C.R.S., or by the rules governing discovery, but such papers and records shall not be subject to inspection by any person not a party to the action except upon consent of all parties to the action; except that the results of genetic testing may be provided to all parties, when available, notwithstanding laws governing confidentiality and without the necessity of formal discovery. Any person receiving or inspecting paternity information in the custody of the county department of social services shall be subject to a court order which shall be in effect prohibiting such persons from disclosing the genetic testing information contained in the department's record.

Source: L. 96: Entire part added with relocations, p. 1169, § 6, effective January 1, 1997. **L. 2003:** Entire section amended, p. 1267, § 57, effective July 1.

Editor's note: This section was formerly numbered as 19-1-121.

19-1-309. Relinquishments and adoption information. Except as provided in parts 3 and 4 of article 5 of this title and section 19-1-303, all records and proceedings in relinquishment or adoption shall be confidential and open to inspection upon order of the court for good cause shown or as otherwise authorized pursuant to article 5 of this title. The court shall act to preserve the anonymity of the biological parents, the adoptive parents, and the child from the general public, except as ordered by the court for good cause shown pursuant to this section or except as authorized pursuant to a designated adoption or pursuant to section 19-5-104 (2) or part 3 or 4 of article 5 of this title. A separate docket shall be maintained for relinquishment proceedings and for adoption proceedings.

Source: L. 96: Entire part added with relocations, p. 1169, § 6, effective January 1, 1997. **L. 98:** Entire section amended, p. 822, § 26, effective August 5. **L. 99:** Entire section amended, p. 1130, § 2, effective July 1.

Editor's note: This section was formerly numbered as 19-1-122.

19-1-309.3. Exchange of information for child support purposes - process. The state court administrator of the judicial department and the executive director of the state department of human services, or their designees, shall design a process for exchanging information related to dependency or neglect actions, parentage actions, and any other actions brought pursuant to this title, as contemplated in sections 19-1-303 (4.4), 19-1-308, and 19-1-309, for purposes of locating responsible parties to pay child support, establishing paternity and child support, including child support debt pursuant to section 14-14-104, C.R.S., enforcing child support orders, disbursing collected child support payments, and facilitating the efficient and effective delivery of services under articles 13 and 13.5 of title 26, C.R.S. The process shall allow for the exchange of information by the state child support enforcement agency or the delegate child

support enforcement units prior to or after intervention by the agency or units in an action brought pursuant to this title. Except for the limited purposes of the duties described in this section, the state child support enforcement agency or a delegate child support enforcement unit shall maintain the confidentiality of the information received pursuant to this part 3 and such information shall not be subject to discovery.

Source: L. 2003: Entire section added, p. 1268, § 58, effective July 1.

19-1-309.5. Adoptive family resource registry. Limitations concerning the accessibility to information on the adoptive family resource registry are set forth in section 19-5-207.5 (5)(c).

Source: L. 99: Entire section added, p. 1025, § 7, effective May 29.

19-1-310. Information related to intervention and prevention programs - review and evaluation of programs. (Repealed)

Source: L. 96: Entire part added with relocations, p. 1169, § 6, effective January 1, 1997. **L. 2000:** Entire section repealed, p. 585, § 12, effective May 18.

19-1-311. Centralized integrated data base system for children and families - strategic business plan - technology plan - children's information management committee - report. (Repealed)

Source: L. 96: Entire part added with relocations, p. 1170, § 6, effective January 1, 1997. **L. 2002:** Entire section repealed, p. 1017, § 23, effective June 1.

19-1-312. Central registry phase out - implementation plan - repeal. (Repealed)

Source: L. 97: Entire section added, p. 45, § 1, effective July 1.

Editor's note: Subsection (3) provided for the repeal of this section, effective July 1, 2000. (See L. 97, p. 45.)

PART 4

PREVENTION PROGRAMS FUNDED
THROUGH STATE AGENCIES

19-1-401 to 19-1-403. (Repealed)

Source: L. 2000: Entire part repealed, p. 585, § 9, effective May 18.

Editor's note: This part 4 was added in 1999 and was not amended prior to its repeal in 2000. For the text of this part 4 prior to 2000, consult the 1999 Colorado Revised Statutes.

ARTICLE 1.5

Task Force Study to Recodify Code

19-1.5-101 to 19-1.5-106. (Repealed)

Editor's note: (1) This article was added in 1994 and was not amended prior to its repeal in 1997. For the text of this article prior to 1997, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 19-1.5-106 provided for the repeal of this article, effective July 1, 1997. (See L. 94, p. 1479.)

ARTICLE 2

The Colorado Juvenile Justice System

Editor's note: This title was repealed and reenacted in 1987, and this article was subsequently amended with relocations in 1996, effective January 1, 1997, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1997, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume and the editor's note following the title heading. Former C.R.S. section numbers prior to 1997 are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article for 1997, see the comparative tables located in the back of the index.

Law reviews: For article, "What Do 'They' Think? The Delinquency Court Process in Colorado as Viewed By the Youth", see 69 Den. U. L. Rev. 345 (1992); for article, "Highlights of Colorado's New Juvenile Justice Provisions", see 26 Colo. Law. 63 (Jan. 1997); for article, "The Nuts and Bolts of Juvenile Delinquency", see 31 Colo. Law. 19 (Oct. 2002); for article, "Colorado Juvenile Court History: The First Hundred Years", see 32 Colo. Law. 63 (April 2003); for comment, "Arrested Development: An Alternative to Juveniles Serving Life Without Parole in Colorado", see 78 U. Colo. Rev. 1059 (2007).

PART 1

GENERAL PROVISIONS

19-2-101. Short title. This part 1 shall be known and may be cited as "General Provisions".

Source: L. 96: Entire article amended with relocations, p. 1595, § 1, effective January 1, 1997.

Editor's note: The former section 19-2-101 was relocated to section 19-2-103.

19-2-102. Legislative declaration. (1) The general assembly hereby finds that the intent of this article is to protect, restore, and improve the public safety by creating a system of juvenile justice that will appropriately sanction juveniles who violate the law and, in certain cases, will also provide the opportunity to bring together affected victims, the community, and juvenile offenders for restorative purposes. The general assembly further finds that, while holding paramount the public safety, the juvenile justice system shall take into consideration the best interests of the juvenile, the victim, and the community in providing appropriate treatment to reduce the rate of recidivism in the juvenile justice system and to assist the juvenile in becoming a productive member of society.

(2) The general assembly hereby finds that the public has the right to safe and secure homes and communities and that when a delinquent act occurs such safety and security is compromised; and the result is harm to the victim, the community, and the juvenile offender. The general assembly finds that the juvenile justice system should seek to repair such harm and that victims and communities should be provided with the opportunity to elect to participate actively in a restorative process that would hold the juvenile offender accountable for his or her offense.

Source: L. 96: Entire article amended with relocations, p. 1595, § 1, effective January 1, 1997. **L. 99:** Entire section amended, p. 68, § 1, effective August 4.

Editor's note: The former section 19-2-102 was relocated to section 19-2-104.

19-2-103. Definitions. For purposes of this article:

(1) "Adjudication" is defined in section 19-1-103 (2).

(2) "Basic identification information" is defined in section 19-1-103 (12).

(3) "Commit" is defined in section 19-1-103 (24).

(4) "Cost of care" is defined in section 19-1-103 (30).

(5) "Delinquent act" is defined in section 19-1-103 (36).

(6) "Diagnostic and evaluation center" is defined in section 19-1-103 (41).

(7) "Estate" is defined in section 19-1-103 (47).

(8) "Gang" is defined in section 19-1-103 (52).

(9) "Halfway house" is defined in section 19-1-103 (62).

(10) "Juvenile" is defined in section 19-1-103 (68).

(11) "Juvenile community review board" is defined in section 19-1-103 (69).

(12) "Juvenile delinquent" is defined in section 19-1-103 (71).

(12.5) "Office of alternate defense counsel" means the office of alternate defense counsel created and existing pursuant to section 21-2-101, C.R.S.

(12.7) "Office of the state public defender" means the office of state public defender created and existing pursuant to section 21-1-101, C.R.S.

(13) "Receiving center" is defined in section 19-1-103 (90).

(14) "Residential community placement" is defined in section 19-1-103 (92).

(15) "Screening team" is defined in section 19-1-103 (94.5).

(16) "Sentencing hearing" is defined in section 19-1-103 (95).

(17) "Staff secure facility" is defined in section 19-1-103 (101.5).
(18) "Training school" is defined in section 19-1-103 (109).

Source: L. 96: Entire article amended with relocations, p. 1596, § 1, effective January 1, 1997. **L. 2014:** (12.5) and (12.7) added, (HB 14-1032), ch. 247, p. 954, § 7, effective November 1.

Editor's note: The former section 19-2-103, as it existed prior to 1996, was relocated to section 19-2-105.

19-2-104. Jurisdiction. (1) Except as otherwise provided by law, the juvenile court shall have exclusive original jurisdiction in proceedings:

(a) Concerning any juvenile ten years of age or older who has violated:

(I) **[*Editor's note: This version of subparagraph (I) is effective until January 1, 2018.*]** Any federal or state law, except nonfelony state traffic, game and fish, and parks and recreation laws or rules, the offenses specified in section 18-13-121, C.R.S., concerning tobacco products, the offense specified in section 18-13-122, C.R.S., concerning the illegal possession or consumption of ethyl alcohol or marijuana by an underage person or illegal possession of marijuana paraphernalia by an underage person, and the offenses specified in section 18-18-406 (5)(a)(I), (5)(b)(I), and (5)(b)(II), C.R.S., concerning marijuana and marijuana concentrate;

(I) **[*Editor's note: This version of subparagraph (I) is effective January 1, 2018.*]** Any federal or state law, except nonfelony state traffic, game and fish, and parks and recreation laws or rules; the offenses specified in section 18-13-121, concerning tobacco products; the offense specified in section 18-13-122, concerning the illegal possession or consumption of ethyl alcohol or marijuana by an underage person or illegal possession of marijuana paraphernalia by an underage person; the offenses specified in section 18-18-406 (5)(a)(I), (5)(b)(I), and (5)(b)(II), concerning marijuana and marijuana concentrate; and the civil infraction in section 18-7-109 (3) concerning exchange of a private image by a juvenile;

(II) Any county or municipal ordinance except traffic ordinances, the penalty for which may be a jail sentence of more than ten days; or

(III) Any lawful order of the court made under this title;

(b) Concerning any juvenile to which section 19-2-518 applies; except that, after filing charges in the juvenile court but prior to the time that the juvenile court conducts a transfer hearing, the district attorney may file the same or different charges against the juvenile by direct filing of an information in the district court or by indictment pursuant to section 19-2-517. Upon said filing or indictment in the district court, the juvenile court shall no longer have jurisdiction over proceedings concerning said charges.

(2) The juvenile court shall have limited jurisdiction in matters to which section 19-2-517 applies.

(3) The fact that a juvenile has been prosecuted or convicted in the county court for a nonfelony violation under title 42, C.R.S., shall not be a bar to a subsequent or parallel proceeding under this title for delinquent acts arising out of the same criminal episode; nor shall proceedings under this title be a bar to a subsequent or parallel prosecution in the county court for a nonfelony violation under title 42, C.R.S., for the same delinquent acts arising from the same criminal episode.

(4) Notwithstanding any other provision of this section to the contrary, the juvenile court may exercise jurisdiction over a juvenile who is under sixteen years of age and who has violated a traffic law or ordinance if his or her case is transferred to the juvenile court from the county court. Such a transfer shall be subject to approval by the juvenile court.

(5) Notwithstanding any other provision of this section to the contrary, the juvenile court and the county court shall have concurrent jurisdiction over a juvenile who is under eighteen years of age and who is charged with a violation of section 18-13-122, 18-18-406 (5)(a)(I), (5)(b)(I), and (5)(b)(II), 18-18-428, 18-18-429, 18-18-430, or 42-4-1301, C.R.S.; except that, if the juvenile court accepts jurisdiction over such a juvenile, the county court jurisdiction shall terminate.

(6) The juvenile court may retain jurisdiction over a juvenile until all orders have been fully complied with by such person, or any pending cases have been completed, or the statute of limitations applicable to any offense that may be charged has run, regardless of whether such person has attained the age of eighteen years, and regardless of the age of such person.

(7) This section shall not be construed to confer any jurisdiction upon the court over a person for any offense committed after the person attains the age of eighteen years.

(8) Notwithstanding any other provision of this section to the contrary, the juvenile court may exercise jurisdiction over a juvenile to determine the legal custody of a juvenile or to appoint a guardian of the person or legal custodian of any child who comes within the juvenile court's jurisdiction under the provisions of section 19-1-104.

Source: L. 96: Entire article amended with relocations, p. 1596, § 1, effective January 1, 1997. **L. 99:** (5) amended, p. 1375, § 12, effective July 1. **L. 2004:** (5) amended, p. 1131, § 3, effective July 1. **L. 2010:** (1)(a)(I) amended, (HB 10-1352), ch. 259, p. 1175, § 22, effective August 11. **L. 2013:** (1)(a)(I) and (5) amended, (SB 13-250), ch. 333, p. 1936, § 56, effective October 1. **L. 2014:** (1)(a)(I) amended, (SB 14-129), ch. 387, p. 1938, § 9, effective June 6. **L. 2017:** (8) added, (HB 17-1110), ch. 137, p. 459, § 2, effective August 9; (1)(a)(I) amended, (HB 17-1302), ch. 390, p. 2016, § 5, effective January 1, 2018.

Editor's note: (1) This section was formerly numbered as 19-2-102. Prior to relocation in 1996, the said section 19-2-102 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-104 and 19-3-118 as said sections existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-104 was relocated to section 19-2-106 when this article was amended with relocations in 1996.

(3) Section 8 of chapter 390 (HB 17-1302), Session Laws of Colorado 2017, provides that the act changing this section applies to offenses committed on or after January 1, 2018.

Cross references: For the legislative declaration in HB 17-1302, see section 1 of chapter 390, Session Laws of Colorado 2017.

19-2-105. Venue. (1) (a) Proceedings in cases brought under this article shall be commenced in the county in which the alleged violation of the law, ordinance, or court order took place; except that the court may order a change of venue based upon written findings that a

change of venue is necessary to ensure that the juvenile receives a fair trial, in which case venue shall be transferred to an appropriate jurisdiction prior to the findings of fact. When the court in which the petition was filed is in a county other than where the juvenile resides, such court may transfer venue to the court of the county of the juvenile's residence for the purposes of supervision after sentencing and entry of any order for payment of restitution. A transfer of venue may not be rejected for any reason except where venue would be improper.

(b) For purposes of determining proper venue, a juvenile who is placed in the legal custody of a county department of social services shall be deemed for the entire period of placement to reside in the county in which the juvenile's legal custodian is located, even if the juvenile is physically residing in a residential facility located in another county. If a juvenile is placed in the legal custody of a county department of social services, the court shall not transfer venue during the period of placement to any county other than the county in which the juvenile's legal custodian is located.

(2) In determining proper venue, the provisions of section 18-1-202, C.R.S., shall apply.

(3) A court transferring venue under this section shall transmit all documents and legal social records, or certified copies thereof, to the receiving court, which court shall proceed with the case as if the petition had been originally filed or the adjudication had been originally made in such court.

(4) Upon transfer of venue, the receiving court shall set a date not more than thirty days following the date upon which the change of venue is ordered for the juvenile and his or her parent or guardian to appear.

Source: L. 96: Entire article amended with relocations, p. 1598, § 1, effective January 1, 1997. **L. 99:** (1) amended, p. 1373, § 7, effective July 1.

Editor's note: This section was formerly numbered as 19-2-103. Prior to relocation in 1996, the said section 19-2-103 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-105 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-106. Representation of petitioner. In all matters under this article, the petitioner shall be represented by the district attorney.

Source: L. 96: Entire article amended with relocations, p. 1598, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-104. Prior to relocation in 1996, the said section 19-2-104 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-107. Right to jury trial. (1) In any action in delinquency in which a juvenile is alleged to be an aggravated juvenile offender, as described in section 19-2-516, or is alleged to have committed an act that would constitute a crime of violence, as defined in section 18-1.3-406, C.R.S., if committed by an adult, the juvenile or the district attorney may demand a trial by

a jury of not more than six persons except as provided in section 19-2-601 (3)(a), or the court, on its own motion, may order such a jury to try any case brought under this title, except as provided in subsection (2) of this section.

(2) The juvenile is not entitled to a trial by jury when the petition alleges a delinquent act which is a misdemeanor, a petty offense, a violation of a municipal or county ordinance, or a violation of a court order.

(3) Unless a jury is demanded pursuant to subsection (1) of this section, it shall be deemed waived.

(4) Notwithstanding any other provisions of this article, in any action in delinquency in which a juvenile requests a jury pursuant to this section, the juvenile shall be deemed to have waived the sixty-day requirement for holding the adjudicatory trial established in section 19-2-708. In such a case, the juvenile's right to a speedy trial shall be governed by section 18-1-405, C.R.S., and rule 48 (b) of the Colorado rules of criminal procedure.

Source: L. 96: Entire article amended with relocations, p. 1598, § 1, effective January 1, 1997. **L. 2002:** (1) amended, p. 1523, § 225, effective October 1.

Editor's note: This section was formerly numbered as 19-2-501. Prior to relocation in 1996, the said section 19-2-501 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 318, Session Laws of Colorado 2002.

19-2-108. Speedy trial - procedural schedule. (1) The juvenile's right to a speedy trial shall be governed by section 18-1-405, C.R.S., and rule 48(b) of the Colorado rules of criminal procedure.

(2) In bringing an adjudicatory action against a juvenile pursuant to this article, the district attorney and the court shall comply with the deadlines for:

(a) Holding the detention hearing, as specified in section 19-2-508 (3)(a)(I);

(b) Filing the petition, as specified in section 19-2-508 (3)(a)(V);

(c) Setting the first appearance, as specified in section 19-2-514 (4); and

(d) Holding the adjudicatory trial, as specified in section 19-2-708 (1).

(3) The court may grant a continuance with regard to any of the deadlines specified in subsection (2) of this section upon making a finding of good cause.

Source: L. 96: Entire article amended with relocations, p. 1599, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-502.

19-2-109. General procedure for juvenile hearings. (1) The Colorado rules of juvenile procedure shall apply in all proceedings conducted under this article.

(2) Hearings shall be held before the court without a jury, except as provided in sections 19-2-107 and 19-2-601 (3), and may be conducted in an informal manner.

(3) A verbatim record shall be taken of all proceedings, including any hearing conducted by a magistrate.

(4) When more than one juvenile is named in a petition or individual petitions are filed against more than one juvenile alleging delinquent acts arising from the same delinquent episode, any proceedings, including trials, may be consolidated.

(5) Juvenile cases shall be heard separately from adult cases, and the juvenile or his or her parents, guardian, or other custodian may be heard separately when deemed necessary by the court.

(6) The parent, guardian, or legal custodian of the juvenile is required to attend all proceedings, including all hearings, concerning the juvenile. Failure, without good cause, to attend a proceeding concerning the juvenile may subject the parent, guardian, or legal custodian to contempt sanctions; except that, if the juvenile's legal custodian is a county department of social services or the department of human services, the legal custodian need not attend any proceeding at which the juvenile's guardian ad litem is present.

Source: L. 96: Entire article amended with relocations, p. 1599, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-401. Prior to relocation in 1996, the said section 19-2-401 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-107 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-110. Open hearings. The general public shall not be excluded from hearings held under this article unless the court determines that it is in the best interest of the juvenile or of the community to exclude the general public, and, in such event, the court shall admit only such persons as have an interest in the case or work of the court, including persons whom the district attorney, the juvenile, or his or her parents or guardian wish to be present.

Source: L. 96: Entire article amended with relocations, p. 1600, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-904. Prior to relocation in 1996, the said section 19-2-904 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-107 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-111. Effect of proceedings. No adjudication or proceeding under this article shall impose any civil disability upon a juvenile or disqualify him or her from holding any position under the state personnel system or submitting any governmental or military service application or receiving any governmental or military service appointment or from holding public office.

Source: L. 96: Entire article amended with relocations, p. 1600, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-903. Prior to relocation in 1996, the said section 19-2-903 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-109 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-112. Victim's right to attend dispositional, review, and restitution proceedings. The victim of any delinquent act or a relative of the victim, if the victim has died, has the right to attend all dispositional, review, and restitution proceedings resulting from the adjudication of such act. The victim or his or her relative has the right to appear at the proceedings personally or with counsel and to adequately and reasonably express his or her views concerning the act, the juvenile, the need for restitution, and the type of dispositional orders that should be issued by the court. When issuing such orders, the court shall consider the statements made by the victim or his or her relative and shall make a finding, on the record, when appropriate, as to whether or not the juvenile would pose a threat to public safety if granted probation.

Source: L. 96: Entire article amended with relocations, p. 1600, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-707. Prior to relocation in 1996, the said section 19-2-707 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-121 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-113. Parental accountability. (1) (a) The parent, guardian, or legal custodian of any juvenile subject to proceedings under this article is required to attend all proceedings that may be brought under this article concerning the juvenile. The court may impose contempt sanctions against said parent, guardian, or legal custodian for failure, without good cause, to attend any proceeding concerning the juvenile; except that, if the juvenile's legal custodian is a county department of social services or the department of human services, the legal custodian need not attend any proceeding at which the juvenile's guardian ad litem is present.

(b) For any juvenile adjudicated pursuant to this article, the court may specify its expectations for the juvenile's parent, guardian, or legal custodian, so long as the parent, guardian, or legal custodian is a party to the delinquency proceedings.

(2) (a) The general assembly hereby determines that families play a significant role in the cause and cure of delinquent behavior of children. It is therefore the intent of the general assembly that parents cooperate and participate significantly in the assessment and treatment planning for their children.

(b) Any treatment plan developed pursuant to this article may include requirements to be imposed on the juvenile's parent, so long as the parent is a party to the delinquency proceedings. These requirements may include, but are not limited to, the following:

(I) Maximum parent involvement in the sentencing orders;

(II) Participation by the parent in parental responsibility training;

(III) Cooperation by the parent in treatment plans for the juvenile;

(IV) Performance of public service by the parent;

(V) Cost of care reimbursement by the parent;

(VI) Supervision of the juvenile; and

(VII) Any other provisions the court deems to be in the best interests of the juvenile, the parent's other children, or the community.

(c) Any parent who is a party to the delinquency proceedings and who fails to comply with any requirements imposed on the parent in a treatment plan may be subject to contempt sanctions.

(d) The court shall have discretion to exempt the parent from participation in the juvenile's treatment.

Source: L. 96: Entire article amended with relocations, p. 1600, § 1, effective January 1, 1997.

19-2-114. Cost of care. (1) (a) Notwithstanding the provisions of section 19-1-115 (4)(d), where a juvenile is sentenced to a placement out of the home or is granted probation as a result of an adjudication, deferral of adjudication, or direct filing in or transfer to district court, the court may order the juvenile or the juvenile's parent to make such payments toward the cost of care as are appropriate under the circumstances. In setting the amount of such payments, the court shall take into consideration and make allowances for any restitution ordered to the victim or victims of a crime, which shall take priority over any payments ordered pursuant to this section, and for the maintenance and support of the juvenile's spouse, dependent children, any other persons having a legal right to support and maintenance out of the estate of the juvenile, or any persons having a legal right to support and maintenance out of the estate of the juvenile's parent. The court shall also consider the financial needs of the juvenile for the six-month period immediately following the juvenile's release, for the purpose of allowing said juvenile to seek employment.

(b) For an adoptive family who receives an approved Title IV-E adoption assistance subsidy pursuant to the federal "Social Security Act", 42 U.S.C. sec. 673 et seq., or an approved payment in subsidization of adoption pursuant to section 26-7-103, C.R.S., the cost of care, as defined in section 19-1-103 (30), shall not exceed the amount of the adoption assistance payment.

(2) Any order for payment toward the cost of care entered by the court pursuant to subsection (1) of this section shall constitute a judgment which shall be enforceable by the state or the governmental agency that would otherwise incur the cost of care for the juvenile in the same manner as are civil judgments.

(3) In order to effectuate the provisions of this section, a juvenile and such juvenile's parent shall be required to provide information to the court regarding the juvenile's estate and the estate of such juvenile's parent. Such financial information shall be submitted in writing and under oath.

(4) and (5) Repealed.

Source: L. 96: Entire article amended with relocations, p. 1601, § 1, effective January 1, 1997. **L. 97:** (4) and (5) repealed, p. 1431, § 5, effective June 3. **L. 2007:** (1) amended, p. 1506, § 3, effective May 31.

Editor's note: This section was formerly numbered as 19-2-705.5 (1) to (5).

Cross references: For the legislative declaration contained in the 2007 act amending subsection (1), see section 1 of chapter 351, Session Laws of Colorado 2007.

PART 2

ADMINISTRATIVE ENTITIES - AGENTS

19-2-201. Short title. This part 2 shall be known and may be cited as "Juvenile Administrative Entities and Agents".

Source: L. 96: Entire article amended with relocations, p. 1602, § 1, effective January 1, 1997.

Editor's note: The former section 19-2-201 was relocated to section 19-2-502.

19-2-202. Responsible agencies. The department of human services is the single state agency responsible for the oversight of the administration of juvenile programs and the delivery of services for juveniles and their families in this state. In addition, the department of human services is responsible for juvenile parole. The state judicial department is responsible for the oversight of juvenile probation. The department of public safety is responsible for the oversight of community diversion programs. The state agencies described in this section shall jointly oversee the application by judicial districts of the placement criteria established by the working group as provided in section 19-2-212.

Source: L. 96: Entire article amended with relocations, p. 1602, § 1, effective January 1, 1997.

Editor's note: The former section 19-2-202 was relocated to section 19-2-503.

19-2-203. Division of youth services - created - interagency agreements - duties of administrators concerning voter registration and casting of ballots - reports - pilot program - fund created - repeal. (1) (a) There is hereby created within the department of human services the division of youth services, referred to within this section as the "division", the head of which is the director of the division. The executive director of the department of human services shall appoint the director of the division pursuant to section 13 of article XII of the state constitution and the laws and rules governing the state personnel system. The director shall exercise powers and perform duties and functions within the office of the executive director of the department of human services in accordance with the provisions of this article 2 and as if

transferred thereto by a **type 2,** transfer as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24.

(b) The purposes of the division are to:

(I) Increase public safety by providing rehabilitative treatment to help youths in the division's care make lasting behavioral changes to prepare themselves for successful transition back to the community;

(II) Promote the physical safety of youths and staff within the division;

(III) Promote a seamless continuum of care from the time of detention or commitment to discharge, in which youths' needs are met in a safe, structured environment with well-trained, caring staff who help youths identify and address their issues, hold youths accountable for their actions, and help youths accept responsibility for their actions;

(IV) Enable youths to develop healthy, supportive relationships with peers, adults, family, and members of their neighborhoods and communities; and

(V) Provide youths with the tools necessary to become law-abiding, contributing members of the community upon their release.

(2) The division may enter into agreements with the judicial department to combine provision of juvenile parole and probation services. Juvenile probation and parole supervision programs implemented pursuant to such agreements may not include provisions for supervision of juveniles sentenced to the department of corrections.

(3) (a) This subsection (3) applies to any individual committed to a juvenile facility and in the custody of the division who is eighteen years of age or older on the date of the next election.

(b) The administrator of a facility in which an individual described in paragraph (a) of this subsection (3) is committed shall facilitate the voting rights of the individual. In connection with such requirements, the administrator shall provide the individual information regarding his or her voting rights and how the individual may register to vote and cast a mail ballot, provide the individual with voter information materials upon the request of the individual, and ensure that any mail ballot cast by the individual is timely delivered to the designated election official. For purposes of this subsection (3), "administrator" and "voter information materials" have the same meaning as set forth in section 1-2-210.5 (5), C.R.S. Notwithstanding any other provision of law, to satisfy the requirements of this paragraph (b), the administrator is exempt from any restriction under law on the number of mail ballots an eligible elector may deliver in person to the designated election official.

(c) The administrator and the secretary of state shall post the type or kind of verification satisfying the requirements of section 1-1-104 (19.5)(d), C.R.S., in a prominent place on the public websites maintained by the department of human services and the secretary, respectively. The secretary shall provide notice to the county clerk and recorders as well as other designated election officials throughout the state that such verification constitutes an acceptable form of identification under section 1-1-104 (19.5), C.R.S., permitting the individuals possessing such identification to register to vote and cast a ballot.

(d) The administrator shall forward applications made under this subsection (3) on a weekly basis, or on a daily basis during the last week allowed for registration prior to any election, to the county clerk and recorder of the county in which the facility is located, and, if the applicant resides in a different county from the facility, the application must then be forwarded to the county clerk and recorder of the county in which the applicant resides.

(4) **Pilot program - fund created - repeal.** (a) **Legislative declaration.** The general assembly finds that:

(I) Youths committed to the care of the division deserve to be treated with respect and dignity, using a therapeutic approach delivered in a treatment setting where social-emotional competencies are learned and practiced by youths and staff;

(II) Because many youths committed to the care of the division have experienced trauma, which may include physical and sexual abuse, abandonment, violence in their homes or in their communities, or the loss of a family member at a young age, the experience of a safe, humane, and nurturing environment is necessary for youths to develop coping skills and the ability to trust and form healthy relationships;

(III) Almost all youths committed to the division will return to the community;

(IV) Youths in the division's care need treatment and tools that prepare them to safely rejoin our communities;

(V) The environment in the division should be safe, secure, and nonviolent to promote building trust and healthy relationships between youths and staff and to allow youths to grow and mature responsibly;

(VI) Rates of violence against youths and staff in the division are unacceptably high;

(VII) Improvements can always be made in the division, which strives to have staff and youths engaged with respect and dignity and create an environment that is safe for all;

(VIII) Division staff have an extremely difficult job. They must respond daily to extremely troubled youths, including some who act out with violence. Even with appropriate staff response, some youths will need to be physically restrained.

(IX) Division staff want to help, and not hurt, youths;

(X) Nonetheless, certain restraint practices used in youth corrections, including full-body restraints, the WRAP, solitary confinement, pressure-point or pain-compliance techniques, manipulating nerves, mechanical restraints, and knee strikes to thighs, buttocks, and ribs are physically and psychologically harmful, destructive to relationship building, and inconsistent with the therapeutic, trauma-responsive, and non-violent environment the division is committed to creating;

(XI) Fundamental cultural change is needed at the division in order to provide for the safety of youths and staff and to effectuate real and lasting personal change for the youths in the division's care;

(XII) Division staff need additional tools and training to reduce the use of physical restraints and to promote stronger, healthier relationships with youths; and

(XIII) Transparency and accountability regarding critical incidents, fights, assaults, restraints, and injuries that occur in division facilities are critical components of cultural change.

(b) The division shall implement a pilot program to aid in the establishment of a division-wide therapeutic and rehabilitative culture. The pilot program will test the efficacy of a therapeutic, group-treatment approach and the ability of the division to keep youths and staff safe without the use of seclusion and mechanical restraints other than handcuffs. In administering the pilot program, the division shall:

(I) Provide treatment to at least twenty youths committed to the division's care, divided into groups of no more than twelve. In selecting youths to participate in the pilot program, the division shall ensure that the youths reflect a representative cross section of youths committed to the division's care with respect to age and history of violence.

(II) Give hiring or transfer preference to staff who agree to work as staff in the pilot program;

(III) Create teams of youths and staff by assigning each staff member to a group of youths, to which group the staff member remains assigned throughout the pilot program;

(IV) Require staff assigned to the pilot program to be trained as youth specialists and have or acquire substantial knowledge of rehabilitative treatment, de-escalation, adolescent behavior modification, trauma, safety, and physical management techniques that do not harm youth; assign no staff members to the pilot program solely as security staff; and maintain a ratio of staff to youths that meets or exceeds nationally recognized standards and reflects best practices;

(V) Operate healthy, trauma-responsive organizational environments as demonstrated through prosocial, safe, and non-violent interaction by:

(A) Prioritizing the physical and psychological safety of youths and staff;

(B) Meeting the basic needs of youths, which are food, clothing, shelter, emotional and physical safety, belonging, and family involvement;

(C) Creating a humane environment for youths that is not institutional but is home-like, healthy, and therapeutic;

(D) Holding youths in the least restrictive environment possible;

(E) Emphasizing positive behavioral outcomes with the goal of helping youths to progress from behavioral compliance to internalized change;

(F) Utilizing the small group process as a primary method of providing treatment services, where resolution of core issues and development of social-emotional competency can occur, youth behaviors are viewed as having a cause, and determining the purpose of a behavior is essential to the treatment process;

(G) To the extent possible, ensuring that each youth in the pilot program remains with his or her group and dedicated staff member during waking hours, except for specialized treatment or educational services;

(H) Relying on de-escalation and relationship-building techniques that help staff members avoid physical management and restraint;

(I) Phasing out completely within the first year of the pilot program the use of restraint methods that physically harm youths, including striking youths, using mechanical restraints other than handcuffs, and using pain-compliance or pressure-point techniques;

(J) Prohibiting a youth from participating in the restraint of another youth;

(K) Phasing out completely within the first year of the pilot program the practice of placing youths alone in a room or area behind a locked door from which egress is prevented, except during sleeping hours, and avoiding isolation of youths from their peers;

(L) Integrating trauma-responsive principles and practices into all elements of programming and ensuring that all staff who work with youths are thoroughly trained to provide trauma-responsive care. For the purposes of this section, "trauma-responsive" care means care in which staff are trained to expect the presence of trauma in the youths being served, to recognize how staff response and organizational practices may trigger painful memories and re-traumatize youths with trauma histories, and to resist taking actions or using words that re-traumatize youths.

(M) Providing continuity of services and relationships through a seamless case management system and assignment of a dedicated case manager to each youth, which case

manager serves as the primary advocate for the youth and his or her family and works actively with both throughout the pilot program;

(N) Prioritizing family engagement; and

(O) Facilitating community engagement, consistent with principles of restorative justice;

(VI) Contract through a competitive bid process with an independent third party to facilitate, coach, and train staff and leadership throughout the course of the pilot program. The independent third party must have expertise in systemic cultural transformation of a youth correctional system from a punitive, correctional culture to a rehabilitative and therapeutic culture. The independent third party must have experience training staff in providing relationship-based, group-centered, trauma-responsive care and decreasing violence against youths and staff in facilities. The independent third party shall assist with implementation of the pilot program, provide training for staff working in the pilot program, and provide at least one three-quarter-time to full-time consultant to provide on-the-ground mentorship, coaching, and training to pilot-program staff members throughout the pilot program. The consultant shall also provide training to the division's leadership regarding the philosophies and techniques used in the pilot program. For the purposes of this subsection (4)(b)(VI), on or before September 1, 2017, the division shall request proposals from candidates. The division shall require each candidate to submit its proposal to the division on or before November 1, 2017, and the division shall contract with a candidate on or before December 1, 2017. On or before January 1, 2018, the division shall begin working actively with the contracted independent third party to take the necessary steps to commence the pilot program as soon as possible, which must begin to serve youth no later than July 1, 2018.

(VII) (A) Contract through a competitive bid process with an independent contractor other than the independent third party described in subsection (4)(b)(VI) of this section to evaluate the effectiveness and outcome of the pilot program. Prior to the start of the pilot program, the division and the contractor shall work together to identify the data points to be collected throughout the pilot program, which must include, but are not limited to, data concerning fights, assaults on youth, assaults on staff, critical incidents, restraints, mechanical restraints, seclusion, injuries to youth, injuries to staff, criminal charges filed against youth or staff, grievances or complaints regarding abuse that have been filed or sustained, staff absences, staff turnover, and youth educational achievement. The division shall collect the data and make it available to the contractor at the contractor's request throughout the pilot program. For the purposes of this subsection (4)(b)(VII), on or before September 1, 2017, the division shall request proposals from candidates. The division shall require each candidate to submit its proposal to the division on or before November 1, 2017, and the division shall contract with a candidate on or before December 1, 2017. Not later than ninety days after the end of the pilot program, the independent contractor described in this subsection (4)(b)(VII) shall assess the data provided by the division and complete a report evaluating the effectiveness and outcomes of the pilot program when compared to one or more comparable populations of youths in the division. The division shall provide the contractor all available data requested to complete the report.

(B) The independent contractor, at least in part, shall base its evaluation of the effectiveness of the pilot program upon whether it reduces the number of fights, critical incidents, assaults on youth, assaults on staff, injuries to youth, and injuries to staff when compared to comparable populations of youths in the division, and whether it reduces the

number of physical managements and mechanical restraints when compared to comparable populations of youths in the division.

(C) Not later than ninety days after the end of the pilot program, the independent contractor shall complete the report described in subsection (4)(b)(II)(A) of this section and submit it to the judiciary committees of the house of representatives and the senate, to the public heath care and human services committee of the house of representatives, and to the health and human services committee of the senate, or to any successor committees.

(VIII) Perform the necessary construction and renovation, in consultation with the independent third party described in subsection (4)(b)(VI) of this section, to create youth residences for the pilot program that are home-like and therapeutic, including home-like sleeping quarters and living and group meeting areas.

(c) (I) The division of youth services pilot program cash fund, referred to in this subsection (4) as the "fund", is hereby created in the state treasury. The fund consists of money credited to the fund pursuant to subsection (4)(c)(IV) of this section and any other money that the general assembly may appropriate or transfer to the fund.

(II) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and does not revert to the general fund.

(III) Subject to annual appropriation by the general assembly, the division may expend money from the fund for the purposes described in this subsection (4).

(IV) The division may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this subsection (4). The division shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(V) The state treasurer shall transfer all unexpended and unencumbered money in the fund on July 1, 2021, to the general fund.

(d) This subsection (4) is repealed, effective July 1, 2021.

(5) **Assessment of the division of youth services - repeal.** (a) On or before December 1, 2017, the division shall contract with an independent third party other than the independent third parties described in subsections (4)(b)(VI) and (4)(b)(VII) of this section to conduct a performance assessment that evaluates safety in all facilities of the division for youths and staff.

(b) On June 6, 2017, the division shall commence preparing a request for proposal to solicit proposals from interested parties who wish to contract for the performance assessment described in this subsection (5). The division shall issue the request for proposal on or before September 1, 2017, and shall require interested parties to submit their completed request for proposals to the division on or before November 1, 2017.

(c) The goal of the assessment is to determine the most humane and effective methods or approaches to keeping youth and staff safe and keeping violence in facilities to a minimum. The assessment must:

(I) Assess the division's de-escalation, physical-management, and safety protocols and actual practices; its treatment approach, including its fidelity to the provision of trauma-responsive care; and its overall ability to maintain the safety of youths and staff;

(II) Compare the division's practices to best practices in other juvenile justice jurisdictions for incarcerated youths up to twenty-one years of age regarding de-escalation, seclusion, and physical management, including physical and mechanical restraint methods;

(III) Compare the division's outcomes to best outcomes from youth correctional agencies in other juvenile justice jurisdictions regarding the frequency of fights, assaults on youths and staff, injuries to youths and staff, education, and recidivism and the use of physical management, mechanical restraints, and seclusion; and

(IV) Evaluate the division's adherence in practice to its own stated policies and existing law concerning the use of restraint and seclusion, the provision of trauma-responsive care, and the use of restorative justice.

(d) In the report described in subsection (5)(e) of this section, the independent third party shall provide the division with comprehensive recommendations for any changes the division can make to its policies and practices regarding de-escalation, physical-management, and the provision of trauma-responsive care consistent with best practices, while avoiding harming youths in the division's custody.

(e) On or before May 1, 2018, the independent third party shall complete its assessment and submit a report of its findings and recommendations to the judiciary committees of the house of representatives and senate, to the public health care and human services committee of the house of representatives, and to the health and human services committee of the senate, or to any successor committees.

(f) This subsection (5) is repealed, effective July 1, 2018.

Source: L. 96: Entire article amended with relocations, p. 1602, § 1, effective January 1, 1997. **L. 98:** (2)(b) repealed, p. 730, § 18, effective May 18. **L. 2013:** (3) added, (HB 13-1038), ch. 28, p. 69, § 3, effective March 15. **L. 2014:** (3)(b) amended, (HB 14-1164), ch. 2, p. 74, § 45, effective February 8. **L. 2017:** (1), (2), and (3)(a) amended and (4) and (5) added, (HB 17-1329), ch. 381, p. 1954, § 1, effective June 6.

Editor's note: The former section 19-2-203 was relocated to section 19-2-507.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

19-2-203.5. Division of youth services - community boards. (1) There is created in each region of the division of youth services a community board to:

(a) Promote transparency and community involvement in division facilities within the region;

(b) Provide opportunities for youths to build positive relationships with adult role models; and

(c) Promote youth involvement in the community.

(2) (a) Each community board must include six members with a diverse array of experience and perspectives related to incarcerated youths. Each member of each board shall be a resident of, or work within, the region in which he or she serves.

(b) The governor or his or her designee shall appoint each member of each board to a term of three years, and each member may serve an unlimited number of terms. Each member must serve without compensation.

(c) A member of a community board may not be employed by the department of human services or the division of youth services.

(d) Each community board shall elect a chair and a vice-chair from among its members.

(e) Each community board shall meet at least once every three months. The chair of each community board may call such additional meetings as are necessary for the community board to accomplish its duties.

(3) (a) Leadership and staff members of the department of human services and the division of youth services, as well as representatives of an organization in Colorado that exists for the purpose of dealing with the state as an employer concerning issues of mutual concern between employees and the state, are invited to attend community board meetings to provide their perspectives.

(b) A management-level employee of each facility in each region shall attend each meeting of their regional community board. At least once every three months, a representative of the division of youth services shall update the community board regarding new policies, practices, and programs affecting the region and any issues of concern in the region during the past quarter.

(4) The division shall allow board members to have periodic access to enter facilities in their regions on at least a quarterly basis and speak with youths and staff, unless an emergency prevents such access.

Source: L. 2017: Entire section added, (HB 17-1329), ch. 381, p. 1961, § 2, effective June 6.

19-2-204. Juvenile probation departments or divisions - service agreements. (1) The juvenile court is authorized to establish juvenile probation departments or divisions.

(2) Subject to the provisions of section 13-3-105, C.R.S., the juvenile court is authorized to appoint juvenile probation officers and such other professional and clerical personnel as may be required. Juvenile probation officers shall have the powers and duties specified in section 19-2-926 and shall have the powers of peace officers, as described in sections 16-2.5-101 and 16-2.5-138, C.R.S.

(3) Upon the agreement of the juvenile court judges, the approval of the chief judge in each district or, for the second judicial district, the presiding judge of the Denver juvenile court, and the approval of the chief justice of the supreme court, two or more contiguous judicial districts may combine to form an interdistrict juvenile probation department.

(4) (a) The juvenile court judges are authorized to enter into agreements with the department of human services, county departments of social services, other public agencies, private agencies, or with other juvenile courts to provide supervision or other services for juveniles placed on probation by the court.

(b) The conditions and terms of any such agreement shall be set forth in writing, including any payments to be made by the court for the services provided.

(c) Any agreement made under this subsection (4) may be terminated upon ninety days' written notice by either party thereto.

Source: L. 96: Entire article amended with relocations, p. 1603, § 1, effective January 1, 1997. **L. 2003:** (4)(a) amended, p.1901, § 3, effective July 1; (2) amended, p.1627, § 56, effective August 6.

Editor's note: (1) This section was formerly numbered as 19-2-1001. Prior to relocation in 1996, the said section 19-2-1001 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-5-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-204 was relocated to section 19-2-508 when this article was amended with relocations in 1996.

19-2-205. Facility directors - duties. (1) The director of the division of youth services shall appoint a director of each state-operated facility established by section 19-2-403 and sections 19-2-406 to 19-2-408 pursuant to section 13 of article XII of the state constitution.

(2) It is the duty of the director of each facility established by section 19-2-403 and sections 19-2-406 to 19-2-408:

(a) To report to the executive director of the department of human services at such times and on such matters as the director may require;

(b) To receive juveniles committed to the custody of the department of human services and placed in his or her care under the provisions of this article and to keep them for rehabilitation, education, and training until discharged by law or under the rules of the department of human services or released on parole;

(c) To make a careful and thorough evaluation of every juvenile placed under his or her care at intervals no greater than six months, such evaluation to ascertain whether the juvenile's program should be modified, whether the juvenile's transfer to another facility should be recommended to the said director, or whether the juvenile's release should be recommended to the juvenile parole board;

(d) To take such measures as are necessary to prevent recruitment of new gang members from among the juveniles committed to the custody of the department of human services.

Source: L. 96: Entire article amended with relocations, p. 1604, § 1, effective January 1, 1997. **L. 2017:** (1) amended, (HB 17-1329), ch. 381, p. 1972, § 28, effective June 6.

Editor's note: (1) This section was formerly numbered as 19-2-1111 (except (2)(d)(II)). Prior to relocation in 1996, provisions of the said 19-2-1111 were contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-111 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-205 was relocated to section 19-2-509 when this article was amended with relocations in 1996.

19-2-206. Juvenile parole board - creation - membership. (1) There is hereby created a juvenile parole board, referred to in this section and section 19-2-207 as the "board", to consist of nine members appointed by the governor and confirmed by the senate. Any vacancy that occurs when the general assembly is not in session may be filled by the governor, and such

member shall serve temporarily until confirmed at the next regular session of the general assembly.

(2) All nine members shall be voting members, and, of the nine members:

(a) One member shall be from the department of human services;

(b) One member shall be from the department of education;

(c) One member shall be from the department of public safety;

(d) One member shall be from the department of labor and employment; and

(e) (Deleted by amendment, L. 2008, p. 1105, § 10, effective July 1, 2008.)

(f) Five members shall be from the public at large and shall not be employees of the state government. At least one of the members from the public at large shall be a resident of the area west of the continental divide.

(3) All members shall serve at the pleasure of the governor, and the governor shall designate one member of the board to act as chairperson.

(4) The full board shall meet not less than once a month, and the presence of five members, at least two of whom are members described in paragraph (f) of subsection (2) of this section, shall constitute a quorum to transact official business of the full board.

(5) All members of the board shall be reimbursed for expenses necessarily incurred in the performance of their duties. In addition to the reimbursement of expenses, the five citizen board members shall receive a per diem of one hundred fifty dollars per full day and seventy-five dollars per half day spent transacting official business of the board.

(6) Clerical and other assistance for the board shall be furnished by the department of human services. Such clerical and other assistance shall be supervised by a juvenile parole board administrator appointed by the executive director of the department of human services.

Source: L. 96: Entire article amended with relocations, p. 1604, § 1, effective January 1, 1997. **L. 2001:** Entire section amended, p. 818, § 1, effective July 1. **L. 2008:** (2)(d), (2)(e), (2)(f), (4), and (5) amended, p. 1105, § 10, effective July 1.

Editor's note: (1) This section was formerly numbered as 19-2-1201. Prior to relocation in 1996, the said section 19-2-1201 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-9-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-206 was relocated to section 19-2-504 when this article was amended with relocations in 1996.

19-2-207. Juvenile parole board - authority. The board may grant, deny, defer, suspend, revoke, or specify or modify the conditions of any parole for any juvenile committed to the department of human services under section 19-2-601 or 19-2-907 in a manner that is in the best interests of the juvenile and the public. In addition to any other conditions, the board may require, as a condition of parole, any adjudicated juvenile to attend school or an educational program or to work toward the attainment of a high school diploma or the successful completion of a high school equivalency examination, as that term is defined in section 22-33-102 (8.5), C.R.S.; except that the board shall not require any such juvenile to attend a school from which he or she has been expelled without the prior approval of that school's local board of education. The

board shall promulgate rules that establish criteria under which its parole decisions are made. The board has the duties and responsibilities specified in part 10 of this article.

Source: L. 96: Entire article amended with relocations, p. 1605, § 1, effective January 1, 1997. **L. 99:** Entire section amended, p. 59, § 1, effective July 1. **L. 2012:** Entire section amended, (HB 12-1345), ch. 188, p. 748, § 38, effective May 19. **L. 2014:** Entire section amended, (SB 14-058), ch. 102, p. 379, § 6, effective April 7.

Editor's note: (1) This section was formerly numbered as 19-2-1202 (1). Prior to relocation in 1996, the said 19-2-1202 (1) was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-9-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-207 was relocated to section 19-2-505 when this article was amended with relocations in 1996.

Cross references: (1) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, Session Laws of Colorado 2012. However, sections 21 and 46 of chapter 188 were repealed by sections 7 and 8 of chapter 323 (HB 15-1273), Session Laws of Colorado 2015.

(2) For the legislative declaration in the 2012 act amending this section, see section 21 of chapter 188, Session Laws of Colorado 2012. However, section 21 of chapter 188 was repealed by section 7 of chapter 323 (HB 15-1273), Session Laws of Colorado 2015.

19-2-208. Administrative law judges. An administrative law judge shall assist any hearing panel of the juvenile parole board that is considering the suspension, modification, or revocation of the parole of a juvenile.

Source: L. 96: Entire article amended with relocations, p. 1605, § 1, effective January 1, 1997.

Editor's note: (1) This section was formerly numbered as 19-2-1203 (1). Prior to relocation in 1996, the said section 19-2-1203 (1) was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-9-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-208 was relocated to section 19-2-506 when this article was amended with relocations in 1996.

19-2-209. Juvenile parole - organization. (1) Juvenile parole services are administered by the division of youth services in the department of human services, under the direction of the director of the division of youth services, appointed pursuant to section 19-2-203.

(2) The director of the division shall appoint juvenile parole officers and other personnel of the division of youth services pursuant to section 13 of article XII of the state constitution and

with the consent of the department of human services. Juvenile parole officers have the powers and duties specified in part 10 of this article 2 and the powers of peace officers, as described in sections 16-2.5-101 and 16-2.5-138.

(3) The division of youth services may divide juvenile parole supervision into regions throughout the state. Within each region there may be more than one office location for parole officers.

(4) and (5) (Deleted by amendment, L. 2008, p. 1097, § 1, effective July 1, 2008.)

Source: L. 96: Entire article amended with relocations, p. 1605, § 1, effective January 1, 1997. **L. 2003:** (2) amended, p.1627, § 57, effective August 6. **L. 2008:** Entire section amended, p. 1097, § 1, effective July 1. **L. 2017:** (1), (2), and (3) amended, (HB 17-1329), ch. 381, p. 1972, § 29, effective June 6.

Editor's note: (1) This section was formerly numbered as 19-2-1204. Prior to relocation in 1996, the said section 19-2-1204 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-9-104 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-209 was relocated to section 19-2-803 when this article was amended with relocations in 1996.

19-2-210. Juvenile community review board. (1) A board of county commissioners or the city council of the city and county of Denver or more than one board of county commissioners may adopt a written resolution requiring approval by a juvenile community review board of residential community placements within its county of juveniles under commitment to the department of human services. Upon the effective date of such resolution and notice to the department of human services, no juvenile committed to the custody of the department of human services shall be placed into a residential community placement in that county or region unless and until such placement is approved by the juvenile community review board.

(1.5) A juvenile community review board may be consolidated with other local advisory boards pursuant to section 24-1.7-103, C.R.S.

(2) Notification of any placement of a juvenile under the jurisdiction of the juvenile parole board shall be made to the juvenile community review board prior to or at the time of placement.

(3) (a) Prior to placement of a juvenile in a residential community placement, the juvenile community review board shall review the case file of the juvenile. It is the responsibility of the department of human services to provide accurate information regarding the juvenile and the proposed placement to the juvenile community review board. Such information shall include, but not be limited to, a history of delinquent adjudications, a social history, an educational history, a mental health treatment history, a drug and alcohol treatment history, and a summary of institutional progress. Each juvenile referred to the board shall be reviewed within fifteen days from the date the referral is received.

(b) The board shall review the case file of the juvenile and make a decision regarding residential community placement, taking into consideration the results of the objective risk assessment by the department of human services, the needs of the juvenile, and the criteria

established by the juvenile community review board based on the interests of the community. Objective risk criteria shall be established and maintained by the department of human services and shall be based upon researched factors that have been demonstrated to be correlative to risk to the community.

(c) All names, addresses, and information regarding a juvenile reviewed by the juvenile community review board shall be confidential and not disclosed except to such board or its designees, the Colorado bureau of investigation, and any law enforcement agency, without express written permission of the juvenile and the legal custodian.

(4) Repealed.

Source: L. 96: Entire article amended with relocations, p. 1606, § 1, effective January 1, 1997. **L. 97:** (1.5) added, p. 1191, § 13, effective July 1. **L. 98:** (4) repealed, p. 730, § 19, effective May 18.

Editor's note: (1) This section was formerly numbered as 19-2-1303, 19-2-1304, and 19-2-1305. Prior to relocation in 1996, the said sections 19-2-1303, 19-2-1304, and 19-2-1305 were contained in a title that was repealed and reenacted in 1987. Provisions of those sections, as they existed in 1987, are similar to those contained in 19-8.5-103, 19-8.5-104, and 19-8.5-105 as said sections existed in 1987 prior to said sections being superseded by the repeal and reenactment of this title.

(2) The former section 19-2-210 was relocated to section 19-2-511 when this article was amended with relocations in 1996.

19-2-211. Local juvenile services planning committee - creation - duties. If all of the boards of commissioners of each county or the city council of each city and county in a judicial district agree, there may be created in the judicial district a local juvenile services planning committee that is appointed by the chief judge of the judicial district or, for the second judicial district, the presiding judge of the Denver juvenile court from persons recommended by the boards of commissioners of each county or the city council of each city and county within the judicial district. The committee, if practicable, must include, but need not be limited to, a representative from the county department of social services, a local school district, a local law enforcement agency, a local probation department, the division of youth services, private citizens, the district attorney's office, and the public defender's office and a community mental health representative and a representative of the concerns of municipalities. The committee, if created, shall meet as necessary to develop a plan for the allocation of resources for local juvenile services within the judicial district for the fiscal year. The committee is strongly encouraged to consider programs with restorative justice components when developing the plan. The plan must be approved by the department of human services. A local juvenile services planning committee may be consolidated with other local advisory boards pursuant to section 24-1.7-103.

Source: L. 96: Entire article amended with relocations, p. 1607, § 1, effective January 1, 1997. **L. 97:** Entire section amended, p. 1191, § 14, effective July 1. **L. 2007:** Entire section amended, p. 276, § 1, effective March 29. **L. 2017:** Entire section amended, (HB 17-1329), ch. 381, p. 1973, § 30, effective June 6.

Editor's note: This section was formerly numbered as 19-2-1602.7.

19-2-212. Working group for criteria for placement of juvenile offenders - establishment of formula - review of criteria. (1) The executive director of the department of human services and the state court administrator of the judicial department, or any designees of such persons, in consultation with the division of criminal justice of the department of public safety, the office of state planning and budgeting, the Colorado district attorneys council, law enforcement representatives, and representatives of local and county governments, shall form a working group that shall carry out the following duties:

(a) To establish a set of criteria for both detention and commitment for the purposes of determining which juvenile offenders are appropriate for placement in the physical or legal custody of the department of human services. Such criteria shall conform with section 19-2-508. This set of criteria, when adopted by the department of human services and the judicial department, shall be used to promote a more uniform system of determining which juveniles should be placed in the physical custody of the department of human services or in the legal custody of the department of human services so that decisions for such placement of a juvenile are made based upon a uniform set of criteria throughout the state. In developing such set of criteria, the working group shall utilize any existing risk scale devised by the department of human services or any other measures to determine when it is appropriate to place a juvenile in the physical custody of the department of human services or in the legal custody of the department of human services. In addition, the criteria shall specifically take into account the educational needs of the juvenile and ensure the juvenile's access to appropriate educational services. The working group established pursuant to this subsection (1) shall hold a meeting once each year to review and propose revision to the criteria established pursuant to this paragraph (a) and the formula created pursuant to paragraph (b) of this subsection (1).

(b) To establish a formula for the purpose of allocating funds by each judicial district in the state of Colorado for alternative services to placing juveniles in the physical custody of the department of human services or in the legal custody of the department of human services. Such allocation shall take into consideration such factors as the population of the judicial district, the incidence of offenses committed by juveniles in such judicial district, and such other factors as deemed appropriate. The working group shall consider and take into account whether any federal moneys or matching funds are available to cover the costs of juveniles within the system, including parent fees and third-party reimbursement as authorized by law or reimbursements under Title IV-E of the federal "Social Security Act", as amended.

(2) Of the members of the working group established pursuant to subsection (1) of this section, the executive director of the department of human services and the state court administrator of the judicial department, or any designees of such persons, shall have final authority to carry out the duty of creating the set of criteria pursuant to paragraph (a) of subsection (1) of this section and creating the formula pursuant to paragraph (b) of subsection (1) of this section. This authority shall be exercised after working with and participating in the working group process established in this section.

Source: L. 96: Entire article amended with relocations, p. 1607, § 1, effective January 1, 1997. **L. 98:** (1)(a) amended, p. 730, § 20, effective May 18. **L. 2010:** (1)(a) amended, (SB 10-054), ch. 265, p. 1214, § 6, effective May 25.

Editor's note: This section was formerly numbered as 19-2-1602 and 19-2-1605.

19-2-213. Restorative justice coordinating council - establishment - membership - repeal. (Repealed)

Source: L. 2007: Entire section added, p. 277, § 2, effective March 29. **L. 2013:** (1) and (2)(g) amended and (2)(i), (2)(j), (2)(k), (2)(l), and (2)(m) added, (HB 13-1254), ch. 341, p. 1983, § 4, effective August 7. **L. 2014:** (1)(d)(II) amended, (HB 14-1363), ch. 302, p. 1264, § 14, effective May 31. **L. 2015:** (1)(b) and (2)(l) amended and (2)(n), (2)(o), (2)(p), and (4.5) added, (HB 15-1094), ch. 44, p. 109, § 2, effective August 5. **L. 2017:** Entire section repealed, (SB 17-220), ch. 173, p. 631, § 3, effective April 28; (2)(b) amended, (HB 17-1329), ch. 381, p. 1973, § 31, effective June 6.

Editor's note: This section and changes thereto were relocated to § 13-3-116 in 2017.

19-2-214. Detention center sexual assault prevention program. (1) The division of youth services created in section 19-2-203 shall develop, with respect to sexual assaults that occur in juvenile facilities, policies and procedures to:

(a) Require disciplinary action for employees who fail to report incidences of sexual assault to the inspector general;

(b) Require the inspector general, after completing an investigation for sexual assault, to submit the findings to the district attorney with jurisdiction over the facility in which the alleged sexual assault occurred;

(c) Prohibit retaliation and disincentives for reporting sexual assaults;

(d) Provide, in situations in which there is reason to believe that a sexual assault has occurred, reasonable and appropriate measures to ensure victim safety by separating the victim from the assailant, if known;

(e) Ensure the confidentiality of prison rape complaints and protection of juveniles who make complaints of prison rape;

(f) Provide acute trauma care for sexual assault victims, including treatment of injuries, HIV prophylaxis measures, and testing for sexually transmitted infections;

(g) Provide, at intake and periodically thereafter, division-approved, easy-to-understand information developed by the division on sexual assault prevention, treatment, reporting, and counseling in consultation with community groups with expertise in sexual assault prevention, treatment, reporting, and counseling;

(h) Provide sexual-assault-specific training to division mental health professionals and all employees who have direct contact with juveniles regarding treatment and methods of prevention and investigation;

(i) Provide confidential mental health counseling to victims of sexual assault;

(j) Monitor victims of sexual assault for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences resulting from the sexual assault; and

(k) Require termination of an employee who engages in a sexual assault on or sexual conduct with a juvenile consistent with constitutional due process protections and state personnel system laws and rules.

(2) Investigation of a sexual assault shall be conducted by investigators trained in the investigation of sex crimes. The investigation shall include, but need not be limited to, use of forensic rape kits, questioning of suspects and witnesses, and gathering and preserving relevant evidence.

(3) The division shall annually report the data that it is required to compile and report to the federal bureau of justice statistics as required by the federal "Prison Rape Elimination Act of 2003", Pub.L. 108-79, as amended, to the judiciary committees of the house of representatives and the senate, or any successor committees.

Source: L. 2007: Entire section added, p. 1546, § 2, effective May 31. **L. 2008:** (1)(e), (1)(h), and (3) amended, p. 1892, § 63, effective August 5. **L. 2016:** (1)(f) amended, (SB 16-146), ch. 230, p. 918, § 12, effective July 1. **L. 2017:** IP(1) amended, (HB 17-1329), ch. 381, p. 1973, § 32, effective June 6.

PART 3

JUVENILE ADMINISTRATIVE PROGRAMS - SERVICES

19-2-301. Short title. This part 3 shall be known and may be cited as "Juvenile Administrative Programs and Services".

Source: L. 96: Entire article amended with relocations, p. 1608, § 1, effective January 1, 1997.

Editor's note: The former section 19-2-301 was relocated to section 19-2-510.

19-2-302. Preadjudication service program created - community advisory board established - duties of board. (1) The chief judge of any judicial district may issue an order that any juvenile who applies for preadjudication release be evaluated for placement by a preadjudication service program established pursuant to this section. In evaluating the juvenile, the service agency shall follow criteria for the placement of a juvenile established pursuant to section 19-2-212. Upon evaluation, the service agency shall make a recommendation to the court concerning placement of the juvenile with a preadjudication service program.

(2) Any county or city and county or judicial district in the state may establish a preadjudication service program for use by the district court for the county or city and county or judicial district. Such program shall be established in accordance with a local justice plan developed pursuant to section 19-2-211.

(3) The local justice plan shall provide for the assessment of juveniles taken into custody and detained by law enforcement officers, which assessment shall be based on criteria for the placement of juveniles established pursuant to section 19-2-212, so that relevant information may be presented to the judge presiding over the detention hearing. The information provided to the court through the screening process, which information shall include the record of any prior adjudication of the juvenile, is intended to enhance the court's ability to make a more appropriate detention and bond decision, based on facts relative to the juvenile's welfare or the juvenile's risk of danger to the community.

(4) The plan may include different methods and levels of community-based supervision as conditions for preadjudication release. The plan may provide for the use of the same supervision methods that have been established for adult defendants as a pretrial release method to reduce pretrial incarceration or that have been established as sentencing alternatives for juvenile or adult offenders placed on probation or parole. The use of such supervision methods is intended to reduce preadjudication detentions without sacrificing the protection of the community from juveniles who may be risks to the public. The plan may provide for the use of any of the following supervision methods as conditions of preadjudication release:

(a) Periodic telephone communications with the juvenile;

(b) Periodic office visits by the juvenile to the preadjudication service agency;

(c) Periodic home visits to the juvenile's home;

(d) Periodic drug testing of the juvenile;

(e) Periodic visits to the juvenile's school;

(f) Mental health or substance abuse treatment for the juvenile, which treatment may include residential treatment;

(g) Domestic violence or child abuse counseling for the juvenile, if applicable;

(h) Electronic or global position monitoring of the juvenile;

(i) Work release for the juvenile, if school attendance is not applicable or appropriate under the circumstances; or

(j) Juvenile day reporting and day treatment programs.

Source: L. 96: Entire article amended with relocations, p. 1609, § 1, effective January 1, 1997. **L. 2006:** (4)(h) amended, p. 19, § 4, effective March 8.

Editor's note: This section was formerly numbered as 19-2-205.5 and the former section 19-2-302 was relocated to section 19-2-703.

19-2-302.5. Petty tickets - summons - contracts - data. (1) (a) If a law enforcement officer contacts a juvenile ten years of age or older for a delinquent act that would be a petty offense if committed by an adult or a municipal ordinance violation, the officer may issue the juvenile a petty ticket that requires the juvenile to go through an assessment process or procedure as designated by the municipal, county, or district court, including assessment by a law enforcement officer, assessment officer, or a screening team, referred to in this section as the "screening entity". When a petty ticket is issued, an assessment officer or screening team officer shall offer a petty offense contract to the juvenile and the juvenile's parent or legal guardian if:

(I) The juvenile has no prior adjudication or non-traffic conviction in a municipal, county, juvenile, or district court;

(II) The alleged offense would be a class 1, class 2, or unclassified petty offense;

(III) The juvenile admits to the offense; and

(IV) The petty offense contract is in the best interests of the juvenile.

(b) If the juvenile is otherwise eligible for a petty offense contract pursuant to the provisions of this subsection (1), but the screening entity finds that the issuance of a petty offense contract is not in the best interests of the juvenile, the screening entity shall state the reasons in writing. The screening entity shall provide a copy of the written statement to the juvenile and shall maintain a copy of the written statement. If there is no agreement resulting in a

signed contract pursuant to this section, the prosecuting attorney may file a petition of delinquency.

(2) Every contract entered into pursuant to this section must be in writing and contain the following:

(a) Consent to the contract terms by the juvenile and the juvenile's parent or legal guardian;

(b) An agreement to pay restitution, when applicable;

(c) An agreement to perform useful community service, when applicable;

(d) An agreement to attend school unless the juvenile is in a certified home study program or is otherwise legally excused from such attendance;

(e) A requirement of restorative justice practices, when appropriate;

(f) A requirement that the juvenile not commit a delinquent act during the term of the contract; and

(g) Any other conditions determined appropriate by the screening entity.

(3) The term of the contract may not exceed ninety days; except that the contract may be extended for an additional thirty days for good cause.

(4) Upon the successful completion of the contract to the satisfaction of the screening entity, the juvenile is released from any further obligation, and the prosecuting attorney shall not file a petition in delinquency for the admitted act. The completed contract remains confidential except to the ticketing agency, the screening and supervisory entity, the juvenile, and the juvenile's parent or legal guardian.

(5) (a) If a juvenile fails to comply with a written condition of the contract within a specific time designated in the contract, the prosecuting attorney may file charges with the court. The contract and any statements contained in the contract or made by the juvenile to the screening entity administering the contract shall not be used against the juvenile.

(b) If there is no agreement resulting in a signed contract, any statement made by the juvenile to the screening entity administering the assessment shall not be used against the juvenile.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection (5), statements or admissions of a juvenile contained in the contract or made by the juvenile to the screening entity are admissible into evidence, if the juvenile makes any deliberate misrepresentations affecting the applicability or requirements of this section.

(6) (a) Each law enforcement agency that issues petty offense tickets pursuant to the provisions of this section shall maintain annual data on the number of tickets issued and the age, ethnicity, gender, and final disposition for each ticket.

(b) The data collected pursuant to paragraph (a) of this subsection (6) is public and must be made available upon request.

Source: L. 2015: Entire section added, (HB 15-1022), ch. 33, p. 79, § 1, effective September 1.

19-2-303. Juvenile diversion program - authorized. (1) In order to more fully implement the stated objectives of this title, the general assembly declares its intent to establish a juvenile diversion program that, when possible, integrates restorative justice practices to provide community-based alternatives to the formal court system that will reduce juvenile crime and

recidivism, change juvenile offenders' behavior and attitudes, promote juvenile offenders' accountability, recognize and support the rights of victims, heal the harm to relationships and the community caused by juvenile crime, and reduce the costs within the juvenile justice system.

(2) The division of criminal justice of the department of public safety is authorized to establish and administer a juvenile diversion program that, when possible, integrates restorative justice practices. In order to effectuate the program, the division may contract with governmental units and nongovernmental agencies to provide services for eligible youth through community-based projects providing an alternative to a petition filed pursuant to section 19-2-512, an adjudicatory hearing pursuant to section 19-3-505, or dispositions of a juvenile delinquent pursuant to section 19-2-907.

(3) For purposes of this section:

(a) "Director" is defined in section 19-1-103 (42).

(b) "Diversion" is defined in section 19-1-103 (44).

(c) "Governmental unit" is defined in section 19-1-103 (55).

(d) "Nongovernmental agency" is defined in section 19-1-103 (79).

(e) "Services" is defined in section 19-1-103 (96).

(4) Projects soliciting service contracts pursuant to this section must demonstrate that they:

(a) Meet a demonstrated community need as shown by a survey of the type of community, its special circumstances, and the type and number of youth who will be served by the project;

(b) Provide services that do not duplicate services already provided in the community; and

(c) Are supported by the community, as demonstrated through receipt of nonstate funds or in-kind supplies or services to meet at least twenty-five percent of the total cost of the project.

(5) When applying for a contract with the division of criminal justice to provide services to youths under the juvenile diversion program, a community project shall submit for review by the division a list of the project's objectives, a list of the restorative justice practices, if applicable, included in the project, a report of the progress made during the previous year if applicable toward implementing the stated objectives, an annual budget, and such other documentation as may be required by the director.

(6) (a) Each project providing services under this section shall develop objectives and report progress toward such objectives as required by rules and regulations promulgated by the director.

(b) The director shall regularly monitor these diversion projects to ensure that progress is being made to accomplish the objectives of this section.

(7) The executive director of the department of public safety is authorized to accept and expend on behalf of the state any funds, grants, gifts, or donations from any private or public source for the purpose of providing restorative justice programs; except that no gift, grant, or donation shall be accepted if the conditions attached to it require the expenditure thereof in a manner contrary to law.

(8) (a) The director may implement a behavioral or mental health disorder screening program to screen juveniles who participate in the juvenile diversion program. If the director chooses to implement a behavioral or mental health disorder screening program, the director shall use the standardized behavioral or mental health disorder screening developed pursuant to

section 16-11.9-102 and conduct the screening in accordance with procedures established pursuant to said section.

(b) Prior to implementation of a behavioral or mental health disorder screening program pursuant to this subsection (8), if implementation of the program would require an increase in appropriations, the director shall submit to the joint budget committee a request for funding in the amount necessary to implement the behavioral or mental health disorder screening program. If implementation of the behavioral or mental health disorder screening program would require an increase in appropriations, implementation of the program is conditional upon approval of the funding request.

Source: L. 96: Entire article amended with relocations, p. 1610, § 1, effective January 1, 1997. **L. 99:** (7) added, p. 69, § 2, effective August 4. **L. 2002:** (8) added, p. 575, § 6, effective May 24. **L. 2008:** (1), (2), and (5) amended, p. 226, § 2, effective March 31. **L. 2017:** (8) amended, (SB 17-242), ch. 263, p. 1310, § 152, effective May 25.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, were contained in several sections in 1986, the year prior to the repeal and reenactment of this title. For a detailed comparison see the "Children's Code (1987)" table located in the back of the index.

Cross references: (1) For provisions relating to volunteerism in connection with this program, see article 31 of title 17.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-2-303.5. Juvenile diversion cash fund - creation. (1) Fifty percent of the moneys collected pursuant to section 18-4-509 (2)(a), C.R.S., shall be transmitted to the state treasurer, who shall credit the same to the juvenile diversion cash fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of the juvenile diversion program pursuant to section 19-2-303.

(2) The division of criminal justice of the department of public safety is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of implementing the juvenile diversion program pursuant to section 19-2-303. All private and public funds received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the fund.

(3) Any moneys in the fund not expended for the purpose of the juvenile diversion program may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund.

(4) Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

Source: L. 2003: Entire section added, p. 1905, § 7, effective July 1.

19-2-304. Parental responsibility training programs - criteria. (1) The state department of human services, after consultation with the state department of public safety and the judicial department, shall establish standards and guidelines for parental responsibility training programs for the parent, guardian, or legal custodian of a juvenile or juvenile delinquent that shall include, but shall not be limited to, instruction in the following:

(a) Physical, mental, social, and emotional child growth and development;

(b) Skill development for parents in providing for the child's learning and development, including teaching the child responsibility for his or her actions;

(c) Prevention of drug abuse;

(d) Family structure, function, and management; and

(e) The physical, mental, emotional, social, economic, and psychological aspects of interpersonal and family relationships.

(2) The state department of human services is authorized and directed to establish such standards and guidelines within the available resources of the state government and each of the state departments described in subsection (1) of this section.

Source: L. 96: Entire article amended with relocations, p. 1611, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-1401 and the former section 19-2-304 was relocated to section 19-2-512.

19-2-305. Intensive family preservation program - adjudicated juveniles - legislative declaration - financing for program - cash fund created - report - repeal. (Repealed)

Source: L. 96: Entire article amended with relocations, p. 1611, § 1, effective January 1, 1997.

Editor's note: Subsection (7) provided for the repeal of this section, effective July 1, 1998. (See L. 96, p. 1611.)

19-2-306. Juvenile intensive supervision program - creation - judicial department. The judicial department may establish and operate, either directly or by contracting with one or more private organizations, a juvenile intensive supervision program, which may be utilized by any judge in sentencing any juvenile who has been placed on probation and who presents a high risk of future placement within juvenile correctional facilities according to assessment criteria developed pursuant to section 19-2-307 (2).

Source: L. 96: Entire article amended with relocations, p. 1615, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-1501 and the former section 19-2-306 was relocated to section 19-2-514.

19-2-307. Juvenile intensive supervision program - elements. (1) The juvenile intensive supervision program created by section 19-2-306 shall include, but shall not be limited to, utilization of any or all of the following elements:

(a) Increased supervision of the juvenile by probation officers;

(b) Utilization of specific youth case management approaches;

(c) Community service work assignments;

(d) Restitution programs;

(e) Structured group training regarding problem solving, social skills, negotiation skills, emotion management, creative thinking, value enhancement, and critical reasoning;

(f) Use of electronic or global position monitoring and substance abuse testing to monitor compliance with the program by the juvenile and providing sanctions for failure to comply with the program; and

(g) Individual and family treatment.

(2) The judicial department, with the assistance of a juvenile intensive supervision advisory committee, shall develop assessment criteria for placement in the juvenile intensive supervision program and judicial department guidelines for implementation of the program and measurement of the outcome of the program. The advisory committee is appointed by the state court administrator and includes, but is not limited to, representatives of the division of youth services in the department of human services and the division of criminal justice of the department of public safety.

Source: L. 96: Entire article amended with relocations, p. 1615, § 1, effective January 1, 1997. **L. 2006:** (1)(f) amended, p. 19, § 5, effective March 8. **L. 2017:** (2) amended, (HB 17-1329), ch. 381, p. 1973, § 33, effective June 6.

Editor's note: This section was formerly numbered as 19-2-1502 and the former section 19-2-307 was relocated to section 19-2-515.

19-2-308. Community service and work programs. (1) As a condition of a deferral of adjudication or of probation, in conjunction with other dispositional orders, or otherwise, the court may order the juvenile to participate in a supervised community service or community work program if the court finds that the program will promote the purposes of this title as set forth in section 19-1-102.

(2) Participation by the juvenile or by both the juvenile and the parent or guardian of the juvenile in a community service or work program may be ordered in addition to or in conjunction with an order to pay restitution pursuant to section 19-2-918 or 19-2-919.

(3) With the written consent of the victim of the juvenile's delinquent act, the juvenile or both the juvenile and the custodial parent, the juvenile's parent who has parental responsibilities, or the guardian of the juvenile may be ordered to perform work for the victim.

(4) Any order issued by the court pursuant to this section shall be structured to allow the juvenile to continue regular school attendance and any employment, if appropriate, and shall be suitable to the age and abilities of the juvenile. The amount of community service or work ordered shall be reasonably related to the seriousness of the juvenile's delinquent act.

(5) The court may order any agency or person supervising a juvenile in a community service or work program to advise the court concerning the juvenile's participation in the program in such manner as the court requires.

(6) The court may order, as a condition of probation, that the juvenile be placed out of the home in a residential child care facility providing a supervised work program or that the juvenile in such facility report to a supervised work program if the court finds the following:

(a) That the juvenile will not be deprived of the education that is appropriate to his or her age, needs, and specific rehabilitative goals;

(b) That the supervised work program is of a constructive nature designed to promote rehabilitation, is appropriate to the age level and physical ability of the juvenile, and is combined with counseling from a probation officer or other guidance personnel; and

(c) That the supervised work program assignment is made for a period of time consistent with the juvenile's best interest but not exceeding one hundred eighty days.

(7) The probation department of the court shall be responsible for establishing and identifying suitable work programs and assignments. There shall be cooperation of boards of county commissioners, county sheriffs, and political subdivisions in helping to establish work programs. The cooperation of suitable nonprofit organizations and other entities may be sought to establish suitable work programs.

(8) For purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., "public employee" does not include any juvenile who is ordered to participate in a work or community service program under this section.

(9) No governmental entity or cooperating nonprofit organization shall be liable under the "Workers' Compensation Act of Colorado", articles 40 to 47 of title 8, C.R.S., or under the "Colorado Employment Security Act", articles 70 to 82 of title 8, C.R.S., for any benefits on account of any juvenile who is ordered to participate in a work or community service program under this section, but nothing in this subsection (9) shall prohibit a governmental entity or cooperating nonprofit organization from electing to accept the provisions of the "Workers' Compensation Act of Colorado" by purchasing and keeping in force a policy of workers' compensation insurance covering such person.

(10) Any general public liability insurance policy obtained to cover juveniles performing work or community service pursuant to this section and to provide coverage for injuries caused to or by juveniles performing work or community service pursuant to this section shall be in a sum of not less than the current limit on government liability under the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

Source: L. 96: Entire article amended with relocations, p. 1616, § 1, effective January 1, 1997. **L. 98:** (3) amended, p. 1408, § 68, effective February 1, 1999.

Editor's note: (1) This section was formerly numbered as 19-2-706. Prior to relocation in 1996, the said section 19-2-706 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-117.1 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-308 was relocated to section 19-2-702 when this article was amended with relocations in 1996.

Cross references: For community or useful public service for persons convicted of misdemeanors, see § 18-1.3-507; for useful public service for persons convicted of alcohol- or drug-related traffic offenses, see § 42-4-1301; for community or useful public service for class 1 and class 2 misdemeanor traffic offenders, see § 42-4-1701.

19-2-309. Regimented juvenile training program - legislative declaration - repeal. (Repealed)

Source: L. 96: Entire article amended with relocations, p. 1617, § 1, effective January 1, 1997. **L. 97:** (2)(a) and (7) amended and (6.5) added, p. 362, § 1, effective April 19. **L. 98:** (6) repealed and (6.5) amended, pp. 731, 732, §§ 21, 22, effective May 18. **L. 2000:** (2)(c), (3)(a), (6.5)(c), and (7) amended, p. 995, § 1, effective May 26.

Editor's note: Subsection (7) provided for the repeal of this section, effective July 1, 2001. (See L. 2000, p. 995.)

19-2-309.5. Community accountability program - legislative declaration - creation. (1) It is the intent of the general assembly that the program established pursuant to this section benefit the state by providing a structured program combining residential and community reintegration components under which certain adjudicated juveniles are subject to an ordered environment affirming the dignity of self and others; promoting the value of education, work, and accountability; adhering to the principals of restorative justice; and developing useful skills that can be applied when the juvenile is reintegrated into the community.

(2) (a) The division of youth services, pursuant to a contract with one or more private entities, shall establish, maintain, and operate a community accountability program, referred to in this section as the "program".

(b) The program shall provide a sentencing option for adjudicated juveniles who are at least fourteen years of age but younger than eighteen years of age. An adjudicated juvenile may be sentenced to participate in the program only as a condition of probation. A sentence to the program may be in addition to, but shall not be in lieu of, a mandatory sentence required by section 19-2-911 (2). The juvenile court shall consider the program as a sentencing option for higher risk juveniles who would have otherwise been sentenced to detention or out-of-home placement or committed to the department of human services.

(c) A sentence imposed pursuant to this section is conditioned on the availability of space in the program and the division of youth services' determination of whether the juvenile's participation in the program is appropriate. A juvenile may be denied participation in the program upon a determination by the division that a physical or mental condition, including severe substance abuse, will prevent the juvenile's full participation in the program. Any juvenile denied participation in the program must be returned to the juvenile court for resentencing.

(d) The judicial department shall provide information to the division of youth services concerning sentencing of the juvenile, including but not limited to the juvenile's criminal history, the presentence investigation report, the risk-need assessment, and demographics pertaining to the juvenile.

(e) The program must be established for up to eighty beds. Under the contract entered into pursuant to subsection (2)(a) of this section, the division of youth services shall pay only for the actual number of juveniles placed in the program.

(3) If feasible, the program may be established regionally, one in each of the division of youth services' regions. The division, through a competitive bid process, shall select one or more private entities to operate the program.

(4) (a) The program consists of two integrated components. Each selected entity shall provide both components within the contracted region as follows:

(I) **Component I.** Component I shall consist of a sixty-day residential program, which may contain, but need not be limited to, the following program elements:

(A) Assessment and treatment planning;

(B) Behaviorally based programming with appropriate sanctions and reinforcements;

(C) Life and cognitive skill development;

(D) Treatment interventions;

(E) Educational and vocational training;

(F) Competency development;

(G) Victim awareness and empathy;

(H) Gender-specific programming; and

(I) Restorative justice programming.

(II) **Component II.** The division of youth services shall administer component II, which consists of a community reintegration phase. For each juvenile entering component II, the department of youth services and the local probation department shall jointly establish a reintegration plan. Component II may contain, but need not be limited to, the following program elements:

(A) Multi-systemic therapy;

(B) Functional family therapy;

(C) Aggression replacement training;

(D) Life skills;

(E) Skills development;

(F) Behaviorally based programming with appropriate sanctions and reinforcements;

(G) Education and vocational training;

(H) Work experience;

(I) Victim empathy;

(J) Victim-offender mediation;

(K) Gender-specific programming; and

(L) Restorative justice programming.

(b) The program may be housed in a privately owned and operated facility or in a state-owned and privately operated facility. The departments and any private contractors in each region shall involve local governments in identifying locations for residential facilities.

(c) The division shall include a community involvement component in the development of reintegration plans, which may include the creation of community advisory boards.

(5) If a juvenile in the first component of the program would substantially benefit, the division of youth services shall notify the local department of probation who may petition the court for an extension of up to fifteen days in addition to the initial sixty-day period for the first component of the program. The period of time a juvenile spends in the second component of the

program must not exceed one hundred twenty days. The entire period of a juvenile's participation in the program must not exceed the length of the juvenile's probation sentence. Whenever a juvenile fails to progress through or complete the first or second component of the program, the juvenile is subject to the provisions of section 19-2-925 (4) for violating a condition of probation.

(6) The division of youth services and the judicial department shall jointly establish guidelines for the program and for each of the components thereof described in subsection (4) of this section. The division of youth services shall make available necessary support services for the juvenile and the juvenile's family under both components of the program.

(7) Repealed.

(8) The division of youth services shall conduct an ongoing evaluation of the program. On or before January 15 each year, the division of youth services shall submit a report of the evaluation results to the general assembly. The division may contract for the services and labor necessary to perform the ongoing evaluation.

Source: L. 2001: Entire section added, p. 714, § 1, effective May 31. **L. 2004:** (2)(a) amended, p. 194, § 7, effective August 4. **L. 2011:** (7) repealed, (SB 11-104), ch. 44, p. 114, § 2, effective August 10. **L. 2017:** (2)(a), (2)(c), (2)(d), (2)(e), (3), IP(4)(a), IP(4)(a)(II), (5), (6), and (8) amended, (HB 17-1329), ch. 381, p. 1974, § 34, effective June 6.

Editor's note: Subsection (7)(c) provided for the repeal of subsection (7), effective July 1, 2011. (See L. 2001, p. 714.)

19-2-310. Appropriations to department of human services for services to juveniles - definition. (1) The general assembly shall appropriate money for the provision of services to juveniles to the department of human services. The department of human services shall allocate such money by each judicial district in the state. Such appropriation and allocation shall be made based upon the formula developed in section 19-2-212 (1)(b). The department of human services shall administer the appropriated money. The money appropriated to the department of human services for allocation by each judicial district must be expended in the judicial district by the department of human services for services to juveniles that are intended to prevent the juvenile from being held in detention prior to adjudication, sentenced to detention, or committed to the department of human services or to reduce the length of time the juvenile is held in preadjudication or postadjudication detention or held in a commitment facility operated under section 19-2-403. If a judicial district has a local juvenile services planning committee, the expenditure of money for juvenile services in the judicial district shall be made in accordance with the plan developed pursuant to section 19-2-211.

(2) For the purposes of this section, a "juvenile" also includes a youth ten years of age and older but less than thirteen years of age who received a district court filing and who otherwise could not be detained.

Source: L. 96: Entire article amended with relocations, p. 1620, § 1, effective January 1, 1997. **L. 2017:** Entire section amended, (HB 17-1207), ch. 269, p. 1481, § 1, effective May 31.

Editor's note: This section was formerly numbered as 19-2-1603.

19-2-311. Victim-offender conferences - pilot program. The division of youth services is authorized to establish a pilot program, when funds become available, in its facilities to facilitate victim-initiated victim-offender conferences whereby a victim of a crime may request a facilitated conference with the juvenile who committed the crime, if the juvenile is in the custody of the division of youth services. After such a pilot program is established, the division of youth services may establish policies and procedures for the victim-offender conferences using volunteers to facilitate the conferences. The volunteers shall complete the division of youth services' volunteer and facility-specific training programs and complete high-risk victim-offender training and victim advocacy training. The division of youth services shall not compensate or reimburse a volunteer or victim for any expenses. If a pilot program is available, and subsequent to the victim's or the victim representative's request, the division of youth services shall arrange such a conference only after determining that the conference would be safe and only if the juvenile agrees to participate. The purposes of the conference are to enable the victim to meet the juvenile, to obtain answers to questions only the juvenile can answer, to assist the victim in healing from the impact of the crime, and to promote a sense of remorse and acceptance of responsibility by the juvenile that may contribute to his or her rehabilitation.

Source: L. 2011: Entire section added, (HB 11-1032), ch. 296, p. 1404, § 10, effective August 10. **L. 2017:** Entire section amended, (HB 17-1329), ch. 381, p. 1975, § 35, effective June 6.

19-2-312. Youth corrections monetary incentives award program - designated monetary custodian. (1) The division of youth services in the department of human services is authorized to establish, at its discretion, a youth corrections monetary incentives award program, referred to in this section as the "program". The purpose of the program is to provide monetary awards and incentives for academic, social, and psychological achievement to juveniles who were formerly committed to the division of youth services who are on parole, in community corrections, or now off of parole.

(2) If the division of youth services establishes a program, it shall devise, in collaboration with the nonprofit organization designated pursuant to subsection (3) of this section, appropriate participation criteria, application procedures, any necessary organizational structure, and criteria for awarding individual scholarships. Criteria may, but are not required to, include that the juvenile:

(a) Maintains the highest grades possible each academic term;

(b) Makes consistent progress in his or her therapy or other assigned program, if applicable, during each academic term, as determined by the team of professionals who worked with the juvenile while committed to the division of youth services; and

(c) Use the money earned only for expenses approved as necessary and valid by the division of youth services and the nonprofit organization designated pursuant to subsection (3) of this section.

(3) If the division of youth services establishes a program, it shall, in conjunction with the director of the legislative council, use a request for proposal process to contract with and designate a nonprofit organization, referred to in this section as the "designated nonprofit", to serve as the custodian of money donated to the program through the designated nonprofit. The designated nonprofit shall work with the division of youth services for the purpose of designing

the program criteria, accepting funds for program scholarships, and providing a distribution mechanism for such scholarships.

(4) (a) The designated nonprofit and the division of youth services are authorized to solicit, accept, and expend monetary and in-kind gifts, grants, and donations on behalf of the program and for payment of scholarships to juveniles in the program. Any such money donated or awarded to the designated nonprofit for the benefit of the program is not subject to appropriation by the general assembly. The designated nonprofit must not be the custodian of any money appropriated by the state, which must be annually appropriated by the general assembly to the division of youth services in the department of human services. Any money obtained by the division of youth services or the designated nonprofit that is unexpended and unencumbered at such time the program is dissolved must be distributed according to appropriate federal and state laws governing nonprofit organizations.

(b) If a different nonprofit or private organization is subsequently designated as the custodian of donated money in accordance with this subsection (4), the former designated nonprofit shall promptly transfer to the newly designated nonprofit or private organization any money that is unexpended and unencumbered at the time of the change in designation.

Source: L. 2017: Entire section added, (HB 17-1101), ch. 95, p. 288, § 1, effective August 9.

PART 4

JUVENILE FACILITIES

19-2-401. Short title. This part 4 shall be known and may be cited as "Juvenile Facilities".

Source: L. 96: Entire article amended with relocations, p. 1621, § 1, effective January 1, 1997.

Editor's note: The former section 19-2-401 was relocated to section 19-2-109.

19-2-402. Juvenile detention services and facilities to be provided by department of human services - education. (1) (a) Except as provided in subsection (1)(c) of this section, the department of human services shall provide detention services for temporary care of a juvenile, pursuant to this article 2. The department of human services shall consult on a regular basis with the court in any district where a detention facility is located concerning the detention program at that facility. The department of human services may use staff secure facilities to provide preadjudication and postadjudication detention services.

(b) Detention facilities operated by or under contract with the department of human services, subject to limitations on physical capacity and programs, shall receive and provide care for any juvenile arrested for or convicted of a violation of any provision of articles 1 to 15 of title 33, C.R.S., or any rule or regulation promulgated thereunder, or any article of title 42, C.R.S., or any municipal or county ordinance and for any juvenile found in contempt of court in connection

with a violation or an alleged violation of any of those articles or any municipal or county ordinance.

(c) The department of human services is not required to receive and provide care for any juvenile who is ten years of age and older but less than thirteen years of age, unless such juvenile has been arrested or adjudicated for a felony or weapons charge pursuant to section 18-12-102, 18-12-105, 18-12-106, or 18-12-108.5.

(2) Detention facilities operated in part by a state court, pursuant to section 13-3-108, C.R.S., shall be operated in the same manner by the department of human services, within the limits of available funds appropriated for such purpose.

(3) (a) (I) Juveniles in a juvenile detention facility are exempt from compulsory school attendance requirements pursuant to section 22-33-104 (2)(f), C.R.S. However, it is the intent of the general assembly that the juvenile detention facility and school district in which the facility is located cooperate to ensure that each juvenile who is in detention is offered educational services at the grade level identified for the juvenile in a time frame that aligns with the hourly requirements for attendance specified in section 22-33-104 (1), C.R.S.

(II) The school boards of the school districts that a juvenile detention facility serves or in which the juvenile detention facility is located, when requested by the judge of the juvenile court, shall furnish teachers and any books or equipment needed to provide educational services that align with, and are designed to assist each juvenile in achieving, the statewide model content standards adopted pursuant to section 22-7-1005, C.R.S., for each juvenile's identified grade level. The school districts and the personnel at the detention facility shall cooperate to ensure that the educational services are available to the juveniles in the facility in a time frame that aligns with the hourly requirements for attendance specified in section 22-33-104 (1), C.R.S.

(b) The expenses incurred by a school district pursuant to paragraph (a) of this subsection (3), minus the total amount of per-pupil revenues that the school district receives pursuant to article 54 of title 22, C.R.S., for the juveniles in the juvenile detention facility, shall be shared and paid by each school district served in the proportion that the enrollment of each school district bears to the total enrollment of all the districts served.

(c) (I) For the 2006-07 budget year and each budget year thereafter, the expenses incurred by a school district pursuant to paragraph (b) of this subsection (3) shall be shared and paid by the school district, each charter school of the district, and each institute charter school located in the school district. Each charter school of the district and institute charter school shall pay in the proportion that the charter school of the district's or institute charter school's enrollment bears to the total district enrollment.

(II) For the purpose of this paragraph (c), "total district enrollment" means the total of the pupil enrollment in the school district, plus the district online enrollment, the district preschool program enrollment, and the pupil enrollment in each institute charter school that is located within the school district, as determined in accordance with article 54 of title 22, C.R.S.

Source: L. 96: Entire article amended with relocations, p. 1621, § 1, effective January 1, 1997. **L. 2006:** (3)(b) amended and (3)(c) added, p. 661, § 4, effective April 28. **L. 2009:** (3)(c)(II) amended, (SB 09-292), ch. 369, p. 1950, § 36, effective August 5. **L. 2013:** (3)(a) amended, (HB 13-1021), ch. 335, p. 1950, § 5, effective August 7. **L. 2017:** (1)(a) amended and (1)(c) added, (HB 17-1207), ch. 269, p. 1482, § 2, effective May 31.

Editor's note: (1) This section was formerly numbered as 19-2-1115. Prior to relocation in 1996, the said 19-2-1115 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-117 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-402 was relocated to section 19-2-706 when this article was amended with relocations in 1996.

19-2-402.5. Juvenile detention facilities - catchment areas. (1) (a) The executive director of the department of human services and the state court administrator in the judicial department shall together establish geographical catchment areas for the juvenile detention facilities operated by or under contract with the department of human services. To the extent practicable, the detention catchment areas shall be established to ensure that the juvenile is held in a juvenile detention facility located within the judicial district in which the offense is committed. For judicial districts in which no juvenile detention facility is located, the department shall establish the catchment areas based on considerations of proximity, bed availability, workload, and cost efficiency.

(b) On or before October 1, 1998, and each October 1 thereafter, the working group established in section 19-2-212 shall submit recommendations to the executive director of the department of human services and the state court administrator concerning configuration of the detention catchment areas and the placement of detained juveniles.

(2) On or before December 1, 1998, the executive director of the department of human services and the state court administrator shall submit a description of the detention catchment areas to the joint budget committee and to the judiciary committees of the senate and house of representatives. The executive director and the state court administrator shall annually reexamine the detention catchment areas and submit a description of any changes in the detention catchment area boundaries to the joint budget committee and to the judiciary committees of the senate and house of representatives by December 1.

Source: L. 98: Entire section added, p. 1062, § 1, effective August 5.

19-2-403. Human services facilities - authority. (1) The department of human services shall establish and operate facilities necessary for the care, education, training, treatment, and rehabilitation of those juveniles legally committed to its custody under section 19-2-601 or 19-2-907. As necessary and when funds are available for such purposes, such facilities may include but shall not be limited to:

(a) Group care facilities and homes, including halfway houses, nonresidential transition programs, day reporting and day treatment centers, and staff secure facilities;

(b) Training schools;

(c) Conservation camps;

(d) Diagnostic and evaluation centers and receiving centers; and

(e) Any programs necessary to implement the purposes of this section for juveniles in community placement.

(2) The department shall cooperate with other governmental units and agencies, including appropriate local units of government, state departments and institutions, and agencies of the federal government in order to facilitate the training and rehabilitation of youth.

(3) Once a juvenile is committed to the department of human services, the juvenile shall remain in a facility directly operated by the department of human services or in a secure facility contracted for by the department of human services until his or her commitment expires as provided by law, parole status is granted pursuant to part 10 of this article, or a community placement is approved by order of the juvenile court and by a juvenile community review board, if one exists in the county of proposed placement.

(4) The department of human services shall contract with the department of corrections to house in an appropriate facility operated by the department of human services and, as appropriate, to provide services to any juvenile under the age of fourteen years who is sentenced as an adult to the department of corrections. On reaching fourteen years of age, any juvenile sentenced to the department of corrections shall be transferred to an appropriate facility operated by the department of corrections for the completion of the juvenile's sentence.

Source: L. 96: Entire article amended with relocations, p. 1621, § 1, effective January 1, 1997.

Editor's note: (1) This section was formerly numbered as 19-2-1101. Prior to relocation in 1996, the said section 19-2-1101 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-403 was relocated to section 19-2-707 when this article was amended with relocations in 1996.

19-2-403.3. Juvenile facility employees. (1) On and after April 1, 2004, the department of human services shall not hire a person who is required to register as a sex offender pursuant to the provisions of the "Colorado Sex Offender Registration Act", article 22 of title 16, C.R.S., to work at a juvenile facility.

(2) The department of human services shall ensure that any person who is employed to work at a juvenile facility as of April 1, 2004, and who is required to register as a sex offender pursuant to the provisions of the "Colorado Sex Offender Registration Act", article 22 of title 16, C.R.S., does not have unsupervised contact with a juvenile in the facility on and after April 1, 2004.

(3) If a person, while employed by the department of human services, is convicted of an offense that requires the employee to register as a sex offender pursuant to the provisions of the "Colorado Sex Offender Registration Act", article 22 of title 16, C.R.S., the employee shall immediately notify the department of human services of the conviction and the registration requirement. The department of human services shall ensure that the employee does not have unsupervised contact with a juvenile in the facility on and after the date it receives notice pursuant to this subsection (3).

(4) The executive director of the department of human services shall adopt such rules as may be necessary to ensure compliance with the requirements of this section.

Source: L. 2004: Entire section added, p. 231, § 3, effective April 1.

19-2-403.5. Legislative declaration - eminent domain - detention facility site. (1) The general assembly hereby finds and declares that:

(a) The juvenile detention facilities currently located within the city and county of Denver are inadequate to house the dramatically increasing number of juveniles being held in detention by or committed to the custody of the department of human services and this inadequacy poses a serious and immediate threat to public safety;

(b) During the 1994 legislative session, the general assembly attempted to address this situation by appropriating additional state moneys for a new sixty-bed juvenile detention facility to be located in the city and county of Denver;

(c) Although the city and county of Denver was to select a proposed site for this juvenile detention facility, the city and county of Denver had refused to do so until just recently;

(d) Due to numerous factors, the two proposed sites that the city and county of Denver finally recommended are not suitable for a juvenile detention facility;

(e) Due to Denver's delays and refusal to recommend a suitable site, the situation regarding the number of juvenile detention beds located in the city and county of Denver has reached a critical point and it has become necessary for the state of Colorado to take action in order to address this situation;

(f) Granting the department of human services the power of eminent domain to acquire private or public property for juvenile detention facilities in the city and county of Denver is reasonably related to the legitimate state interest of providing a sufficient number of juvenile detention beds within the city and county of Denver so that the department can adequately house the number of juveniles held in detention or committed to the department's custody; and

(g) A general law cannot be made applicable to address the provision of juvenile detention facility beds within the city and county of Denver.

(2) (a) Subject to the provisions of subsection (3) of this section, the department of human services has the right to acquire by eminent domain any real property that is located within the Denver metropolitan area that is necessary for the establishment of one or more juvenile detention facilities. Such real property shall be acquired in accordance with articles 1 to 7 of title 38, C.R.S.

(b) Any real property specified in paragraph (a) of this subsection (2) that is already devoted to a public use may be acquired by the department of human services pursuant to this section; except that no property owned by the federal government may be acquired without the consent of the federal government.

(3) Prior to the acquisition of any real property pursuant to subsection (2) of this section, the proposed acquisition must be reviewed and approved by the joint budget committee established pursuant to section 2-3-201, C.R.S.

Source: L. 96: Entire article amended with relocations, p. 1622, § 1, effective January 1, 1997.

19-2-404. Facilities - control and restraint - liability - duty to pursue runaways. (1) Any facility that houses or provides nonresidential services to adjudicated juveniles pursuant to this article whether publicly or privately operated for short-term or long-term commitment or detention is authorized to respond in a reasonable manner to issues of control and restraint of adjudicated juveniles when necessary. Each facility or program shall establish clearly defined

policies and procedures for the short-term restraint and control of adjudicated juveniles housed within the facility or receiving services in the nonresidential program.

(2) Any facility that houses or provides nonresidential services to adjudicated juveniles pursuant to this article and any person employed by said facility or program shall not be liable for damages arising from acts committed in the good faith implementation of this section; except that the facility or program and any person employed by the facility or program may be liable for acts that are committed in a willful and wanton manner.

(3) Any facility that houses adjudicated juveniles pursuant to this article shall have a duty to notify the court and the local law enforcement agency as soon as possible after discovering that an adjudicated juvenile housed at the facility has run away.

Source: L. 96: Entire article amended with relocations, p. 1623, § 1, effective January 1, 1997.

Editor's note: The former section 19-2-404 was relocated to section 19-2-705.

19-2-405. Receiving centers - designation. (1) The department of human services shall designate receiving centers for juvenile delinquents committed to the department under section 19-2-601 or 19-2-907.

(2) If a change is made in the designation of a receiving center by the department of human services, it shall so notify the juvenile courts at least thirty days prior to the date that the change takes effect.

Source: L. 96: Entire article amended with relocations, p. 1624, § 1, effective January 1, 1997.

Editor's note: (1) This section was formerly numbered as 19-2-1102. Prior to relocation in 1996, the said section 19-2-1102 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-405 was relocated to section 19-2-708 when this article was amended with relocations in 1996.

19-2-406. Lookout Mountain school. (1) There is hereby established at Golden, Jefferson county, a training school known as the Lookout Mountain school, under the supervision and control of the department of human services.

(2) The school shall provide care, education, training, and rehabilitation for juveniles ten years of age or older who have been committed to the custody of the department under section 19-2-601 or 19-2-907. In addition, the school may provide care, education, training, and rehabilitation for any juvenile who has been sentenced to the department of corrections and is being housed in a facility operated by the department of human services pursuant to a contract with the department of corrections as provided in section 19-2-403 (4).

Source: L. 96: Entire article amended with relocations, p. 1624, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-1106. Prior to relocation in 1996, the said section 19-2-1106 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-407. Mount View school. (1) There is hereby established near Morrison, Jefferson county, a training school known as the Mount View school under the supervision and control of the department of human services.

(2) The school shall provide care, education, training, and rehabilitation for juveniles ten years of age or older who have been committed to the custody of the department under section 19-2-601 or 19-2-907. In addition, the school may provide care, education, training, and rehabilitation for any juvenile who has been sentenced to the department of corrections and is being housed in a facility operated by the department of human services pursuant to a contract with the department of corrections as provided in section 19-2-403 (4).

Source: L. 96: Entire article amended with relocations, p. 1624, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-1107. Prior to relocation in 1996, the said section 19-2-1107 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-107 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-408. Youth camps. The department of human services may establish and administer youth camps. Staff at youth camps shall provide care, education, training, rehabilitation, and supervision for juveniles ten years of age or older who have been committed to the custody of the department under section 19-2-601 or 19-2-907.

Source: L. 96: Entire article amended with relocations, p. 1624, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-1108. Prior to relocation in 1996, the said section 19-2-1108 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-108 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-409. Alternate placement. The executive director of the department of human services may assign any juvenile placed by the department of human services in any facility established under section 19-2-403, 19-2-406, or 19-2-407 to any other facility established by said sections for educational training, treatment, or rehabilitation programs. The assignment and the transportation of a juvenile to and from such programs on a daily basis shall not constitute a transfer or change of placement of the juvenile.

Source: L. 96: Entire article amended with relocations, p. 1625, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-1109. Prior to relocation in 1996, the said section 19-2-1109 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-109 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-410. Contracts and agreements with public and private agencies. (1) The executive director of the department of human services shall, subject to available appropriations, enter into agreements or contracts deemed necessary and appropriate with any governmental unit or agency or private facility or provider cooperating or willing to cooperate in a program to carry out the purposes of this article. Such contracts or agreements may provide, among other things, for the type of work to be performed at a camp or other facility, for the rate of payment for such work, and for other matters relating to the care and treatment of juveniles.

(2) Placement of juveniles by the department of human services in any public or private facility not under the jurisdiction of the department shall not terminate the legal custody of the department.

(3) The department shall have the right to inspect all facilities used by it and to examine and consult with persons in its legal custody who have been placed in any such facility.

(4) (a) On and after April 1, 2004, an entity that contracts with the department of human services for the operation of a private juvenile facility shall not employ a person who is required to register pursuant to the provisions of the "Colorado Sex Offender Registration Act", article 22 of title 16, C.R.S., to work in the private juvenile facility.

(b) For the purposes of a contract in existence as of April 1, 2004, if a contractor employs a person in a private juvenile facility who is required to register as a sex offender pursuant to the provisions of the "Colorado Sex Offender Registration Act", article 22 of title 16, C.R.S., the contractor shall ensure that the person does not have unsupervised contact with a juvenile in the facility on and after April 1, 2004. Failure to comply with the provisions of this subsection (4) shall constitute a breach and grounds for termination of the contract.

Source: L. 96: Entire article amended with relocations, p. 1625, § 1, effective January 1, 1997. **L. 2004:** (4) added, p. 232, § 4, effective April 1.

Editor's note: This section was formerly numbered as 19-2-1110. Prior to relocation in 1996, the said section 19-2-1110 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-110 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-411. Facilities for juvenile offenders. The executive director of the department of human services shall adopt rules and implement a process to issue requests for proposals with respect to contracts for designing, financing, acquiring, constructing, and operating private facilities for juvenile offenders. The process to issue requests for proposals and privatization contracts shall meet the requirements set forth in part 2 of article 1 of title 17, C.R.S., with respect to private adult correctional facilities.

Source: L. 96: Entire article amended with relocations, p. 1625, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-1115.5.

19-2-411.5. Juvenile facility - contract for operation. (1) The department of human services is hereby authorized to contract with a private contractor for the operation of a five-hundred-bed facility to house juveniles who are in the custody of the department of human services and to house juveniles who are in the temporary custody of a county department of social services. The facility shall follow an academic model, providing educational, vocational, and positive developmental programming. The contractor shall work with the department of human services to develop and maintain high-quality programming that is appropriate for and meets the needs of the juveniles placed in the facility. The facility shall be constructed in a campus-style design and located on the parcel of real property formerly known as the Lowry bombing range. The state shall retain ownership of the facility constructed and operated pursuant to this section. Nothing in this section requires that the parcel of real property formerly known as the Lowry bombing range be used exclusively for the facility constructed pursuant to this section.

(2) In choosing a contractor, the executive director of the department of human services shall ensure that the contractor and the contract meet the following requirements:

(a) The executive director of the department of human services shall select the lowest responsible bid by the contractor most qualified to operate the facility on an academic model, subject to available appropriations. Prior to final selection, the executive director shall confirm that the contractor has the qualifications, experience, and management personnel necessary to carry out the terms of the contract.

(b) The contractor shall agree to indemnify the state and the department of human services, including their officials and agents, against any and all liability including but not limited to any civil rights claims. The department of human services shall require proof of satisfactory insurance, the amount of which shall be determined by the department of human services following consultation with the division of insurance in the department of regulatory agencies.

(c) The facility and the management plan for juveniles housed at the facility shall meet the requirements of applicable court orders and state law.

(d) The contractor shall be responsible for a range of dental, medical, and psychological services and diet, education, and work programs at least equal to those services and programs provided by the department of human services at comparable state juvenile facilities. The work and education programs shall be designed to reduce recidivism.

(e) The department of human services shall monitor the facility, and the contractor shall bear the costs of monitoring.

(3) The contract for operation of the facility shall be subject to annual renewal. The contract for operation of the facility shall specify the responsibilities the department of human services shall retain with regard to juveniles housed at the facility and the responsibilities the contractor shall exercise.

(4) The contractor shall require applicants for employment at the facility to submit a set of fingerprints to the Colorado bureau of investigation for a criminal background check, and the Colorado bureau of investigation may accept such fingerprints. For the purpose of conducting background checks, to the extent authorized by federal law, the Colorado bureau of investigation

may exchange with the department any state, multistate, and federal criminal history records of individuals who apply for employment at the facility.

(5) Repealed.

Source: L. 97: Entire section added, p. 1046, § 1, effective May 27. **L. 2012:** Entire section amended, (SB 12-099), ch. 92, p. 303, § 1, effective April 12. **L. 2017:** (5) amended, (HB 17-1329), ch. 381, p. 1967, § 8, effective June 6; (5) repealed, (SB 17-234), ch. 154, p. 520, § 3, effective August 9.

Editor's note: Subsection (5) was amended in HB 17-1329. Those amendments were superseded by the repeal of subsection (5) in SB 17-234, effective August 9, 2017. For the amendments to subsection (5) in HB 17-1329 in effect from June 6, 2017, to August 9, 2017, see chapter 381, Session Laws of Colorado 2017. (L. 2017, p. 1967.)

19-2-412. Transfer of detention facilities and equipment. Whenever the department of human services determines that any property, facilities, and equipment are no longer needed for juvenile detention facilities, the department shall transfer said property, facilities, and equipment back to the county without any cost to the county.

Source: L. 96: Entire article amended with relocations, p. 1625, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-1116.

19-2-413. Facility publications. Publications of any of the facilities established by section 19-2-403 and sections 19-2-406 to 19-2-408 intended for circulation in quantity outside such facility shall be subject to the "Information Coordination Act", section 24-1-136, C.R.S.

Source: L. 96: Entire article amended with relocations, p. 1625, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-1112. Prior to relocation in 1996, the said section 19-2-1112 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-112 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-414. Facility rules - academic and vocational courses. (1) It is the duty of the department of human services to develop such rules and regulations as may be necessary for imparting instruction, preserving health, and enforcing discipline of juveniles committed to the department.

(2) The academic courses of study and vocational training and instruction given in the facilities established by section 19-2-403 and sections 19-2-406 to 19-2-408 shall include those approved by the department of education for the instruction of pupils in the primary and secondary schools of the state. Full credit shall be given by school districts in this state for

completion of any semester, term, or year of study instruction by any juvenile who has earned credit therefor.

(3) The director of the division of youth services may appoint, pursuant to section 13 of article XII of the state constitution, a director and such other officers, teachers, instructors, counselors, and other personnel as the director may consider necessary to transact the business of the schools and may designate their duties. No person shall be appointed as a teacher or instructor in the schools who is not qualified to serve as a teacher or instructor in the schools under the laws of the state and the standards established by the department of education.

Source: L. 96: Entire article amended with relocations, p. 1626, § 1, effective January 1, 1997. **L. 2017:** (3) amended, (HB 17-1329), ch. 381, p. 1975, § 36, effective June 6.

Editor's note: This section was formerly numbered as 19-2-1113. Prior to relocation in 1996, the said section 19-2-1113 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-415. Fees for transporting juveniles. It is the duty of the sheriff, undersheriff, or deputy, or in their absence any suitable person appointed by the court for such purpose, to convey any juvenile committed under the provisions of section 19-2-601 or 19-2-907 to facilities of the division of youth services. All officers performing services under this part 4 must be paid the same fees as are allowed for similar services in criminal cases, such fees to be paid by the county from which such juvenile was committed.

Source: L. 96: Entire article amended with relocations, p. 1626, § 1, effective January 1, 1997. **L. 2017:** Entire section amended, (HB 17-1329), ch. 381, p. 1976, § 37, effective June 6.

Editor's note: This section was formerly numbered as 19-2-1114. Prior to relocation in 1996, the said section 19-2-1114 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-114 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-416. Administration or monitoring of medications to persons in juvenile institutional facilities. The executive director of the department of human services has the power to direct the administration or monitoring of medications to persons in juvenile institutional facilities as defined in section 25-1.5-301 (2)(b), C.R.S., in a manner consistent with part 3 of article 1.5 of title 25, C.R.S.

Source: L. 96: Entire article amended with relocations, p. 1626, § 1, effective January 1, 1997. **L. 2003:** Entire section amended, p. 705, § 26, effective July 1.

Editor's note: This section was formerly numbered as 19-2-1117.

19-2-417. Juvenile detention facilities - behavioral or mental health disorder screening. (1) The executive director of the department of human services may implement a

behavioral or mental health disorder screening program to screen juveniles held in juvenile detention facilities following adjudication. If the executive director chooses to implement a behavioral or mental health disorder screening program, the executive director shall use the standardized behavioral or mental health disorder screening developed pursuant to section 16-11.9-102 and conduct the screening in accordance with procedures established pursuant to said section.

(2) Prior to implementation of a behavioral or mental health disorder screening program pursuant to this section, if implementation of the program would require an increase in appropriations, the executive director shall submit to the joint budget committee a request for funding in the amount necessary to implement the behavioral or mental health disorder screening program. If implementation of the behavioral or mental health disorder screening program would require an increase in appropriations, implementation of the program is conditional upon approval of the funding request.

Source: L. 2002: Entire section added, p. 576, § 7, effective May 24. **L. 2017:** Entire section amended, (SB 17-242), ch. 263, p. 1310, § 153, effective May 25.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-2-418. Juveniles - medical benefits application assistance - county of residence - rules. (1) Beginning as soon as practicable, but no later than January 1, 2009, no later than one hundred twenty days prior to release, commitment facility personnel or state personnel shall assist the parent or legal guardian of the following juveniles in applying for medical assistance pursuant to part 1 or 2 of article 5 of title 25.5, C.R.S., or in applying to the children's basic health plan pursuant to section 25.5-8-109, C.R.S.:

(a) A juvenile who was receiving medical assistance pursuant to section 25.5-5-101 (1)(f) or 25.5-5-201 (1)(j), C.R.S., or pursuant to the children's basic health plan pursuant to section 25.5-8-109, C.R.S., immediately prior to entering the juvenile commitment facility and is likely to be terminated from receiving medical assistance while committed or is reasonably expected to meet the eligibility criteria specified in section 25.5-5-101 (1)(f), 25.5-5-201 (1)(j), or 25.5-8-109, C.R.S., upon release; and

(b) A juvenile who is committed to a juvenile commitment facility.

(1.5) If a juvenile is committed or placed for less than one hundred twenty days, commitment facility personnel or state personnel shall make a reasonable effort to assist the parent or legal guardian of the juvenile in applying for medical assistance as soon as practicable.

(2) The department of health care policy and financing shall provide information and training on medical assistance eligibility requirements and assistance to the personnel at each commitment facility to assist in and expedite the application process for medical assistance for a juvenile held in custody who meets the requirements of paragraph (a) of subsection (1) of this section.

(3) (a) For purposes of determining eligibility pursuant to section 25.5-4-205, C.R.S., the county of residence of a juvenile shall be the county specified by the juvenile as his or her county of residence upon release.

(b) The executive director of the department of health care policy and financing shall promulgate rules to simplify the processing of applications for medical assistance pursuant to subsection (1) of this section and to allow a juvenile determined to be eligible for such medical assistance to access the medical assistance upon release and thereafter. If a county department of social services determines that a juvenile is eligible for medical assistance, the county shall enroll the juvenile in medical assistance or the children's basic health plan effective upon release of the juvenile. At the time of the juvenile's release, the commitment facility shall give the juvenile or the juvenile's parent or legal guardian information and paperwork necessary for the juvenile to access medical assistance. The information shall be provided to the commitment facility by the applicable county department of social services.

(c) Each juvenile commitment facility administrator shall attempt to enter into prerelease agreements, if appropriate, with the county department of social services, the department of human services, or the department of health care policy and financing in order to:

(I) Simplify the processing of applications for medical assistance or for the children's basic health plan benefits pursuant to section 25.5-8-109, C.R.S., to enroll, effective upon release, a juvenile who is eligible for medical assistance pursuant to section 25.5-5-101 (1)(f) or 25.5-5-201 (1)(j), C.R.S., or the children's basic health plan pursuant to section 25.5-8-109, C.R.S.; and

(II) Provide the juvenile or the juvenile's parent or legal guardian with the information and paperwork necessary to access medical assistance immediately upon release.

Source: L. 2008: Entire section added, p. 1763, § 1, effective June 2.

PART 5

ENTRY INTO SYSTEM

19-2-501. Short title. This part 5 shall be known and may be cited as "Juvenile Justice - Entry Into System". This part 5 consists of provisions concerning custody, evidence, detention, and commencement of proceedings.

Source: L. 96: Entire article amended with relocations, p. 1626, § 1, effective January 1, 1997.

Editor's note: The former section 19-2-501 was relocated to section 19-2-107.

19-2-502. Taking juvenile into custody. (1) A juvenile may be taken into temporary custody by a law enforcement officer without order of the court when there are reasonable grounds to believe that he or she has committed a delinquent act.

(2) A juvenile may be taken into temporary custody by a law enforcement officer executing a lawful warrant taking a juvenile into custody issued pursuant to section 19-2-503.

(3) A juvenile probation officer may take a juvenile into temporary custody:

(a) Under the circumstances stated in subsection (1) of this section; or

(b) If he or she has violated the conditions of probation and is under the continuing jurisdiction of the juvenile court.

(4) A juvenile may be detained temporarily by an adult other than a law enforcement officer if the juvenile has committed or is committing a delinquent act in the presence of such adult. Any person detaining a juvenile shall notify, without unnecessary delay, a law enforcement officer, who shall assume custody of said juvenile.

(5) The taking of a juvenile into temporary custody under this section is not an arrest, nor does it constitute a police record.

Source: L. 96: Entire article amended with relocations, p. 1626, § 1, effective January 1, 1997.

Editor's note: (1) This section was formerly numbered as 19-2-201. Prior to relocation in 1996, the said section 19-2-201 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-2-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-502 was relocated to section 19-2-108 when this article was amended with relocations in 1996.

19-2-503. Issuance of a lawful warrant taking a juvenile into custody. (1) A lawful warrant taking a juvenile into custody may be issued pursuant to this section by any judge of a court of record or by a juvenile magistrate upon receipt of an affidavit relating facts sufficient to establish probable cause to believe that a delinquent act has been committed and probable cause to believe that a particular juvenile committed that act. Upon receipt of such affidavit, the judge or magistrate shall issue a lawful warrant commanding any peace officer to take the juvenile named in the affidavit into custody and to take him or her without unnecessary delay before the nearest judge of the juvenile court or magistrate as provided in section 19-2-508 (4)(d).

(2) Upon filing of a petition in the juvenile court, the district attorney may request a warrant to issue that authorizes the taking of a juvenile into temporary custody. If a warrant is requested, the petition must be accompanied by a verified affidavit relating facts sufficient to establish probable cause that the juvenile has committed the delinquent act set forth in the petition.

(3) A warrant for the arrest of a juvenile for violation of the conditions of probation or of a bail bond may be issued by any judge of a court of record or juvenile magistrate upon the report of a juvenile probation officer or upon the verified complaint of any person, establishing to the satisfaction of the judge or juvenile magistrate probable cause to believe that a condition of probation or of a bail bond has been violated and that the arrest of the juvenile is reasonably necessary. The warrant may be executed by any juvenile probation officer or by a peace officer authorized to execute warrants in the county in which the juvenile is found.

Source: L. 96: Entire article amended with relocations, p. 1627, § 1, effective January 1, 1997.

Editor's note: (1) This section was formerly numbered as 19-2-202. Prior to relocation in 1996, the said section 19-2-202 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-2-101.1 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-503 was relocated to section 19-2-805 when this article was amended with relocations in 1996.

19-2-503.5. Fingerprinting - juvenile under arrest - ordered by court. (1) For purposes of this section, "juvenile" means any juvenile who is charged with committing, summoned, or held in detention for committing a delinquent act that constitutes a felony, a class 1 misdemeanor, or a misdemeanor pursuant to section 42-4-1301, C.R.S., or a crime, the underlying factual basis of which included an act of domestic violence, as defined in section 18-6-800.3 (1), C.R.S., as if committed by an adult.

(2) Any juvenile detained pursuant to the provisions of this article shall be fingerprinted by the entity authorized by the court or the local law enforcement agency to obtain fingerprints, except for juvenile detention centers and alternative service programs, otherwise known as "SB 91-94 programs", described in section 19-2-302. Such entity or local agency shall forward a set of the juvenile's fingerprints to the Colorado bureau of investigation in the form and manner prescribed by the bureau.

(3) If a juvenile has not been fingerprinted prior to the first appearance of the juvenile before the court, the court shall order the juvenile to report to an entity authorized by the court or the local law enforcement agency for fingerprinting, except for juvenile detention centers and alternative service programs, otherwise known as "SB 91-94 programs", described in section 19-2-302. The authorized entity or local law enforcement agency shall endorse upon a copy of the order the completion of the fingerprinting and return the same to the court. The authorized entity or local law enforcement agency shall forward a set of fingerprints ordered pursuant to this subsection (3) to the Colorado bureau of investigation in the form and manner prescribed by the bureau.

(4) Any fingerprints required by this section to be forwarded to the Colorado bureau of investigation shall be forwarded within twenty-four hours after completion of the fingerprinting; except that such time period shall not include Saturdays, Sundays, and legal holidays.

Source: L. 2000: Entire section added, p. 653, § 1, effective May 19.

19-2-504. Search warrants - issuance - grounds. (1) A search warrant authorized by this section may be issued by any judge of a court of record or by a juvenile magistrate.

(2) A search warrant may be issued under this section to search for and seize any property:

(a) That is stolen or embezzled; or

(b) That is designed or intended for use as a means of committing a delinquent act; or

(c) That is or has been used as a means of committing a delinquent act; or

(d) The possession of which is illegal; or

(e) That would be material evidence in a subsequent criminal prosecution or delinquency adjudication in this state or in another state; or

(f) The seizure of which is expressly required, authorized, or permitted by any statute of this state; or

(g) That is kept, stored, maintained, transported, sold, dispensed, or possessed in violation of a statute of this state, under circumstances involving a serious threat to public safety or order or to public health.

Source: L. 96: Entire article amended with relocations, p. 1628, § 1, effective January 1, 1997.

Editor's note: (1) This section was formerly numbered as 19-2-206. Prior to relocation in 1996, the said section 19-2-206 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-2-105 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-504 was relocated to section 19-2-804 when this article was amended with relocations in 1996.

19-2-505. Search warrants - application. (1) A search warrant shall issue only on affidavit sworn to or affirmed before the judge or juvenile magistrate and relating facts sufficient to:

(a) Identify or describe, as nearly as may be, the premises, person, place, or thing to be searched;

(b) Identify or describe, as nearly as may be, the property to be searched for, seized, or inspected;

(c) Establish the grounds for issuance of the warrant or probable cause to believe that such grounds exist; and

(d) Establish probable cause to believe that the property to be searched for, seized, or inspected is located at, in, or upon the premises, person, place, or thing to be searched.

(2) The affidavit required by this section may include sworn testimony reduced to writing and signed under oath by the witness giving the testimony before issuance of the warrant. A copy of the affidavit and a copy of the transcript of testimony taken in support of the request for a search warrant shall be attached to the search warrant filed with the court.

(3) Procedures governing application for and issuance of search warrants consistent with this section may be established by rule of the supreme court.

Source: L. 96: Entire article amended with relocations, p. 1628, § 1, effective January 1, 1997.

Editor's note: (1) This section was formerly numbered as 19-2-207. Prior to relocation in 1996, the said section 19-2-207 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-2-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-505 was relocated to section 19-2-802 when this article was amended with relocations in 1996.

19-2-506. Consent to search. In determining the voluntariness of a juvenile's consent to a search or seizure, the court shall consider the totality of the circumstances.

Source: L. 96: Entire article amended with relocations, p. 1629, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-208.

19-2-507. Duty of officer - screening teams - notification - release or detention. (1) When a juvenile is taken into temporary custody and not released pending charges, the officer shall notify the screening team for the judicial district in which the juvenile is taken into custody. The screening team shall notify the juvenile's parent, guardian, or legal custodian without unnecessary delay and inform him or her that, if the juvenile is placed in detention or a temporary holding facility, all parties have a right to a prompt hearing to determine whether the juvenile is to be detained further. Such notification may be made to a person with whom the juvenile is residing if a parent, guardian, or legal custodian cannot be located. If the screening team is unable to make such notification, it may be made by any law enforcement officer, juvenile probation officer, detention center counselor, or common jailor in whose physical custody the juvenile is placed.

(2) The law enforcement officer or the court shall detain the juvenile if the law enforcement officer or the court determines that the juvenile's immediate welfare or the protection of the community requires detainment. In determining whether a juvenile requires detention, the law enforcement officer or the court shall follow criteria for the detention of juvenile offenders which criteria are established in accordance with section 19-2-212, and shall make efforts to keep the juvenile with his or her parent, guardian, or legal custodian.

(3) The juvenile shall be released to the care of such juvenile's parents or other responsible adult, unless a determination has been made in accordance with subsection (2) of this section that such juvenile's immediate welfare or the protection of the community requires that such juvenile be detained. The court may make reasonable orders as conditions of said release, which conditions may include participation in a preadjudication service program established pursuant to section 19-2-302. In addition, the court may provide that any violation of such orders shall subject the juvenile to contempt sanctions of the court. The parent or other person to whom the juvenile is released shall be required to sign a written promise, on forms supplied by the court, to bring the juvenile to the court at a time set or to be set by the court. Failure, without good cause, to comply with the promise shall subject the juvenile's parent or any other person to whom the juvenile is released to contempt sanctions of the court.

(4) (a) Except as provided in paragraph (b) of this subsection (4), a juvenile shall not be detained by law enforcement officials any longer than is reasonably necessary to obtain basic identification information and to contact his or her parents, guardian, or legal custodian.

(b) If he or she is not released as provided in subsection (3) of this section, he or she shall be taken directly to the court or to the place of detention, a temporary holding facility, or a shelter designated by the court without unnecessary delay.

(5) (a) As an alternative to taking a juvenile into temporary custody pursuant to subsections (1), (3), and (4) of this section, a law enforcement officer may, if authorized by the establishment of a policy that permits such service by order of the chief judge of the judicial district or the presiding judge of the Denver juvenile court, which policy is established after consultation between such judge and the district attorney and law enforcement officials in the judicial district, serve a written promise to appear for juvenile proceedings based on any act that would constitute a felony, misdemeanor, or petty offense upon the juvenile and the juvenile's parent, guardian, or legal custodian.

(b) A promise to appear served pursuant to paragraph (a) of this subsection (5) must state any charges against the juvenile and the date, time, and place where such juvenile shall be required to answer such charges. The promise to appear must also state:

(I) That the juvenile has the right to have the assistance of counsel;

(II) That counsel can be appointed for the juvenile if the juvenile and the juvenile's parent, guardian, or legal custodian lack adequate resources to retain counsel or the juvenile's parent, guardian, or legal custodian refuses to retain counsel for the juvenile;

(III) That, to determine if the juvenile is eligible for court-appointed counsel, or to apply for court-appointed counsel, the juvenile's parent, guardian, or legal custodian is advised to call the office of the state public defender, visit the state public defender's office, or visit the state public defender's internet website;

(IV) That, to avoid delay in obtaining counsel, the juvenile's parent, guardian, or legal custodian is advised to apply for court-appointed counsel at least five days before the juvenile's promised date of appearance; and

(V) The contact information for the local office of the state public defender, including the office's telephone number and address, and the address of the internet website of the office of the state public defender.

(c) The promise to appear shall be signed by the juvenile. The promise to appear shall be served upon the juvenile's parent, guardian, or legal custodian by personal service or by certified mail, return receipt requested. The date established for the juvenile and the juvenile's parent, guardian, or legal custodian to appear shall not be earlier than seven days nor later than thirty days after the promise to appear is served upon both the juvenile and the juvenile's parent, guardian, or legal custodian.

Source: L. 96: Entire article amended with relocations, p. 1629, § 1, effective January 1, 1997. **L. 2014:** (5) amended, (HB 14-1032), ch. 247, p. 948, § 1, effective November 1. **L. 2017:** (2) amended, (HB 17-1207), ch. 269, p. 1482, § 3, effective May 31.

Editor's note: This section was formerly numbered as 19-2-203. Prior to relocation in 1996, the said section 19-2-203 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-2-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-508. Detention and shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions. (1) A juvenile who must be taken from his or her home but who does not require physical restriction shall be given temporary care in a shelter facility designated by the court or the county department of social services and shall not be placed in detention.

(2) (a) Unless placement is prohibited pursuant to subsection (2)(b) of this section, when a juvenile is placed in a detention facility, in a temporary holding facility, or in a shelter facility designated by the court, the screening team shall promptly so notify the court, the district attorney, and the local office of the state public defender. The screening team shall also notify a parent or legal guardian or, if a parent or legal guardian cannot be located within the county, the person with whom the juvenile has been residing and inform him or her of the right to a prompt hearing to determine whether the juvenile is to be detained further. The court shall hold the detention hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays. For a juvenile being held in detention on a warrant for violating a valid court order on a status

offense, the court shall hold the detention hearing within twenty-four hours, excluding Saturdays, Sundays, and legal holidays.

(b) A juvenile who is ten years of age and older but less than thirteen years of age may not be ordered to detention unless the juvenile has been arrested for a felony or weapons charge pursuant to section 18-12-102, 18-12-105, 18-12-106, or 18-12-108.5. A preadjudication service program created pursuant to section 19-2-302 shall evaluate a juvenile described in this subsection (2)(b). The evaluation may result in the juvenile:

(I) Remaining in the custody of a parent, guardian, or legal custodian; or

(II) Being placed in the temporary legal custody of kin, for purposes of a kinship foster care home or noncertified kinship care placement, as defined in section 19-1-103 (71.3), or other suitable person under such conditions as the court may impose; or

(III) Being placed in a shelter facility; or

(IV) Being referred to a local county department of human or social services for assessment for placement.

(2.5) A juvenile who is detained for committing a delinquent act shall be represented at the detention hearing by counsel. If the juvenile has not retained his or her own counsel, the court shall appoint the office of the state public defender or, in the case of a conflict, the office of alternate defense counsel to represent the juvenile. This appointment shall continue if the court appoints the office of the state public defender or the office of alternate defense counsel pursuant to section 19-2-706 (2)(a) unless:

(a) The juvenile retains his or her own counsel; or

(b) The juvenile makes a knowing, intelligent, and voluntary waiver of his or her right to counsel, as described in section 19-2-706 (2)(c).

(3) (a) (I) A juvenile taken into custody pursuant to this article and placed in a detention or shelter facility or a temporary holding facility is entitled to a hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays, of such placement to determine if he or she should be detained. The time of the detention hearing must allow defense counsel sufficient time to consult with the juvenile before the detention hearing. This consultation may be performed by secure electronic means if the conditions under which the electronic consultation is held allow the consultation to be confidential. The time in which the hearing must be held may be extended for a reasonable time by order of the court upon good cause shown.

(I.5) The law enforcement agency that arrested the juvenile shall promptly provide to the court and to defense counsel the affidavit supporting probable cause for the arrest and the arrest report, if the arrest report is available, and the screening team shall promptly provide to the court and to defense counsel any screening material prepared pursuant to the juvenile's arrest. Upon completion of the detention hearing, the defense shall return any materials received pursuant to this subparagraph (I.5) unless the appointment is continued at the conclusion of the hearing.

(II) The only purposes of a detention hearing are to determine if a juvenile should be detained further and to define conditions under which he or she may be released, if his or her release is appropriate. A detention hearing shall not be combined with a preliminary hearing or a first advisement. Due to the limited scope of a detention hearing, the representation of a juvenile by appointed counsel at a detention hearing does not, by itself, create a basis for disqualification in the event that such counsel is subsequently appointed to represent another individual whose case is related to the juvenile's case.

(III) With respect to this section, the court may further detain the juvenile only if the court finds from the information provided at the hearing that the juvenile is a danger to himself or herself or to the community; except that a juvenile who is ten years of age and older but less than thirteen years of age may not be ordered to further detention unless the juvenile has been arrested or adjudicated for a felony or weapons charge pursuant to section 18-12-102, 18-12-105, 18-12-106, or 18-12-108.5. The court shall receive any information having probative value regardless of its admissibility under the rules of evidence. In determining whether a juvenile requires detention, the court shall consider any record of any prior adjudications of the juvenile. There is a rebuttable presumption that a juvenile is a danger to himself or herself or to the community if:

(A) The juvenile is alleged to have committed a felony enumerated as a crime of violence pursuant to section 18-1.3-406, C.R.S.; or

(B) The juvenile is alleged to have used, or possessed and threatened to use, a firearm during the commission of any felony offense against a person, as such offenses are described in article 3 of title 18, C.R.S.; or

(C) The juvenile is alleged to have committed possessing a dangerous or illegal weapon, as described in section 18-12-102, C.R.S.; possession of a defaced firearm, as described in section 18-12-103, C.R.S.; unlawfully carrying a concealed weapon, as described in section 18-12-105, C.R.S.; unlawfully carrying a concealed weapon on school, college, or university grounds, as described in section 18-12-105.5, C.R.S.; prohibited use of weapons, as described in section 18-12-106, C.R.S.; illegal discharge of a firearm, as described in section 18-12-107.5, C.R.S.; or illegal possession of a handgun by a juvenile, as described in section 18-12-108.5, C.R.S.

(III.5) Notwithstanding the provisions of subparagraph (III) of this paragraph (a), there shall be no presumption under sub-subparagraph (C) of subparagraph (III) of this paragraph (a) that a juvenile is a danger to himself or herself or the community if the item in the possession of the juvenile is alleged to be a BB gun, a pellet gun, or a gas gun.

(IV) Except as provided in subsection (3)(a)(IV.5) of this section, at the conclusion of the hearing, the court shall enter one of the following orders, while ensuring efforts are made to keep the juvenile with his or her parent, guardian, or legal custodian:

(A) That the juvenile be released to the custody of a parent, guardian, or legal custodian without the posting of bond;

(B) That the juvenile be placed in a shelter facility;

(C) That bail be set and that the juvenile be released upon the posting of that bail;

(D) That no bail be set and that the juvenile be detained without bail upon a finding that such juvenile is a danger to himself or herself or to the community. Any juvenile who is detained without bail must be tried on the charges in the petition filed pursuant to subparagraph (V) of this paragraph (a) within the time limits set forth in section 19-2-108, unless the juvenile is deemed to have waived the time limit for an adjudicatory trial pursuant to section 19-2-107 (4).

(E) That no bail be set and that, upon the court's finding that the juvenile is a danger to himself or herself or to the community, the juvenile be placed in a preadjudication service program established pursuant to section 19-2-302. This sub-subparagraph (E) shall not apply to any case in which the juvenile's alleged offense is one of the offenses described in subparagraph (III) of this paragraph (a).

(IV.5) A preadjudication service program created pursuant to section 19-2-302 shall evaluate a juvenile described in subsection (2)(b) of this section. The evaluation may result in the juvenile:

(A) Remaining in the custody of a parent, guardian, or legal custodian; or

(B) Being placed in the temporary legal custody of kin, for purposes of a kinship foster care home or noncertified kinship care placement, as defined in section 19-1-103 (71.3), or other suitable person under such conditions as the court may impose; or

(C) Being placed in a shelter facility; or

(D) Being referred to a local county department of human or social services for assessment for placement.

(V) When the court orders further detention of the juvenile or placement of the juvenile in a preadjudication service program after a detention hearing, the district attorney shall file a petition alleging the juvenile to be a delinquent within seventy-two hours after the detention hearing, excluding Saturdays, Sundays, and legal holidays. The juvenile shall be held or shall participate in a preadjudication service program pending a hearing on the petition. Upon a showing of good cause, the court may extend such time for the filing of charges.

(VI) Following the detention hearing, if the court orders that the juvenile be released and, as a condition of such release, requires the juvenile to attend school, the court shall notify the school district in which the juvenile is enrolled of such requirement.

(VII) If the court orders further detention of a juvenile pursuant to the provisions of this section, said order shall contain specific findings as follows:

(A) Whether placement of the juvenile out of his or her home would be in the juvenile's and the community's best interests;

(B) Whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the home, whether it is reasonable that such efforts not be provided due to the existence of an emergency situation that requires the immediate removal of the juvenile from the home, or whether such efforts not be required due to the circumstances described in section 19-1-115 (7); and

(C) Whether procedural safeguards to preserve parental rights have been applied in connection with the removal of the juvenile from the home, any change in the juvenile's placement in a community placement, or any determination affecting parental visitation of the juvenile.

(b) (I) If it appears that any juvenile being held in detention or shelter may have an intellectual and developmental disability, as provided in article 10.5 of title 27, the court or detention personnel shall refer the juvenile to the nearest community-centered board for an eligibility determination. If it appears that any juvenile being held in a detention or shelter facility pursuant to the provisions of this article 2 may have a mental health disorder, as provided in sections 27-65-105 and 27-65-106, the intake personnel or other appropriate personnel shall contact a mental health professional to do a mental health hospital placement prescreening on the juvenile. The court shall be notified of the contact and may take appropriate action. If a mental health hospital placement prescreening is requested, it shall be conducted in an appropriate place accessible to the juvenile and the mental health professional. A request for a mental health hospital placement prescreening must not extend the time within which a detention hearing must be held pursuant to this section. If a detention hearing has been set but has not yet occurred, the

mental health hospital placement prescreening shall be conducted prior to the hearing; except that the prescreening must not extend the time within which a detention hearing must be held.

(II) If a juvenile has been ordered detained pending an adjudication, disposition, or other court hearing and the juvenile subsequently appears to have a mental health disorder, as provided in section 27-65-105 or 27-65-106, the intake personnel or other appropriate personnel shall contact the court with a recommendation for a mental health hospital placement prescreening. A mental health hospital placement prescreening shall be conducted at any appropriate place accessible to the juvenile and the mental health professional within twenty-four hours of the request, excluding Saturdays, Sundays, and legal holidays.

(III) When the mental health professional finds, as a result of the prescreening, that the juvenile may have a mental health disorder, the mental health professional shall recommend to the court that the juvenile be evaluated pursuant to section 27-65-105 or 27-65-106.

(IV) Nothing in this subsection (3)(b) precludes the use of emergency procedures pursuant to section 27-65-105 (1).

(c) (I) A juvenile taken to a detention or shelter facility or a temporary holding facility pursuant to section 19-2-502 as the result of an allegedly delinquent act that constitutes any of the offenses described in subparagraph (III) of paragraph (a) of this subsection (3) shall not be released from such facility if a law enforcement agency has requested that a detention hearing be held to determine whether the juvenile's immediate welfare or the protection of the community requires that the juvenile be detained. A juvenile shall not thereafter be released from detention except after a hearing, reasonable advance notice of which has been given to the district attorney, alleging new circumstances concerning the further detention of the juvenile.

(II) Following a detention hearing held in accordance with subparagraph (I) of this paragraph (c), a juvenile who is to be tried as an adult for criminal proceedings pursuant to a direct filing or transfer shall not be held at any adult jail or pretrial facility unless the district court finds, after a hearing held pursuant to subparagraph (IV), (V), or (VI) of this paragraph (c), that an adult jail is the appropriate place of confinement for the juvenile.

(III) In determining whether an adult jail is the appropriate place of confinement for the juvenile, the district court shall consider the following factors:

(A) The age of the juvenile;

(B) Whether, in order to provide physical separation from adults, the juvenile would be deprived of contact with other people for a significant portion of the day or would not have access to recreational facilities or age-appropriate educational opportunities;

(C) The juvenile's current emotional state, intelligence, and developmental maturity, including any emotional and psychological trauma, and the risk to the juvenile caused by his or her placement in an adult jail, which risk may be evidenced by mental health or psychological assessments or screenings made available to the district attorney and to defense counsel;

(D) Whether detention in a juvenile facility will adequately serve the need for community protection pending the outcome of the criminal proceedings;

(E) Whether detention in a juvenile facility will negatively impact the functioning of the juvenile facility by compromising the goals of detention to maintain a safe, positive, and secure environment for all juveniles within the facility;

(F) The relative ability of the available adult and juvenile detention facilities to meet the needs of the juvenile, including the juvenile's need for mental health and educational services;

(G) Whether the juvenile presents an imminent risk of harm to himself or herself or others within a juvenile facility;

(H) The physical maturity of the juvenile; and

(I) Any other relevant factors.

(IV) After charges are filed directly in district court against a juvenile pursuant to section 19-2-517 or a juvenile is transferred to district court pursuant to section 19-2-518, the division of youth services may petition the district court to transport the juvenile to an adult jail. The district court shall hold a hearing on the place of pretrial detention for the juvenile as soon as practicable, but no later than twenty-one days after the receipt of the division's petition to transport. The district attorney, sheriff, or juvenile may file a response to the petition and participate in the hearing. The juvenile shall remain in a juvenile detention facility pending hearing and decision by the district court.

(V) If a juvenile is placed in the division of youth services and is being tried in district court, the division of youth services may petition the court for an immediate hearing to terminate juvenile detention placement if the juvenile's placement in a juvenile detention facility presents an imminent danger to the other juveniles or to staff at the detention facility. In making its determination, the court shall review the factors set forth in subsection (3)(c)(III) of this section.

(VI) If the district court determines that an adult jail is the appropriate place of confinement for the juvenile, the juvenile may petition the court for a review hearing. The juvenile may not petition for a review hearing within thirty days after the initial confinement decision or within thirty days after any subsequent review hearing. Upon receipt of the petition, the court may set the matter for a hearing if the juvenile has alleged facts or circumstances that, if true, would warrant reconsideration of the juvenile's placement in an adult jail based upon the factors set forth in subparagraph (III) of this paragraph (c) and the factors previously relied upon by the court.

(3.5) Repealed.

(4) (a) No jail shall receive a juvenile for detention following a detention hearing pursuant to this section unless the juvenile has been ordered by the court to be held for criminal proceedings as an adult pursuant to a transfer or unless the juvenile is to be held for criminal proceedings as an adult pursuant to a direct filing. No juvenile under the age of fourteen and, except upon order of the court, no juvenile fourteen years of age or older shall be detained in a jail, lockup, or other place used for the confinement of adult offenders. The exception for detention in a jail shall be used only if the juvenile is being held for criminal proceedings as an adult pursuant to a direct filing or transfer.

(b) Whenever a juvenile is held pursuant to a direct filing or transfer in a facility where adults are held, the juvenile shall be physically segregated from the adult offenders.

(b.5) (I) When a juvenile who is to be held for criminal proceedings as an adult pursuant to a direct filing or transfer of charges, as provided in sections 19-2-517 and 19-2-518, respectively, is received at a jail or other facility for the detention of adult offenders, the official in charge of the jail or facility, or his or her designee, shall, as soon as practicable, contact the person designated pursuant to section 22-32-141, C.R.S., by the school district in which the jail or facility is located to request that the school district provide educational services for the juvenile for the period during which the juvenile is held at the jail or facility. The school district shall provide the educational services in accordance with the provisions of section 22-32-141,

C.R.S. The official, in cooperation with the school district, shall provide an appropriate and safe environment to the extent practicable in which the juvenile may receive educational services.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b.5), if either the official in charge of the jail or facility or the school district determines that an appropriate and safe environment cannot be provided for a specific juvenile, the official and the school district shall be exempt from the requirement to provide educational services to the juvenile until such time as an environment that is determined to be appropriate and safe by both the official and the school district can be provided. If the school district will not be providing educational services to a juvenile because of the lack of an appropriate and safe environment, the official in charge of the jail or facility shall notify the juvenile, his or her parent or legal guardian, the juvenile's defense attorney, and the court having jurisdiction over the juvenile's case.

(III) The official in charge of the jail or facility for the detention of adult offenders, or his or her designee, in conjunction with each school district that provides educational services at the jail or facility, shall annually collect nonidentifying data concerning:

(A) The number of juveniles held at the jail or facility who are awaiting criminal proceedings as an adult pursuant to a direct filing or transfer of charges, as provided in sections 19-2-517 and 19-2-518, respectively, for the year;

(B) The length of stay of each of the juveniles in the jail or facility;

(C) The number of the juveniles in the jail or facility who received educational services pursuant to this paragraph (b.5);

(D) The number of days on which school districts provided educational services to the juveniles in the jail or facility and the number of hours for which school districts provided the educational services each day;

(E) The number of juveniles in the jail or facility who were exempt from receiving educational services pursuant to section 22-32-141 (2)(c), (2)(e), (2)(f), and (2)(g), C.R.S.;

(F) The number of juveniles in the jail or facility who had previously been determined pursuant to section 22-20-108, C.R.S., to be eligible for special education services and had an individualized education program; and

(G) The number of juveniles in the jail or facility who, while receiving educational services at the jail or facility, were determined pursuant to section 22-20-108, C.R.S., to be eligible for special education services and had subsequently received an individualized education program.

(IV) The official in charge of the jail or facility shall submit the information collected pursuant to subparagraph (III) of this paragraph (b.5) to the division of criminal justice in the department of public safety. The division of criminal justice shall make the information available to a member of the public upon request.

(c) The official in charge of a jail or other facility for the detention of adult offenders shall immediately inform the court that has jurisdiction of the juvenile's alleged offense when a juvenile who is or appears to be under eighteen years of age is received at the facility, except for a juvenile ordered by the court to be held for criminal proceedings as an adult.

(d) (I) Any juvenile arrested and detained for an alleged violation of any article of title 42, C.R.S., or for any alleged violation of a municipal or county ordinance, and not released on bond, shall be taken before a judge with jurisdiction of such violation within forty-eight hours for the fixing of bail and conditions of bond pursuant to subparagraph (IV) of paragraph (a) of subsection (3) of this section. A juvenile may be detained in a jail, lockup, or other place used

for the confinement of adult offenders only for processing for no longer than six hours and during such time shall be placed in a setting that is physically segregated by sight and sound from the adult offenders, and in no case may the juvenile be detained in such place overnight. After six hours, the juvenile may be further detained only in a juvenile detention facility operated by or under contract with the department of human services. In calculating time under this subsection (4), Saturdays, Sundays, and legal holidays shall be included.

(II) A sheriff or police chief who violates the provisions of subparagraph (I) of this paragraph (d) may be subject to a civil fine of no more than one thousand dollars. The decision to fine shall be based on prior violations of the provisions of subparagraph (I) of this paragraph (d) by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with subparagraph (I) of this paragraph (d).

(e) The official in charge of a jail, lockup, or other facility for the confinement of adult offenders that receives a juvenile for detention should, wherever possible, take such measures as are reasonably necessary to restrict the confinement of any such juvenile with known past or current affiliations or associations with any gang so as to prevent contact with other inmates at such jail, lockup, or other facility. The official should, wherever possible, also take such measures as are reasonably necessary to prevent recruitment of new gang members from among the general inmate population. For purposes of this paragraph (e), "gang" is defined in section 19-1-103 (52).

(f) Any person who is eighteen years of age or older who is being detained for a delinquent act or criminal charge over which the juvenile court has jurisdiction, or for which charges are pending in district court pursuant to a direct filing or transfer if the person has not already been transferred to the county jail pursuant to the provisions of subparagraph (IV) of paragraph (c) of subsection (3) of this section, shall be detained in the county jail in the same manner as if such person is charged as an adult.

(g) A juvenile court shall not order a juvenile offender who is under eighteen years of age at the time of sentencing to enter a secure setting or secure section of an adult jail or lockup as a disposition for an offense or as a means of modifying the juvenile offender's behavior.

(5) A juvenile has the right to bail as limited by the provisions of this section.

(6) Except for a juvenile described in subsection (2)(b) of this section, the court may also issue temporary orders for legal custody as provided in section 19-1-115.

(7) Any law enforcement officer, employee of the division of youth services, or another person acting under the direction of the court who in good faith transports any juvenile, releases any juvenile from custody pursuant to a written policy of a court, releases any juvenile pursuant to any written criteria established pursuant to this title 19, or detains any juvenile pursuant to court order or written policy or criteria established pursuant to this title 19 is immune from civil or criminal liability that might otherwise result by reason of such act. For purposes of any proceedings, civil or criminal, the good faith of any such person is presumed.

(8) (a) A juvenile who allegedly commits a status offense or is convicted of a status offense shall not be held in a secure area of a jail or lockup.

(b) A sheriff or police chief who violates the provisions of paragraph (a) of this subsection (8) may be subject to a civil fine of no more than one thousand dollars. The decision to fine shall be based on prior violations of the provisions of paragraph (a) of this subsection (8) by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with paragraph (a) of this subsection (8).

Source: L. 96: Entire article amended with relocations, p. 1630, § 1, effective January 1, 1997. **L. 99:** (3)(a)(VII) added, p. 909, § 3, effective July 1. **L. 2001:** (3)(a)(VII) amended, p. 843, § 4, effective June 1. **L. 2002:** (3)(b) amended, p. 576, § 8, effective May 24; (3)(a)(III)(A) amended, p. 1524, § 226, effective October 1. **L. 2003:** (3)(a)(III.5) added, p. 1902, § 4, effective July 1. **L. 2005:** (3)(b)(III) amended, p. 1054, § 3, effective July 1. **L. 2006:** (4)(d) amended and (4)(g) and (8) added, pp. 256, 257, §§ 2, 3, effective March 31; (3)(b)(I), (3)(b)(II), and (3)(b)(III) amended, p. 1400, § 53, effective August 7. **L. 2007:** (3.5) added, p. 1107, § 1, effective August 3. **L. 2009:** (3)(c) amended, (HB 09-1321), ch. 351, p. 1833, § 1, effective June 1. **L. 2010:** (3)(b) amended, (SB 10-175), ch. 188, p. 789, § 38, effective April 29; (3)(c)(II)(F) amended and (4)(b.5) added, (SB 10-054), ch. 265, pp. 1215, 1212, §§ 7, 4, effective May 25. **L. 2012:** (3)(c) amended, (HB 12-1139), ch. 18, p. 49, § 1, effective March 15. **L. 2013:** (4)(f) amended, (SB 13-229), ch. 272, p. 1430, § 11, effective July 1. **L. 2014:** (2), (3)(a)(I), (3)(a)(II), and IP(3)(a)(III) amended and (2.5) and (3)(a)(I.5) added, (HB 14-1032), ch. 247, p. 949, § 2, effective November 1. **L. 2017:** (3)(b) amended, (SB 17-242), ch. 263, p. 1311, § 154, effective May 25; (2), IP(3)(a)(III), IP(3)(a)(IV), and (6) amended and (3)(a)(IV.5) added, (HB 17-1207), ch. 269, p. 1482, § 4, effective May 31; (3)(c)(IV), (3)(c)(V), and (7) amended, (HB 17-1329), ch. 381, p. 1966, § 7, effective June 6.

Editor's note: (1) This section was formerly numbered as 19-2-204. Prior to relocation in 1996, the said section 19-2-204 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-2-103 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Subsection (3.5)(b) provided for the repeal of subsection (3.5), effective July 1, 2010. (See L. 2007, p. 1107.)

Cross references: For the legislative declaration contained in the 1999 act enacting subsection (3)(a)(VII), see section 1 of chapter 233, Session Laws of Colorado 1999. For the legislative declaration contained in the 2001 act amending subsection (3)(a)(VII), see section 1 of chapter 241, Session Laws of Colorado 2001. For the legislative declaration contained in the 2002 act amending subsection (3)(a)(III)(A), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-2-509. Bail. (1) Unless the district attorney consents, no juvenile charged or accused of having committed a delinquent act that constitutes a felony or a class 1 misdemeanor shall be released without a bond or on a personal recognizance bond, if:

(a) The juvenile has been found guilty of a delinquent act constituting a felony or class 1 misdemeanor within one year prior to his or her detention;

(b) The juvenile is currently at liberty on another bond of any type; or

(c) The juvenile has a delinquency petition alleging a felony pending in any district or juvenile court for which probable cause has been established.

(2) In lieu of a bond, a juvenile who the court determines is a danger to himself or herself or to the community may be placed in a preadjudication service program established pursuant to section 19-2-302.

(3) Any application for the revocation or modification of the amount, type, or conditions of bail shall be made in accordance with section 16-4-109, C.R.S.; except that the presumption described in section 19-2-508 (3)(a)(III) shall continue to apply for the purposes of this section.

(4) (a) In determining the type of bond and conditions of release for the juvenile, the judge or magistrate fixing the same shall consider the criteria set forth in section 16-4-103, C.R.S.

(b) In setting, modifying, or continuing any bail bond, it shall be a condition that the released juvenile appear at any place and upon any date to which the proceeding is transferred or continued. Further conditions of every bail bond shall be that the released juvenile not commit any delinquent acts or harass, intimidate, or threaten any potential witnesses. The judge or magistrate may set any other conditions or limitations on the release of the juvenile as are reasonably necessary for the protection of the juvenile and the community. Any juvenile who is held without bail or whose bail or bail bond is revoked or increased under an order entered at any time after the initial detention hearing pursuant to subsection (3) of this section and who remains in custody or detention, must be tried on the charges on which the bail is denied or the bail or bail bond is revoked or increased within sixty days after the entry of such order or within sixty days after the juvenile's entry of a plea, whichever date is earlier; except that, if the juvenile requests a jury trial pursuant to section 19-2-107, the provisions of section 19-2-107 (4) shall apply.

(5) A surety or security on a bail bond may be subject to forfeiture only if the juvenile fails to appear for any scheduled court proceedings, of which the juvenile received proper notice.

(6) The court may order that any personal recognizance bond be secured by the personal obligation of the juvenile and his or her parents, guardian, legal custodian, or other responsible adult.

(7) The parent, guardian, or legal custodian for any juvenile released on bond pursuant to this section or any other responsible adult who secures a personal recognizance bond for a juvenile pursuant to subsection (6) of this section may petition the court, prior to forfeiture or exoneration of the bond, to revoke the bond and remand the juvenile into custody if the parent, guardian, legal custodian, or other responsible adult determines that he or she is unable to control the juvenile. The court shall apply the presumption specified in section 19-2-508 (3)(a)(III) in determining whether to revoke the bond.

(8) A juvenile may be released on bond or as otherwise provided in this section regardless of whether the juvenile appears in court pursuant to a summons or a warrant.

Source: L. 96: Entire article amended with relocations, p. 1634, § 1, effective January 1, 1997. **L. 99:** (7) and (8) added, pp. 1373, 1374, §§ 6, 8, effective July 1. **L. 2001:** (4)(b) amended, p. 137, § 2, effective July 1. **L. 2013:** (4)(a) amended, (HB 13-1236), ch. 202, p. 843, § 11, effective May 11. **L. 2016:** (3) amended, (SB 16-189), ch. 210, p. 760, § 30, effective June 6.

Editor's note: This section was formerly numbered as 19-2-205. Prior to relocation in 1996, the said section 19-2-205 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-2-103 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-510. Preliminary investigation. (1) Whenever it appears to a law enforcement officer or any other person that a juvenile is or appears to be within the court's jurisdiction, as provided in section 19-2-104, the law enforcement officer or other person may refer the matter conferring or appearing to confer jurisdiction to the district attorney, who shall determine whether the interests of the juvenile or of the community require that further action be taken.

(2) Upon the request of the district attorney, the matter may be referred to any agency for an investigation and recommendation.

Source: L. 96: Entire article amended with relocations, p. 1635, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-301. Prior to relocation in 1996, the said section 19-2-301 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-510.5. Restorative justice pilot project - legislative declaration - definitions - repeal. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1254), ch. 341, p. 1984, § 5, effective August 7. **L. 2015:** (3)(b)(II) and (3)(b)(III)(A) amended and (3)(b)(II.5), (3)(b)(III)(C), and (3)(b)(III)(D) added, (HB 15-1094), ch. 44, p. 110, § 3, effective August 5.

Editor's note: Subsection (6) provided for the repeal of this section, effective December 31, 2015. (See L. 2013, p. 1984.)

19-2-511. Statements. (1) No statements or admissions of a juvenile made as a result of the custodial interrogation of such juvenile by a law enforcement official concerning delinquent acts alleged to have been committed by the juvenile shall be admissible in evidence against such juvenile unless a parent, guardian, or legal or physical custodian of the juvenile was present at such interrogation and the juvenile and his or her parent, guardian, or legal or physical custodian were advised of the juvenile's right to remain silent and that any statements made may be used against him or her in a court of law, of his or her right to the presence of an attorney during such interrogation, and of his or her right to have counsel appointed if he or she so requests at the time of the interrogation; except that, if a public defender or counsel representing the juvenile is present at such interrogation, such statements or admissions may be admissible in evidence even though the juvenile's parent, guardian, or legal or physical custodian was not present.

(2) (a) Notwithstanding the provisions of subsection (1) of this section, statements or admissions of a juvenile may be admissible in evidence, notwithstanding the absence of a parent, guardian, or legal or physical custodian, if the court finds that, under the totality of the circumstances, the juvenile made a knowing, intelligent, and voluntary waiver of rights and:

(I) The juvenile is eighteen years of age or older at the time of the interrogation or the juvenile misrepresents his or her age as being eighteen years of age or older and the law enforcement official acts in good faith reliance on such misrepresentation in conducting the interrogation;

(II) The juvenile is emancipated from the parent, guardian, or legal or physical custodian; or

(III) The juvenile is a runaway from a state other than Colorado and is of sufficient age and understanding.

(b) For the purposes of this subsection (2), "emancipated juvenile" is defined in section 19-1-103 (45).

(3) Notwithstanding the provisions of subsection (1) of this section, statements or admissions of a juvenile shall not be inadmissible in evidence by reason of the absence of a parent, guardian, or legal custodian if the juvenile was accompanied by a responsible adult who was a custodian of the juvenile or assuming the role of a parent at the time.

(4) For the purposes of this section, "physical custodian" is defined in section 19-1-103 (84).

(5) Notwithstanding the provisions of subsection (1) of this section, the juvenile and his or her parent, guardian, or legal or physical custodian may expressly waive the requirement that the parent, guardian, or legal or physical custodian be present during interrogation of the juvenile. This express waiver shall be in writing and shall be obtained only after full advisement of the juvenile and his or her parent, guardian, or legal or physical custodian of the juvenile's rights prior to the taking of the custodial statement by a law enforcement official. If said requirement is expressly waived, statements or admissions of the juvenile shall not be inadmissible in evidence by reason of the absence of the juvenile's parent, guardian, or legal or physical custodian during interrogation. Notwithstanding the provisions of this subsection (5), a county social services department and the department of human services, as legal or physical custodian, may not waive said requirement.

(6) Notwithstanding the provisions of subsection (1) of this section, statements or admissions of a juvenile shall not be inadmissible into evidence by reason of the absence of a parent, guardian, or legal or physical custodian, if the juvenile makes any deliberate misrepresentations affecting the applicability or requirements of this section and a law enforcement official, acting in good faith and in reasonable reliance on such deliberate misrepresentation, conducts a custodial interrogation of the juvenile that does not comply with the requirements of subsection (1) of this section.

Source: L. 96: Entire article amended with relocations, p. 1635, § 1, effective January 1, 1997. **L. 99:** (2) amended, p. 1374, § 10, effective July 1; (6) added, p. 1017, § 1, effective August 4.

Editor's note: This section was formerly numbered as 19-2-210. Prior to relocation in 1996, the said section 19-2-210 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-2-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-512. Petition initiation. (1) If the district attorney determines that the interests of the juvenile or of the community require that further action be taken, the district attorney may file a petition in delinquency on the form specified in section 19-2-513, which shall be accepted by the court. If the district attorney chooses to file a petition in delinquency on any juvenile who receives a detention hearing under section 19-2-508, he or she shall file said petition within

seventy-two hours after the detention hearing, excluding Saturdays, Sundays, and legal holidays. Upon filing of such petition, the court, if practicable, shall send notice of the pendency of such action to the natural parents of the juvenile who is the subject of such petition.

(2) If the petition is the first juvenile petition filed against the juvenile in any jurisdiction and is initiated in a jurisdiction that has restorative justice practices available, the district attorney or his or her designee may determine whether a juvenile is suitable for restorative justice practices. The district attorney shall consider whether the victim, having been informed about restorative justice practices pursuant to section 24-4.1-303 (11)(g), C.R.S., is requesting consideration of restorative justice practices as an alternative to formal prosecution; the seriousness of the crime; the crime's impact on the victim; the best methodology to involve the victim; whether the juvenile accepts responsibility for, expresses remorse for, and is willing to repair the harm caused by his or her actions; whether the juvenile's parent or legal guardian is willing to support the juvenile in the process; and other programmatic support available. If a juvenile wants to participate in restorative justice practices, the juvenile must make the request to the district attorney or the law enforcement agency administering the program and may not make the request to the victim. If requested by the juvenile, restorative justice practices may only be conducted after the victim is consulted by the district attorney and offered an opportunity to participate or submit a victim impact statement. If a victim elects not to attend, a victim-offender conference may be held with a suitable victim surrogate or victim advocate, and the victim may submit a victim impact statement. The district attorney may offer dismissal of charges as an option for the successful completion of these and any other conditions imposed and designed to address the harm done to the victim and the community by the offender, subject to approval by the court.

Source: L. 96: Entire article amended with relocations, p. 1637, § 1, effective January 1, 1997. **L. 2011:** Entire section amended, (HB 11-1032), ch. 296, p. 1405, § 11, effective August 10. **L. 2013:** (2) amended, (HB 13-1254), ch. 341, p. 1987, § 6, effective August 7.

Editor's note: This section was formerly numbered as 19-2-304. Prior to relocation in 1996, the said section 19-2-304 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-513. Petition form and content. (1) The petition and all subsequent court documents in any proceedings brought under section 19-1-104 (1)(a) or (1)(b) shall be entitled "The People of the State of Colorado, in the Interest of ....., a juvenile (or juveniles) and Concerning ....., Respondent." The petition may be filed using the language of the statutes defining the offense, including either conjunctive or disjunctive clauses. Pleading in either the conjunctive or the disjunctive shall place a respondent on notice that the prosecution may rely on any or all of the alternatives alleged.

(2) The petition shall set forth plainly the facts that bring the juvenile within the court's jurisdiction. If the petition alleges that the juvenile is delinquent, it shall cite the law or municipal or county ordinance that the juvenile is alleged to have violated. The petition shall also state the name, age, and residence of the juvenile and the names and residences of his or her

parents, guardian, or other legal custodian or of his or her nearest known relative if no parent, guardian, or other legal custodian is known.

(3) (a) Pursuant to the provisions of section 19-1-126, in those delinquency proceedings to which the federal "Indian Child Welfare Act", 25 U.S.C. sec. 1901, et seq., applies, including but not limited to status offenses such as the illegal possession or consumption of ethyl alcohol or marijuana by an underage person or illegal possession of marijuana paraphernalia by an underage person, as described in section 18-13-122, C.R.S., purchase or attempted purchase of cigarettes or tobacco products by a person under eighteen years of age, as described in section 18-13-121, C.R.S., and possession of handguns by juveniles, as described in section 18-12-108.5, C.R.S., the petition shall:

(I) Include a statement indicating what continuing inquiries the district attorney or the district attorney's representative has made in determining whether the juvenile is an Indian child;

(II) Identify whether the juvenile is an Indian child; and

(III) Include the identity of the Indian child's tribe, if the child is identified as an Indian child.

(b) If notices were sent to the parent or Indian custodian of the child and to the Indian child's tribe, pursuant to section 19-1-126, the postal receipts shall be attached to the petition and filed with the court or filed within ten days after the filing of the petition, as specified in section 19-1-126 (1)(c).

Source: L. 96: Entire article amended with relocations, p. 1637, § 1, effective January 1, 1997. **L. 2002:** (3) added, p. 785, § 4, effective May 30. **L. 2003:** (1) amended, p. 973, § 3, effective April 17. **L. 2014:** IP(3)(a) amended, (SB 14-129), ch. 387, p. 1939, § 10, effective June 6.

Editor's note: This section was formerly numbered as 19-2-305. Prior to relocation in 1996, the said section 19-2-305 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2002 act enacting subsection (3), see section 1 of chapter 217, Session Laws of Colorado 2002.

19-2-514. Summons - issuance - contents - service. (1) After a petition has been filed, the court shall promptly issue a summons reciting briefly the substance of the petition. The summons must also state, in a separate box, in bold, and in capitalized letters, the following text, inserting the telephone number and address of the local office of the state public defender and the internet website address of the state public defender, as indicated:

1. YOU HAVE THE RIGHT TO HAVE YOUR OWN LAWYER HELP YOU AT YOUR HEARING.

2. YOU MAY BE ELIGIBLE FOR THIS LAWYER AT NO CHARGE.

3. TO FIND OUT IF YOU ARE ELIGIBLE, YOU OR YOUR PARENT, GUARDIAN, OR LEGAL CUSTODIAN SHOULD CALL THE OFFICE OF THE STATE PUBLIC DEFENDER AT _____, VISIT THE OFFICE OF THE STATE PUBLIC DEFENDER AT _____, OR VISIT THE STATE PUBLIC DEFENDER'S WEB SITE AT _____.

4. YOU ARE MORE LIKELY TO HAVE A FREE LAWYER PRESENT AT YOUR HEARING IF YOU OR YOUR PARENT, GUARDIAN, OR LEGAL CUSTODIAN CALLS OR VISITS THE OFFICE OF THE STATE PUBLIC DEFENDER AT LEAST FIVE DAYS BEFORE YOUR HEARING.

(2) No summons shall issue to any juvenile or respondent who appears voluntarily, or who waives service, or who has promised in writing to appear at the hearing, but any such person shall be provided with a copy of the petition and summons upon appearance or request.

(3) (a) The court may, when the court determines that it is in the best interests of the juvenile, join the juvenile's parent or guardian and the person with whom the juvenile resides, if other than the juvenile's parent or guardian, as a respondent to the action and shall issue a summons requiring the parent or guardian and the person with whom the juvenile resides, if other than the juvenile's parent or guardian, to appear with the juvenile at all proceedings under this article involving the juvenile. If the parent or guardian of any juvenile cannot be found, the court, in its discretion, may proceed with the case without the presence of such parent or guardian. For the purposes of this section and section 19-2-515, "parent" is defined in section 19-1-103 (82)(b). This subsection (3) shall not apply to any person whose parental rights have been terminated pursuant to the provisions of this title or the parent of an emancipated minor. For the purposes of this section, "emancipated minor" shall have the same meaning as set forth in section 13-21-107.5, C.R.S.

(b) The general assembly hereby declares that every parent or guardian whose juvenile is the subject of a juvenile proceeding under this article shall attend any such proceeding.

(4) The summons shall require the person or persons having the physical custody of the juvenile, if other than a parent or guardian, to appear and to bring the juvenile before the court at a time and place stated not more than thirty days after issuance of the summons.

(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) Repealed.

(6) If it appears that the welfare of the juvenile or of the public requires that the juvenile be taken into custody, the court may, by endorsement upon the summons, direct that the person serving the summons take the juvenile into custody at once.

(7) The court may authorize the payment of necessary travel expenses incurred by persons summoned or otherwise required to appear, which payments shall not exceed the amount allowed to witnesses for travel by the district court.

(8) (a) A summons issued under this section may be served in the same manner as the summons in a civil action or by mailing it to the juvenile's last-known address by certified mail with return receipt requested not less than five days prior to the time the juvenile is requested to appear in court. Service by mail is complete upon return of the receipt signed by the juvenile, his

or her parents, guardian, legal custodian, physical custodian, or spousal equivalent as defined in section 19-1-103 (101).

(b) Service upon the parent, guardian, legal custodian, or physical custodian who has physical care of a juvenile of a summons that contains wording commanding said parent, guardian, legal custodian, or physical custodian to produce the juvenile in court shall constitute valid service compelling the attendance of both the juvenile and said parent, guardian, legal custodian, or physical custodian in court. In addition, service of a summons as described in this paragraph (b) shall compel said parent, guardian, legal custodian, or physical custodian either to make all necessary arrangements to ensure that the juvenile is available to appear before the court or to appear in court and show good cause for the juvenile's failure to appear.

(9) If the parents, guardian, or other legal custodian of the juvenile required to be summoned under subsection (4) of this section cannot be found within the state, the fact of the juvenile's presence in the state shall confer jurisdiction on the court as to any absent parent, guardian, or legal custodian.

(10) When the residence of the person to be served outside the state is known, a copy of the summons and petition shall be sent by certified mail with postage prepaid to such person at his or her place of residence with a return receipt requested. Service of summons shall be deemed complete five days after return of the requested receipt.

Source: L. 96: Entire article amended with relocations, p. 1637, § 1, effective January 1, 1997. **L. 99:** (8) amended, p. 1374, § 9, effective July 1. **L. 2006:** (5) amended, p. 451, § 1, effective April 18. **L. 2014:** (1) amended, (HB 14-1032), ch. 947, p. 247, § 3, effective November 1.

Editor's note: (1) This section was formerly numbered as 19-2-306. Prior to relocation in 1996, the said section 19-2-306 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-103 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Subsection (5)(b)(II) provided for the repeal of subsection (5)(b), effective July 1, 2007. (See L. 2006, p. 451.)

19-2-515. Contempt - warrant. (1) Except as otherwise provided by subsection (3) of this section, any person summoned or required to appear as provided in section 19-2-514 who has acknowledged service and fails to appear without reasonable cause may be proceeded against for contempt of court.

(2) If after reasonable effort the summons cannot be served or if the welfare of the juvenile requires that he or she be brought immediately into the custody of the court, a bench warrant may be issued for the parents, guardian, or other legal custodian or for the juvenile.

(3) (a) When a parent or other person who signed a written promise to appear and bring the juvenile to court or who has waived or acknowledged service fails to appear with the juvenile on the date set by the court, a bench warrant may be issued for the parent or other person, the juvenile, or both.

(b) Whenever a parent or guardian or person with whom the juvenile resides, if other than the parent or guardian, who has received a summons to appear fails, without good cause, to appear on any other date set by the court, a bench warrant shall be issued for the parent,

guardian, or person with whom the juvenile resides, and the parent, guardian, or person with whom the juvenile resides shall be subject to contempt.

(c) For purposes of this subsection (3), good cause for failing to appear shall include, but shall not be limited to, a situation where a parent or guardian:

(I) Does not have physical custody of the juvenile and resides outside of Colorado;

(II) Has physical custody of the juvenile, but resides outside of Colorado and appearing in court will result in undue hardship to such parent or guardian; or

(III) Resides in Colorado, but is outside of the state at the time of the juvenile proceeding for reasons other than avoiding appearance before the court and appearing in court will result in undue hardship to such parent or guardian.

(d) The nonappearance of such parent, guardian, or person with whom the juvenile resides shall not be the basis for a continuance.

(e) The provisions of this subsection (3) shall not be applicable to any proceeding in a case that has been transferred to the district court pursuant to the provisions of section 19-2-518.

(f) The general assembly hereby declares that every parent or guardian whose juvenile is the subject of a juvenile proceeding under this article shall attend any such proceeding.

(g) Nothing in this subsection (3) shall be construed to create a right for any juvenile to have his or her parent or guardian present at any proceeding at which such juvenile is present.

Source: L. 96: Entire article amended with relocations, p. 1638, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-307. Prior to relocation in 1996, the said section 19-2-307 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-104 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-516. Petitions - special offenders. (1) **Mandatory sentence offender.** A juvenile is a mandatory sentence offender if he or she:

(a) (I) Has been adjudicated a juvenile delinquent twice; or

(II) Has been adjudicated a juvenile delinquent and if his or her probation has been revoked for a delinquent act; and

(b) (I) Is subsequently adjudicated a juvenile delinquent; or

(II) Has probation revoked for a delinquent act.

(2) **Repeat juvenile offender.** A juvenile is a repeat juvenile offender if he or she has been previously adjudicated a juvenile delinquent and is adjudicated a juvenile delinquent for a delinquent act that constitutes a felony or if his or her probation is revoked for a delinquent act that constitutes a felony.

(3) **Violent juvenile offender.** A juvenile is a violent juvenile offender if he or she is adjudicated a juvenile delinquent for a delinquent act that constitutes a crime of violence as defined in section 18-1.3-406 (2), C.R.S.

(4) **Aggravated juvenile offender.** (a) A juvenile offender is an aggravated juvenile offender if he or she is:

(I) Adjudicated a juvenile delinquent for a delinquent act that constitutes a class 1 or class 2 felony or if his or her probation is revoked for a delinquent act that constitutes a class 1 or class 2 felony; or

(II) Adjudicated a juvenile delinquent for a delinquent act that constitutes a felony and either is subsequently adjudicated a juvenile delinquent for a delinquent act that constitutes a crime of violence, as defined in section 18-1.3-406 (2), C.R.S., or has his or her probation revoked for a delinquent act that constitutes a crime of violence, as defined in section 18-1.3-406 (2), C.R.S.; or

(III) Adjudicated a juvenile delinquent or if his or her probation is revoked for a delinquent act that constitutes felonious unlawful sexual behavior under part 4 of article 3 of title 18, C.R.S., incest under section 18-6-301, C.R.S., or aggravated incest under section 18-6-302, C.R.S.

(b) Provisions concerning aggravated juvenile offenders are located in section 19-2-601.

Source: L. 96: Entire article amended with relocations, p. 1639, § 1, effective January 1, 1997. **L. 2002:** (3) and (4)(a)(II) amended, p. 1524, § 227, effective October 1.

Editor's note: This section was formerly numbered as 19-2-801 (1), 19-2-802 (1), 19-2-803 (1), and 19-2-804 (1). Prior to relocation in 1996, these sections were contained in a title that was repealed and reenacted in 1987. Provisions of these sections, as they existed in 1987, were contained in several sections in 1986, the year prior to the repeal and reenactment of this title. For a detailed comparison, see the "Children's Code (1987)" table located in the back of the index.

Cross references: For the legislative declaration contained in the 2002 act amending subsections (3) and (4)(a)(II), see section 1 of chapter 318, Session Laws of Colorado 2002.

19-2-517. Direct filing. (1) A juvenile may be charged by the direct filing of an information in the district court or by indictment only if:

(a) The juvenile is sixteen years of age or older at the time of the commission of the alleged offense and:

(I) Is alleged to have committed a class 1 or class 2 felony; or

(II) Is alleged to have committed a sexual assault that is a crime of violence pursuant to section 18-1.3-406, C.R.S., or a sexual assault under the circumstances described in section 18-3-402 (5)(a), C.R.S.; or

(III) (A) Is alleged to have committed a felony enumerated as a crime of violence pursuant to section 18-1.3-406, C.R.S., other than a sexual assault as described in subparagraph (II) of this paragraph (a), or is alleged to have committed sexual assault pursuant to section 18-3-402, C.R.S., sexual assault on a child pursuant to section 18-3-405, C.R.S., or sexual assault on a child by one in a position of trust pursuant to section 18-3-405.3, C.R.S.; and

(B) Is found to have a prior adjudicated felony offense; or

(IV) Has previously been subject to proceedings in district court as a result of a direct filing pursuant to this section or a transfer pursuant to section 19-2-518; except that:

(A) If the juvenile is found not guilty in district court of the prior felony or any lesser included offense, the subsequent charge shall be remanded to the juvenile court; and

(B) If the juvenile is convicted in district court in the prior case of a lesser included or nonenumerated offense for which criminal charges could not have been originally filed by information or indictment in the district court pursuant to this section, the subsequent charge may be remanded to the juvenile court.

(V) to (VII) (Deleted by amendment, L. 2012.)

(b) and (c) (Deleted by amendment, L. 2012.)

(1.5) If, after a preliminary hearing, the district court does not find probable cause for an offense that may be charged by direct filing, or if the direct file eligible offense is dismissed at a later date, the court shall remand the case to the juvenile court.

(2) Notwithstanding the provisions of section 19-2-518, after filing charges in the juvenile court but before the juvenile court conducts a transfer hearing, the district attorney may file the same or different charges against the juvenile by direct filing of an information in the district court or by indictment pursuant to this section. Upon the filing or indictment in the district court, the juvenile court shall no longer have jurisdiction over proceedings concerning the charges.

(3) (a) After a juvenile case has been charged by direct filing of information or by an indictment in district court, the juvenile may file in district court a motion to transfer the case to juvenile court. The juvenile must file the motion no later than the time to request a preliminary hearing. Upon receipt of the motion, the court shall set the reverse-transfer hearing with the preliminary hearing. The court shall permit the district attorney to file a response to the juvenile's motion to transfer the case to juvenile court. The district attorney shall file the response no later than fourteen days before the reverse-transfer hearing.

(b) In determining whether the juvenile and the community would be better served by adjudicative proceedings pursuant to this article or by proceedings under title 16, C.R.S., the court shall consider the following factors:

(I) The seriousness of the alleged offense and whether the protection of the community requires response or consequence beyond that afforded by this article;

(II) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(III) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(IV) The age of the juvenile and the maturity of the juvenile as determined by considerations of the juvenile's home, environment, emotional attitude, and pattern of living;

(V) The record and previous history of the juvenile in prior court-related matters;

(VI) The current and past mental health status of the juvenile as evidenced by relevant mental health or psychological assessments or screenings that are made available to both the district attorney and defense counsel;

(VII) The likelihood of the juvenile's rehabilitation by use of the sentencing options available in the juvenile courts and district courts;

(VIII) The interest of the community in the imposition of a punishment commensurate with the gravity of the offense;

(IX) The impact of the offense on the victim;

(X) Whether the juvenile was previously committed to the department of human services following an adjudication for a delinquent act that constitutes a felony; and

(XI) Whether the juvenile used, or possessed and threatened the use of, a deadly weapon in the commission of the delinquent act.

(c) If the district court determines pursuant to paragraph (b) of this subsection (3) that the juvenile and the community would be better served by adjudicative proceedings pursuant to this article, the court shall enter an order directing that the offenses against the juvenile be adjudicated in juvenile court pursuant to the provisions of this article.

(4) and (5) (Deleted by amendment, L. 2012.)

(6) (a) If a juvenile is convicted following the filing of criminal charges by information or indictment in the district court pursuant to this section, the district judge shall sentence the juvenile either:

(I) As an adult; except that a juvenile is excluded from the mandatory minimum sentencing provisions in section 18-1.3-406, C.R.S., unless the juvenile is convicted of a class 1 felony or a sex offense that is subject to part 9 of article 1.3 of title 18, C.R.S.; or

(II) To the youthful offender system in the department of corrections in accordance with section 18-1.3-407, C.R.S.; except that a juvenile shall be ineligible for sentencing to the youthful offender system if the juvenile is convicted of:

(A) A class 1 felony;

(B) Any sexual offense described in section 18-6-301 or 18-6-302, C.R.S., or part 4 of article 3 of title 18, C.R.S.; or

(C) A second or subsequent offense, if the juvenile received a sentence to the department of corrections or to the youthful offender system for the prior offense.

(III) (Deleted by amendment, L. 2012.)

(b) The district court judge may sentence a juvenile pursuant to the provisions of this article if the juvenile is convicted of a lesser included or nonenumerated felony offense for which criminal charges could not have been originally filed by information or indictment in the district court pursuant to this section. If the juvenile is convicted of only a misdemeanor offense or misdemeanor offenses, the court shall adjudicate the juvenile a delinquent and sentence the juvenile pursuant to this article.

(c) If a juvenile is convicted of an offense that is not eligible for district court jurisdiction under either this section or section 19-2-518, the juvenile shall be remanded to juvenile court.

(7) In the case of a person who is sentenced as a juvenile pursuant to subsection (6) of this section, the following provisions shall apply:

(a) Section 19-2-908 (1)(a), regarding mandatory sentence offenders;

(b) Section 19-2-908 (1)(b), regarding repeat juvenile offenders;

(c) Section 19-2-908 (1)(c), regarding violent juvenile offenders; and

(d) Section 19-2-601, regarding aggravated juvenile offenders.

(8) The court in its discretion may appoint a guardian ad litem for a juvenile charged by the direct filing of an information in the district court or by indictment pursuant to this section.

(9) When a juvenile is sentenced pursuant to the provisions of this article, the juvenile's conviction shall be adjudicated as a juvenile delinquency adjudication.

(10) For purposes of this section, "violent juvenile offender" has the same meaning as defined in section 19-2-516 (3).

Source: L. 96: Entire article amended with relocations, p. 1640, § 1, effective January 1, 1997. **L. 99:** (3)(b) amended, p. 43, § 2, effective March 15; (3)(a) amended, p. 1369, § 1, effective July 1. **L. 2000:** (1)(a)(III) amended, p. 706, § 33, effective July 1. **L. 2002:** (1)(a)(II)(A), (1)(a)(III), (3)(a)(II), and (3)(a)(III) amended, p. 1524, § 228, effective October 1. **L. 2003:** (1)(a)(II)(B) amended, p. 649, § 6, effective May 17. **L. 2004:** (3)(b) repealed, p. 244, § 4, effective April 5. **L. 2006:** (1)(a) amended, p. 422, § 6, effective April 13. **L. 2008:** (3)(a.5) added, p. 1506, § 1, effective May 28. **L. 2010:** Entire section R&RE, (HB 10-1413), ch. 264, p. 1199, § 1, effective August 11. **L. 2012:** Entire section amended, (HB 12-1271), ch. 128, p. 439, § 1, effective April 20.

Editor's note: This section was formerly numbered as § 19-2-805. Prior to relocation in 1996, the said § 19-2-805 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in § 19-1-104 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2002 act amending subsections (1)(a)(II)(A), (1)(a)(III), (3)(a)(II), and (3)(a)(III), see section 1 of chapter 318, Session Laws of Colorado 2002.

19-2-518. Transfers. (1) (a) The juvenile court may enter an order certifying a juvenile to be held for criminal proceedings in the district court if:

(I) A petition filed in juvenile court alleges the juvenile is:

(A) Twelve or thirteen years of age at the time of the commission of the alleged offense and is a juvenile delinquent by virtue of having committed a delinquent act that constitutes a class 1 or class 2 felony or a crime of violence, as defined in section 18-1.3-406, C.R.S.; or

(B) Fourteen years of age or older at the time of the commission of the alleged offense and is a juvenile delinquent by virtue of having committed a delinquent act that constitutes a felony; and

(II) After investigation and a hearing, the juvenile court finds it would be contrary to the best interests of the juvenile or of the public to retain jurisdiction.

(b) A petition may be transferred from the juvenile court to the district court only after a hearing as provided in this section.

(c) If the crime alleged to have been committed is a felony defined by section 18-8-208, C.R.S., and no other crime is alleged to have been committed and the juvenile has been adjudicated a juvenile delinquent for a delinquent act which constitutes a class 4 or 5 felony, then the charge for the crime may not be filed directly in the district court, but the juvenile court may transfer such charge to the district court pursuant to paragraph (a) of this subsection (1).

(d) (I) Except as otherwise provided in subparagraph (II) of this paragraph (d), in cases in which criminal charges are transferred to the district court pursuant to the provisions of this section, the judge of the district court shall sentence the juvenile pursuant to the provisions of section 18-1.3-401, C.R.S., if the juvenile is:

(A) Convicted of a class 1 felony;

(B) Convicted of a crime of violence, as defined in section 18-1.3-406, C.R.S.; or

(C) Convicted of any other criminal charge specified in paragraph (a) of this subsection (1) and the juvenile was previously adjudicated a mandatory sentence offender, a violent juvenile offender, or an aggravated juvenile offender.

(II) In cases in which criminal charges are transferred to the district court pursuant to the provisions of this section, the judge of the district court may sentence to the youthful offender system created in section 18-1.3-407, C.R.S., any juvenile who would otherwise be sentenced pursuant to the provisions of subparagraph (I) of this paragraph (d); except that a juvenile shall be ineligible for sentencing to the youthful offender system if the juvenile is convicted of:

(A) A class 1 felony;

(B) to (D) (Deleted by amendment, L. 2010, (HB 10-1413), ch. 264, p. 1203, § 2, effective August 11, 2010.)

(E) Any sexual offense described in section 18-6-301 or 18-6-302, C.R.S., or part 4 of article 3 of title 18, C.R.S.

(III) In cases in which criminal charges are transferred to the district court pursuant to the provisions of this section and the juvenile is not eligible for sentencing pursuant to subparagraph (I) of this paragraph (d), the judge of the district court shall have the power to make any disposition of the case that any juvenile court would have or to remand the case to the juvenile court for disposition at its discretion.

(IV) If, following transfer of criminal charges to the district court pursuant to this section, a juvenile is convicted of a lesser included offense for which criminal charges could not originally have been transferred to the district court, the court shall sentence the juvenile pursuant to the provisions of this article.

(d.5) (Deleted by amendment, L. 2010, (HB 10-1413), ch. 264, p. 1203, § 2, effective August 11, 2010.)

(e) Whenever a juvenile under the age of fourteen years is sentenced pursuant to section 18-1.3-401, C.R.S., as provided in paragraph (d) of this subsection (1), the department of corrections shall contract with the department of human services to house and provide services to the juvenile in a facility operated by the department of human services until the juvenile reaches the age of fourteen years. On reaching the age of fourteen years, the juvenile shall be transferred to an appropriate facility operated by the department of corrections for the completion of the juvenile's sentence.

(2) After filing charges in the juvenile court but prior to the time that the juvenile court conducts a transfer hearing, the district attorney may file the same or different charges against the juvenile by direct filing of an information in the district court or by indictment pursuant to section 19-2-517. Upon said filing or indictment in the district court, the juvenile court shall no longer have jurisdiction over proceedings concerning said charges.

(3) At the transfer hearing, the court shall consider:

(a) Whether there is probable cause to believe that the juvenile has committed a delinquent act for which waiver of juvenile court jurisdiction over the juvenile and transfer to the district court may be sought pursuant to subsection (1) of this section; and

(b) Whether the interests of the juvenile or of the community would be better served by the juvenile court's waiving its jurisdiction over the juvenile and transferring jurisdiction over him or her to the district court.

(4) (a) The hearing shall be conducted as provided in section 19-1-106, and the court shall make certain that the juvenile and his or her parents, guardian, or legal custodian have been fully informed of their right to be represented by counsel.

(b) In considering whether or not to waive juvenile court jurisdiction over the juvenile, the juvenile court shall consider the following factors:

(I) The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities;

(II) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(III) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(IV) The maturity of the juvenile as determined by considerations of the juvenile's home, environment, emotional attitude, and pattern of living;

(V) The record and previous history of the juvenile;

(VI) The likelihood of rehabilitation of the juvenile by use of facilities available to the juvenile court;

(VII) The interest of the community in the imposition of a punishment commensurate with the gravity of the offense;

(VIII) The impact of the offense on the victim;

(IX) That the juvenile was twice previously adjudicated a delinquent juvenile for delinquent acts that constitute felonies;

(X) That the juvenile was previously adjudicated a juvenile delinquent for a delinquent act that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S.;

(XI) That the juvenile was previously committed to the department of human services following an adjudication for a delinquent act that constitutes a felony;

(XII) That the juvenile is sixteen years of age or older at the time of the offense and the present act constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S.;

(XIII) That the juvenile is sixteen years of age or older at the time of the offense and has been twice previously adjudicated a juvenile delinquent for delinquent acts against property that constitute felonies; and

(XIV) That the juvenile used, or possessed and threatened the use of, a deadly weapon in the commission of a delinquent act.

(c) The amount of weight to be given to each of the factors listed in paragraph (b) of this subsection (4) is discretionary with the court; except that a record of two or more previously sustained petitions for delinquent acts that constitute felonies or a record of two or more juvenile probation revocations based on acts that constitute felonies shall establish prima facie evidence that to retain jurisdiction in juvenile court would be contrary to the best interests of the juvenile or of the community.

(d) The insufficiency of evidence pertaining to any one or more of the factors listed in paragraph (b) of this subsection (4) shall not in and of itself be determinative of the issue of waiver of juvenile court jurisdiction.

(5) Repealed.

(6) Written reports and other materials relating to the juvenile's mental, physical, educational, and social history may be considered by the court, but the court, if so requested by the juvenile, his or her parent or guardian, or other interested party, shall require the person or

agency preparing the report and other material to appear and be subject to both direct and cross-examination.

(7) (a) If the court finds that its jurisdiction over a juvenile should be waived, it shall enter an order to that effect; except that such order of waiver shall be null and void if the district attorney fails to file an information in the criminal division of the district court within five days of issuance of the written order of waiver, exclusive of Saturdays, Sundays, and court holidays. Upon failure of the district attorney to file an information within five days of the issuance of the written order of waiver, exclusive of Saturdays, Sundays, and court holidays, the juvenile court shall retain jurisdiction and shall proceed as provided in this article.

(b) As a condition of the waiver of jurisdiction, the court in its discretion may provide that a juvenile shall continue to be held in custody pending the filing of an information in the criminal division of the district court. Where the juvenile has made bond in proceedings in the juvenile court, the bond may be continued and made returnable in and transmitted to the district court, where it shall continue in full force and effect unless modified by order of the district court.

(8) If the court finds that it is in the best interests of the juvenile and of the public for the court to retain jurisdiction, it shall proceed with the adjudicatory trial as provided in part 8 of this article.

Source: L. 96: Entire article amended with relocations, p. 1642, § 1, effective January 1, 1997. **L. 99:** (1)(d) amended, p. 1370, § 2, effective July 1. **L. 2002:** (1)(a)(I)(A), (1)(d)(I), (1)(d)(II), (1)(e), (4)(b)(X), and (4)(b)(XII) amended, p. 1525, § 229, effective October 1. **L. 2006:** (1)(a)(I) amended, p. 423, § 7, effective April 13. **L. 2008:** (1)(d.5) added, p. 1506, § 2, effective May 28. **L. 2010:** (1)(d)(II)(B), (1)(d)(II)(C), (1)(d)(II)(D), (1)(d.5), and (5) amended, (HB 10-1413), ch. 264, p. 1203, § 2, effective August 11. **L. 2012:** (5) repealed, (HB 12-1271), ch. 128, p. 445, § 2, effective April 20.

Editor's note: This section was formerly numbered as § 19-2-806. Prior to relocation in 1996, the said § 19-2-806 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in §§ 19-1-104 and 19-3-108 as said sections existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2002 act amending subsections (1)(a)(I)(A), (1)(d)(I), (1)(d)(II), (1)(e), (4)(b)(X), and (4)(b)(XII), see section 1 of chapter 318, Session Laws of Colorado 2002.

PART 6

SPECIAL PROCEEDINGS

19-2-601. Aggravated juvenile offender. (1) (a) In any action in delinquency alleging that a juvenile is an aggravated juvenile offender, as described in section 19-2-516 (4), the petition shall allege by separate count that the juvenile is an aggravated juvenile offender and that increased commitment is authorized.

(b) If the petition alleges that the juvenile is an aggravated juvenile offender, pursuant to section 19-2-516 (4), the petition shall identify by separate counts each alleged former adjudication or probation revocation and, for each such count, shall include the date of adjudication or revocation, the court, and the specific act that formed the basis for the adjudication or probation revocation. If the alleged prior adjudication or probation revocation occurred outside of this state, the petition shall so allege and shall state that the delinquent act that formed the basis for the adjudication or probation revocation would constitute a felony in this state.

(2) (a) In any action in delinquency in which it is alleged that a juvenile is an aggravated juvenile offender, the court shall, at the juvenile's first appearance, advise the juvenile of the effect and consequences of the allegation that the juvenile is an aggravated juvenile offender.

(b) If a juvenile is alleged to be an aggravated juvenile offender pursuant to section 19-2-516 (4), the juvenile shall be required, at his or her first appearance before the court, to admit or deny any previous adjudications or probation revocations that are alleged in the petition. A refusal to admit or deny any such adjudication or probation revocation shall be considered a denial.

(3) (a) In addition to the rights specified in section 19-2-706, a juvenile who is alleged to be an aggravated juvenile offender may file a written request that adjudication of the act that is the subject of the petition shall be to a jury of twelve persons, and the court shall so order it. Any juvenile who requests a jury shall be deemed to have waived the time limit for an adjudicatory trial pursuant to section 19-2-107 (4).

(b) When a jury is requested pursuant to this subsection (3), the following challenges shall be allowed:

(I) If the petition alleges that one juvenile is an aggravated juvenile offender, the state and the juvenile shall each be entitled to five peremptory challenges.

(II) If the petition alleges that more than one juvenile is an aggravated juvenile offender and the adjudicatory trials on the acts that are the subject of the petition are not severed, the state and the defense shall be entitled to two additional challenges for every juvenile after the first, not to exceed fifteen peremptory challenges per side; when multiple juveniles are adjudicated in a single hearing, each peremptory challenge made on the part of the juveniles shall be made and considered as the joint peremptory challenge of all of the juveniles.

(c) When more than one petition concerning different juveniles is consolidated for the adjudication of the delinquent acts that are the subjects of the petitions, peremptory challenges shall be allowed as if the juveniles had been joined in the same petition in delinquency.

(4) (a) If a juvenile alleged to be an aggravated juvenile offender pursuant to section 19-2-516 (4) admits the previous adjudications or probation revocations alleged in the petition, pursuant to subsection (2) of this section, no further proof of such previous adjudications or probation revocations is required. Upon a finding that the juvenile has committed the delinquent acts that are the subject of the petition alleging that the juvenile is an aggravated juvenile offender, the court may enter any sentence authorized by this section.

(b) If a juvenile alleged to be an aggravated juvenile offender pursuant to section 19-2-516 (4) denies one or more of the previous adjudications or probation revocations alleged in the petition, pursuant to subsection (2) of this section, the court, after a finding of guilty of the acts that are the subject of this petition, shall conduct a separate hearing in which the court shall be the trier of fact to determine whether or not the juvenile has suffered such adjudications or

probation revocations. Each count alleging a previous adjudication or probation revocation shall be proven beyond a reasonable doubt.

(c) In any hearing before the court pursuant to paragraph (b) of this subsection (4), a duly authenticated copy of the record of an adjudication or probation revocation shall be prima facie evidence that the juvenile suffered such adjudication or probation revocation. In addition, any basic identification information that is part of the record of such former adjudication or probation revocation at the place the juvenile was incarcerated after disposition of such adjudication or probation revocation may be introduced into evidence in any hearing before the court pursuant to paragraph (b) of this subsection (4) and shall be prima facie evidence of the identity of the juvenile.

(5) (a) (I) Upon adjudication as an aggravated juvenile offender:

(A) For an offense other than an offense that would constitute a class 1 or 2 felony if committed by an adult, the court may commit the juvenile to the department of human services for a determinate period of up to five years;

(B) For an offense that would constitute a class 2 felony if committed by an adult, the court shall commit the juvenile to the department of human services for a determinate period of at least three but not more than five years;

(C) For an offense that would constitute a class 1 felony if committed by an adult, the court shall commit the juvenile to the department of human services for a determinate period of at least three but not more than seven years;

(D) When the petition alleges the offense of murder in the first degree or murder in the second degree, or sexual assault under section 18-3-402 (3.5) or 18-3-402 (4), C.R.S., and the juvenile is adjudicated a delinquent for either murder in the first degree or murder in the second degree, then the court may sentence the juvenile consecutively or concurrently for any crime of violence as described in section 18-1.3-406, C.R.S., or for a delinquent act contained in the petition for which the juvenile is an aggravated juvenile offender.

(II) An aggravated juvenile offender thus committed to the department of human services shall not be transferred to a nonsecure or community setting for a period of more than forty-eight hours, excluding Saturdays, Sundays, and court holidays, nor released before the expiration of the determinate term imposed by the court without prior order of the court.

(b) (I) Upon court order, the department of human services may transfer a juvenile committed to its custody pursuant to paragraph (a) of this subsection (5) to the department of corrections if the juvenile has reached eighteen years of age and the department of human services has certified that the juvenile is no longer benefiting from its programs.

(II) Such transfer shall be initiated by the filing of a request by the department of human services for transfer with the court of commitment that shall state the basis for the request. Upon receipt of such a request, the court shall notify the interested parties and shall set the matter for a hearing.

(III) The court shall authorize such transfer only upon a finding by a preponderance of the evidence that the juvenile is no longer benefiting from the programs of the department of human services.

(IV) Upon entering an order of transfer to the department of corrections, pursuant to this paragraph (b), the court shall amend the mittimus and transfer all further jurisdiction over the juvenile to the department of corrections. Thereafter the juvenile shall be governed by the provisions for adult felony offenders in titles 16 and 17, C.R.S., as if he or she had been

sentenced as an adult felony offender for the unserved portion of sentence that remains upon transfer to the department of corrections.

(6) (a) After a juvenile who is sentenced pursuant to sub-subparagraph (B) or (C) of subparagraph (I) of paragraph (a) of subsection (5) of this section has been in the custody of the department of human services for three years or more, the department may petition the court for an order authorizing the department to place the juvenile on juvenile parole upon approval by the juvenile parole board pursuant to section 19-2-1002. After a juvenile who is sentenced pursuant to sub-subparagraph (A) of subparagraph (I) of paragraph (a) of subsection (5) of this section has served the minimum mandatory period of the commitment or three years, whichever is sooner, the department of human services may petition the court for an order authorizing the department to place the juvenile on juvenile parole upon approval by the juvenile parole board pursuant to section 19-2-1002. The parole supervision shall be conducted by the department of human services. Upon the filing of the petition, the court shall notify the interested parties and set the matter for a hearing. The court shall authorize the department of human services to place the juvenile on juvenile parole upon approval of the juvenile parole board pursuant to section 19-2-1002, only upon finding by a preponderance of the evidence that the safety of the community will not be jeopardized by such release.

(b) Parole supervision of a juvenile who has been transferred to the department of corrections is governed by the provisions for adult felony offenders in titles 16, 17, and 18, C.R.S., as if the juvenile had been sentenced as an adult felony offender; except that, if the juvenile was adjudicated and sentenced for a class 1 felony, then the juvenile shall serve a ten-year period of mandatory parole after completion of his or her sentence.

(7) Upon the filing of a petition with the committing court for transfer of the juvenile to a nonsecure or community setting, or for early release from the custody of the department of corrections or human services, the court shall notify the interested parties and set the matter for a hearing. The court shall order such transfer or release only upon a finding by a preponderance of the evidence that the safety of the community will not be jeopardized by such transfer or release; except that early release of the juvenile from the department of corrections shall be governed by the provisions for adult felony offenders in titles 16 and 17, C.R.S., as if the juvenile had been sentenced as an adult felony offender.

(8) (a) (I) When a juvenile in the custody of the department of human services pursuant to this section reaches the age of twenty years and six months, the department of human services shall file a motion with the court of commitment regarding further jurisdiction of the juvenile. Upon the filing of such a motion, the court shall notify the interested parties, appoint counsel for the juvenile, and set the matter for a hearing. The court shall, as part of this hearing, reconsider the length of the remaining sentence and consider the factors as set forth in paragraph (c) of this subsection (8) herein.

(II) When the court notifies the interested parties, the court shall order that the juvenile submit to and cooperate with a psychological evaluation and risk assessment by a mental health professional to determine whether the juvenile is a danger either to himself or herself or to others. The mental health professional shall prepare a written report and shall provide a copy of the report to the court that ordered it, the prosecuting attorney, and counsel for the juvenile at least fifteen days before the hearing.

(b) At the hearing upon the motion, the court may either transfer the custody of and jurisdiction over the juvenile to the department of corrections for placement in a correctional

facility, the youthful offender system, or a community corrections program; authorize early release of the juvenile pursuant to subsection (7) of this section; place the juvenile on adult parole for a period of five years; or order that custody and jurisdiction over the juvenile shall remain with the department of human services; except that the custody of and jurisdiction over the juvenile by the department of human services shall terminate when the juvenile reaches twenty-one years of age.

(c) In considering whether or not to transfer the custody of and jurisdiction over the juvenile to the department of corrections, the court shall consider all relevant factors including, but not limited to, the court-ordered psychological evaluation and risk assessment, the nature of the crimes committed, the prior criminal history of the offender, the maturity of the offender, the offender's behavior in custody, the offender's progress and participation in classes, programs, and educational improvement, the impact of the crimes on the victims, the likelihood of rehabilitation, the placement where the offender is most likely to succeed in reintegrating in the community, and the interest of the community in the imposition of punishment commensurate with the gravity of the offense.

(9) At any postadjudication hearing held pursuant to this section, the state shall be represented by the district attorney and by the attorney general; except that the attorney general may be excused from participation in the hearing with the permission of the district attorney and of the court. At any postadjudication hearing held pursuant to this section, the department of corrections shall be considered an interested party and shall be sent notice of such hearing.

(10) "Mental health professional" means a person who is employed by the department of human services or is employed under contract with the department of human services and is:

(a) A licensed physician with the appropriate training and expertise in psychiatry; or

(b) A licensed psychologist.

Source: L. 96: Entire article amended with relocations, p. 1646, § 1, effective January 1, 1997. **L. 99:** (5)(a)(I) and (6)(a) amended, p. 33, § 1, effective July 1. **L. 2008:** (6)(a) amended, p. 1105, § 11, effective July 1. **L. 2012:** (5)(a)(I)(D) and (10) added and (6)(b) and (8) amended, (HB 12-1310), ch. 268, p. 1413, § 39, effective June 7. **L. 2013:** (5)(a)(I)(D) and (6)(b) amended, (SB 13-229), ch. 272, p. 1431, § 12, effective July 1.

Editor's note: (1) This section was formerly numbered as 19-2-804 (2) to (10). Prior to relocation in 1996, the said section 19-2-804 (2) to (10) was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-103, 19-3-106.5, and 19-3-113.2 as said sections existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-601 was relocated to section 19-2-902 when this article was amended with relocations in 1996.

PART 7

PREADJUDICATION

19-2-701. Short title. This part 7 shall be known and may be cited as "Juvenile Justice - Preadjudication".

Source: L. 96: Entire article amended with relocations, p. 1650, § 1, effective January 1, 1997.

Editor's note: The former section 19-2-701 was relocated to section 19-2-906.

19-2-702. Mentally ill juvenile or juvenile with developmental disabilities - procedure. (Repealed)

Source: L. 96: Entire article amended with relocations, p. 1650, § 1, effective January 1, 1997. **L. 2002:** (1) amended, p. 577, § 9, effective May 24. **L. 2003:** (3)(c) amended, p. 1901, § 2, effective July 1. **L. 2005:** Entire section repealed, p. 1054, § 2, effective July 1.

19-2-703. Informal adjustment. (1) The district attorney may request of the court at any time, either before, during, or after the filing of a petition, that the matter be handled as an informal adjustment if:

(a) The juvenile and his or her parents, guardian, or legal custodian have been informed of their constitutional and legal rights, including the right to have counsel at every stage of the proceedings;

(b) There are sufficient facts to establish the jurisdiction of the court; and

(c) The juvenile and his or her parents, guardian, or legal custodian have waived the right to a speedy trial.

(2) An informal adjustment shall be for an initial period of no longer than six months. One additional extension of up to six months may be ordered by the court upon showing of good cause.

(3) During any informal adjustment, the court may place the juvenile under the supervision of the probation department or other designated agency. The court may require further conditions of conduct, as requested by the district attorney, probation department, or designated agency.

(4) No juvenile shall be granted an informal adjustment if such juvenile has been adjudicated a juvenile delinquent within the preceding twelve months, has had a prior deferred adjudication, or has had an informal adjustment granted within the preceding twelve months.

Source: L. 96: Entire article amended with relocations, p. 1651, § 1, effective January 1, 1997.

Editor's note: (1) This section was formerly numbered as 19-2-302. Prior to relocation in 1996, the said section 19-2-302 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former provisions of section 19-2-703 were relocated to sections 19-2-907 and 19-2-910 to 19-2-919 when this article was amended with relocations in 1996.

19-2-704. Diversion. As an alternative to a petition filed pursuant to section 19-2-512, an adjudicatory trial pursuant to part 8 of this article, or disposition of a juvenile delinquent

pursuant to section 19-2-907, the district attorney may agree to allow a juvenile to participate in a diversion program established in accordance with section 19-2-303.

Source: L. 96: Entire article amended with relocations, p. 1652, § 1, effective January 1, 1997.

Editor's note: The former section 19-2-704 was relocated to section 19-2-921.

19-2-705. Preliminary hearing - dispositional hearing. (1) The district attorney or a juvenile who is accused in a petition of a delinquent act that constitutes a class 1, 2, or 3 felony may demand and receive a preliminary hearing to determine if there is probable cause to believe that the delinquent act alleged in the petition was committed by the juvenile. In addition, the district attorney or a juvenile who is accused in a petition of only those delinquent acts that constitute class 4, 5, or 6 felonies which felonies require mandatory sentencing or which constitute crimes of violence as defined in section 18-1.3-406, C.R.S., or which constitute sexual offenses under part 4 of article 3 of title 18, C.R.S., may demand and receive a preliminary hearing to determine if there is probable cause to believe that the delinquent act alleged in the petition was committed by the juvenile. A preliminary hearing may be heard by a judge of the juvenile court or by a magistrate and shall be conducted as follows:

(a) At the juvenile's advisement hearing and after the filing of the delinquency petition, the prosecution shall make available to the juvenile the discovery material required by the Colorado rules of juvenile procedure. The juvenile or the prosecution may file a written motion for a preliminary hearing, stating the basis therefor. Upon the filing of the motion, the court shall forthwith set the matter for a hearing. The juvenile or the prosecution shall file a written motion for a preliminary hearing not later than ten days after the advisement hearing.

(b) If the juvenile is being detained because of the delinquent act alleged in the petition, the preliminary hearing shall be held within thirty days of the filing of the motion, unless good cause for continuing the hearing beyond that time is shown to the court. If the juvenile is not being detained, it shall be held as promptly as the calendar of the court permits.

(c) At the preliminary hearing, the juvenile shall not be called upon to plead, although the juvenile may cross-examine the prosecution witnesses and may introduce evidence in his or her own behalf. The prosecution shall have the burden of establishing probable cause. The court at the hearing may temper the rules of evidence in the exercise of sound judicial discretion.

(d) If the court determines that probable cause exists, it shall enter a finding to that effect and shall schedule an adjudicatory trial. If from the evidence it appears to the court that probable cause does not exist, it shall dismiss the delinquency petition, and the juvenile shall be discharged from any restriction or other previous temporary order stemming from the petition.

(1.5) (a) The district attorney and the juvenile who is accused in a petition of a delinquent act that constitutes a class 4, 5, or 6 felony, except those that require mandatory sentencing or which constitute crimes of violence as defined in section 18-1.3-406, C.R.S., or which constitute sexual offenses under part 4 of article 3 of title 18, C.R.S., shall not have the right to demand or receive a preliminary hearing but shall participate in a dispositional hearing for the purposes of case evaluation and potential resolution. Such dispositional hearing may be heard by a judge of the juvenile court or by a magistrate.

(b) Any juvenile accused of a class 4, 5, or 6 felony who is not otherwise entitled to a preliminary hearing pursuant to paragraph (a) of this subsection (1.5), may demand and shall receive a preliminary hearing within a reasonable time pursuant to subsection (1) of this section, if the juvenile is in custody; except that, upon motion of either party, the court shall vacate the preliminary hearing if there is a reasonable showing that the juvenile has been released from custody prior to the preliminary hearing.

(2) A request for review of a preliminary hearing finding entered by a magistrate shall be filed pursuant to section 19-1-108 (5.5), and review shall be conducted pursuant to said section.

(3) The prosecution may file a motion to refile the petition in delinquency, which motion shall be accompanied by a verified affidavit stating the grounds therefor.

Source: L. 96: Entire article amended with relocations, p. 1652, § 1, effective January 1, 1997. **L. 98:** IP(1) amended and (1.5) added, p. 1274, § 3, effective July 1. **L. 2002:** IP(1) and (1.5)(a) amended, p. 1527, § 230, effective October 1. **L. 2007:** (2) amended, p. 2029, § 37, effective July 1.

Editor's note: (1) This section was formerly numbered as 19-2-404. Prior to relocation in 1996, the said section 19-2-404 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-102.1 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-705 was relocated to section 19-2-925 when this article was amended with relocations in 1996.

Cross references: For the legislative declaration contained in the 2002 act amending the introductory portion to subsection (1) and subsection (1.5)(a), see section 1 of chapter 318, Session Laws of Colorado 2002.

19-2-706. Advisement - right to counsel - waiver of right to counsel. (1) (a) At the juvenile's first appearance before the court, after the detention hearing or at the first appearance if the juvenile appears on a summons, the court shall advise the juvenile and his or her parents, guardian, or other legal custodian of the juvenile's constitutional rights and legal rights as set forth in rule 3 of the Colorado rules of juvenile procedure, including, but not limited to, the right to counsel. The advisement shall include the possibility of restorative justice practices, including victim-offender conferences if restorative justice practices are available in the jurisdiction. The advisement regarding restorative justice practices does not establish any right to restorative justice practices on behalf of the juvenile.

(b) If the respondent has made an early application for appointed counsel for the juvenile and the office of the state public defender has made a preliminary determination that the juvenile is eligible for appointed counsel as set forth in section 21-1-103, C.R.S., or if the court has appointed counsel for the juvenile pursuant to section 19-2-508 (2.5), an attorney from the office of the state public defender or, in the case of a conflict, from the office of alternate defense counsel, shall be available to represent the juvenile at the juvenile's first appearance, as described in paragraph (a) of this subsection (1).

(c) If the respondent has not made an early application for appointed counsel for the juvenile but the juvenile requests appointment of counsel at the first appearance, the court shall

determine if the juvenile is eligible for counsel pursuant to paragraph (a) of subsection (2) of this section.

(d) As used in this subsection (1), unless the context otherwise requires, "early application" means that the respondent has contacted the office of the state public defender and applied for representation of the juvenile by the state public defender not less than five days before the juvenile's scheduled court date for the first appearance and has provided sufficient information to the office of the state public defender to allow that office to make a preliminary determination of eligibility for representation.

(e) Failure of the juvenile's parent, guardian, or legal custodian to apply for court-appointed counsel may not be construed as a waiver of the right to counsel or any other rights held by the juvenile.

(2) (a) If the juvenile and his or her parents, guardian, or other legal custodian are found to be indigent pursuant to section 21-1-103 (3), C.R.S., or the juvenile's parents, guardian, or other legal custodian refuses to retain counsel for the juvenile, or the court, on its own motion, determines that counsel is necessary to protect the interests of the juvenile or other parties, or the juvenile is in the custody of the state department of human services or a county department of social services, the court shall appoint the office of state public defender or, in the case of a conflict, the office of alternate defense counsel for the juvenile; except that the court shall not appoint the office of the state public defender or the office of alternate defense counsel if:

(I) The juvenile has retained his or her own counsel; or

(II) The juvenile has made a knowing, intelligent, and voluntary waiver of his or her right to counsel, as described in paragraph (c) of this subsection (2).

(b) (I) If the court appoints counsel for the juvenile because of the refusal of the parents, guardian, or other legal custodian to retain counsel for the juvenile, the parents, guardian, or legal custodian, other than a county department of social services or the department of human services, shall be advised by the court that if the juvenile's parent, guardian, or legal custodian is determined not to be indigent pursuant to section 21-1-103 (3), C.R.S., then the court will order the juvenile's parent, guardian, or legal custodian, other than a county department of human services or the state department of human services, to reimburse the court for the cost of the representation unless the court, for good cause, waives the reimbursement requirement. The amount of the reimbursement will be a predetermined amount that:

(A) Shall be set by the supreme court, in consultation with the office of the state public defender and the office of alternate defense counsel;

(B) Shall be included in the chief justice directive concerning the appointment of state-funded counsel in criminal and juvenile delinquency cases; and

(C) May be based partly or entirely upon the stage a proceeding has reached when counsel is appointed, the stage a proceeding has reached when representation is terminated, or both.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (b) to the contrary, if the court finds that there exists a conflict of interest between the juvenile and the juvenile's parent, guardian, or legal custodian such that the income and assets of the parent, guardian, or legal custodian are unavailable to the juvenile, then the court shall consider only the juvenile's own income and assets for the purpose of determining whether to issue an order for reimbursement pursuant to this paragraph (b).

(c) The court may accept a waiver of counsel by a juvenile only after finding on the record, based on a dialogue conducted with the juvenile, that:

(I) The juvenile is of a sufficient maturity level to make a voluntary, knowing, and intelligent waiver of the right to counsel;

(II) The juvenile understands the sentencing options that are available to the court in the event of an adjudication or conviction of the offense with which the juvenile is charged;

(III) The juvenile has not been coerced by any other party, including but not limited to the juvenile's parent, guardian, or legal custodian, into making the waiver;

(IV) The juvenile understands that the court will provide counsel for the juvenile if the juvenile's parent, guardian, or legal custodian is unable or unwilling to obtain counsel for the juvenile; and

(V) The juvenile understands the possible consequences that may result from an adjudication or conviction of the offense with which the juvenile is charged, which consequences may occur in addition to the actual adjudication or conviction itself.

(d) The appointment of counsel pursuant to this subsection (2) shall continue until:

(I) The court's jurisdiction is terminated;

(II) The juvenile or the juvenile's parent, guardian, or legal custodian retains counsel for the juvenile;

(III) The court finds that the juvenile or his or her parents, guardian, or other legal custodian has sufficient financial means to retain counsel or that the juvenile's parents, guardian, or other legal custodian no longer refuses to retain counsel for the juvenile; or

(IV) The court finds the juvenile has made a knowing, intelligent, and voluntary waiver of his or her right to counsel, as described in paragraph (c) of this subsection (2).

Source: L. 96: Entire article amended with relocations, p. 1653, § 1, effective January 1, 1997. **L. 2008:** (1) amended, p. 226, § 3, effective March 31. **L. 2011:** (1) amended, (HB 11-1032), ch. 296, p. 1405, § 12, effective August 10. **L. 2013:** (1) amended, (HB 13-1254), ch. 341, p. 1988, § 7, effective August 7. **L. 2014:** (1) and (2) amended, (HB 14-1032), ch. 247, p. 951, § 4, effective November 1.

Editor's note: (1) This section was formerly numbered as 19-2-402. Prior to relocation in 1996, the said section 19-2-402 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-706 was relocated to section 19-2-308 when this article was amended with relocations in 1996.

19-2-707. Mandatory protection order. (1) (a) There is hereby created a mandatory protection order against any juvenile charged with the commission of a delinquent act and the juvenile's parents or legal guardian, which order shall remain in effect from the time that the juvenile is advised of such juvenile's rights and informed of such order at such juvenile's first appearance before the court until final disposition of the action or, in the case of an appeal, until disposition of the appeal. Such order shall restrain the juvenile and the juvenile's parents or legal guardian from harassing, molesting, intimidating, retaliating against, or tampering with any witness to or victim of the delinquent act charged.

(b) Repealed.

(c) The protection order issued pursuant to this section shall be on a standardized form prescribed by the judicial department, and a copy shall be provided to the protected parties.

(2) At the time of the juvenile's first appearance before the court, the court shall inform the juvenile and the juvenile's parents or legal guardian of the protection order effective pursuant to this section and shall also inform the juvenile and the juvenile's parents or legal guardian that a violation of such order is punishable as contempt of court.

(3) Nothing in this section shall preclude the juvenile or the juvenile's parents or legal guardian from applying to the court at any time for modification or dismissal of the protection order issued pursuant to this section or the district attorney from applying to the court at any time for additional provisions under the protection order, modification of the order, or dismissal of the order. The trial court shall retain jurisdiction to enforce, modify, or dismiss the protection order during the pendency of any appeal that may be brought.

(4) The duties of peace officers enforcing orders issued pursuant to this section shall be in accordance with section 18-6-803.5, C.R.S., and any rules adopted by the Colorado supreme court pursuant to said section.

Source: L. 96: Entire article amended with relocations, p. 1654, § 1, effective January 1, 1997. **L. 99:** (1)(b) amended, p. 503, § 13, effective July 1. **L. 2000:** (1)(b) repealed, p. 1015, § 9, effective July 1. **L. 2003:** (1), (2), and (3) amended, p. 1015, § 24, effective July 1.

Editor's note: (1) This section was formerly numbered as 19-2-403. Prior to relocation in 1996, the said section 19-2-403 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-103.1 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-707 was relocated to section 19-2-112 when this article was amended with relocations in 1996.

19-2-708. Entry of plea. (1) Upon the entry of a plea of not guilty to the allegations contained in the petition, the court shall set the matter for an adjudicatory trial. Except as otherwise provided in section 19-2-107, the court shall hold the adjudicatory trial within sixty days following the entry of a plea of not guilty.

(2) Upon the entry of a plea of guilty to one or more of the allegations contained in the petition, the court shall advise the juvenile in accordance with rule 3 of the Colorado rules of juvenile procedure. Such advisement shall include the possibility of restorative justice practices, including victim-offender conferences if restorative justice practices are available in the jurisdiction. The advisement regarding restorative justice practices does not establish any right to restorative justice practices on behalf of the juvenile.

Source: L. 96: Entire article amended with relocations, p. 1654, § 1, effective January 1, 1997. **L. 2008:** (2) amended, p. 227, § 4, effective March 31. **L. 2011:** (2) amended, (HB 11-1032), ch. 296, p. 1405, § 13, effective August 10. **L. 2013:** (2) amended, (HB 13-1254), ch. 341, p. 1988, § 8, effective August 7.

Editor's note: This section was formerly numbered as 19-2-405 and the former section 19-2-708 was relocated to section 19-2-309.

19-2-709. Deferral of adjudication. (1) Except as otherwise provided in subsection (1.5) of this section, in any case in which the juvenile has agreed with the district attorney to enter a plea of guilty, the court, with the consent of the juvenile and the district attorney, upon accepting the guilty plea and entering an order deferring adjudication, may continue the case for a period not to exceed one year from the date of entry of the order deferring adjudication. The court may continue the case for an additional one-year period for good cause.

(1.5) In a case in which the juvenile has agreed with the district attorney to enter a plea of guilty, resulting in a conviction as defined in section 16-22-102 (3), C.R.S., for unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., the court, with the consent of the juvenile and district attorney, upon accepting the guilty plea and entering an order deferring adjudication, may continue the case for a period of time not to exceed two years from the date of the order deferring adjudication. Upon a showing of good cause, the court may continue the case for additional time, not to exceed five years from the date of the order deferring adjudication.

(2) Any juvenile granted a deferral of adjudication under this section may be placed under the supervision of a probation department. The court may impose any conditions of supervision that it deems appropriate that are stipulated to by the juvenile and the district attorney.

(3) Upon full compliance with such conditions of supervision, the plea of the juvenile or the finding of guilt by the court shall be withdrawn and the case dismissed with prejudice.

(3.5) Application for entry of adjudication and imposition of sentence may be made by the district attorney or a probation officer at any time within the term of the deferred adjudication or within thirty-five days thereafter.

(4) If the juvenile fails to comply with the terms of supervision, the court shall enter an order of adjudication and proceed to sentencing under section 19-2-906. Such lack of compliance shall be a matter to be determined by the court without a jury, upon written application of the district attorney or probation department. At least five days' notice shall be given to the juvenile and his or her parents, guardian, or legal custodian. The burden of proof shall be the same as if the matter were being heard as a probation revocation proceeding.

(5) If the juvenile agrees to a deferral of adjudication, he or she waives all rights to a speedy trial and sentencing.

Source: L. 96: Entire article amended with relocations, p. 1655, § 1, effective January 1, 1997. **L. 2012:** (1) amended and (1.5) added, (HB 12-1310), ch. 268, p. 1399, § 18, effective June 7. **L. 2013:** (3.5) added, (SB 13-229), ch. 272, p. 1431, § 13, effective July 1.

Editor's note: This section was formerly numbered as 19-2-702.

19-2-709.5. Implementation committees - repeal. (Repealed)

Source: L. 2008: Entire section added, p. 346, § 1, effective July 1.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2011. (See L. 2008, p. 346.)

19-2-710. Mental health services for juvenile - how and when issue raised - procedure - definitions. (1) At any stage of a delinquency proceeding, if the court, prosecution, probation officer, guardian ad litem, parent, or legal guardian has reason to believe that the juvenile could benefit from mental health services, the party shall immediately advise the court of such belief.

(2) After the party advises the court of the party's belief that the juvenile could benefit from mental health services, the court shall immediately order a mental health screening of the juvenile pursuant to section 16-11.9-102, C.R.S., unless the court already has sufficient information to determine whether the juvenile could benefit from mental health services or unless a mental health screening of the juvenile has been completed within the last three months. The delinquency proceedings shall not be stayed or suspended pending the results of the mental health screening ordered pursuant this section, however, the court may continue the dispositional and sentencing hearing to await the results of the mental health screening.

(3) If the mental health screening indicates that the juvenile could benefit from mental health services, the court may order a mental health assessment.

(4) At the time the court orders a mental health assessment, the court shall specify the date upon which the assessment shall be completed and returned to the court. The court may assign responsibility for the cost of the assessment to any party having legal custody or legal guardianship of the juvenile.

(5) The assessment, at a minimum, shall include an opinion regarding whether the juvenile could benefit from mental health services. If the assessment concludes that the juvenile could benefit from mental health services, the assessment shall identify the juvenile's mental health issues and the appropriate services and treatment.

(6) Evidence or treatment obtained as a result of a mental health screening or assessment ordered pursuant to this section shall not be admissible on the issues raised by a plea of not guilty unless the juvenile places his or her mental health at issue. If the juvenile places his or her mental health at issue, then either party may introduce evidence obtained as a result of a mental health screening or assessment.

(7) For purposes of this section:

(a) "Assessment" means an objective process used to collect pertinent information in order to identify a juvenile who may have mental health needs.

(b) "Juvenile could benefit from mental health services" means a juvenile exhibits one or more of the following characteristics:

(I) A chronic or significant lack of impulse control or of judgment;

(II) Significant abnormal behaviors under normal circumstances;

(III) A history of suspensions, expulsions, or repeated truancy from school settings;

(IV) Severe or frequent changes in sleeping or eating patterns or in levels of activity;

(V) A pervasive mood of unhappiness or of depression; or

(VI) A history of involvement with, or treatment in, two or more state or local governmental agencies, including but not limited to juvenile justice, youth corrections, or child welfare.

(8) Repealed.

Source: L. 2008: Entire section added, p. 346, § 1, effective July 1.

Editor's note: Subsection (8)(b) provided for the repeal of subsection (8), effective July 1, 2011. (See L. 2008, p. 346.)

PART 8

ADJUDICATORY PROCEDURES

19-2-801. Short title. This part 8 shall be known and may be cited as "Adjudicatory Procedures".

Source: L. 96: Entire article amended with relocations, p. 1655, § 1, effective January 1, 1997.

Editor's note: The provisions of former section 19-2-801 were relocated to sections 19-2-516 and 19-2-908. Prior to relocation in 1996, this section was contained in an article that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-103 as said section existed in 1986, the year prior to the repeal and reenactment of this article.

19-2-802. Evidentiary considerations. (1) All statutes and rules of this state that apply to evidentiary considerations in adult criminal proceedings shall apply to proceedings under this title except as otherwise specifically provided.

(2) In any case brought under this title, the credibility of any witness may be challenged because of his or her prior adult felony convictions and juvenile felony adjudications. The fact of such conviction or adjudication may be proved either by the witness through testimony or by other competent evidence.

(3) Prior to the juvenile resting his or her case, the trial court shall advise the juvenile outside the presence of the jury that:

(a) He or she has a right to testify in his or her own behalf;

(b) If he or she wants to testify, no one, including his or her attorney, can prevent the juvenile from doing so;

(c) If he or she testifies, the prosecutor will be allowed to cross-examine him or her;

(d) If he or she has been convicted or adjudicated for a felony, the prosecutor shall be entitled to ask him or her about it and thereby disclose it to the jury;

(e) If a felony conviction or adjudication is disclosed to the jury, the jury can be instructed to consider it only as it bears upon his or her credibility;

(f) He or she has a right not to testify and that, if he or she does not testify, the jury shall be instructed about such right.

Source: L. 96: Entire article amended with relocations, p. 1655, § 1, effective January 1, 1997.

Editor's note: (1) This section was formerly numbered as 19-2-505. Prior to relocation in 1996, the said section 19-2-505 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-107 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The provisions of former section 19-2-802 were relocated to sections 19-2-516 and 19-2-908 when this article was amended with relocations in 1996.

19-2-803. Legislative declaration - admissibility of evidence. (1) It is hereby declared to be the intent of the general assembly that, when evidence is sought to be excluded from the trier of fact in a delinquency proceeding because of the conduct of a peace officer leading to its discovery, such evidence should not be suppressed if otherwise admissible when the proponent of the evidence can show that the conduct in question was taken in a reasonable, good faith belief that it was proper. It is further declared to be the intent of the general assembly to identify the characteristics of admissible evidence and not to address or attempt to prescribe court procedure.

(2) For purposes of this section:

(a) "Good faith mistake" is defined in section 19-1-103 (53).

(b) "Peace officer" has the meaning set forth in section 16-2.5-101, C.R.S.

(c) "Technical violation" is defined in section 19-1-103 (105).

(3) Evidence sought to be excluded in a delinquency proceeding because of the conduct of the peace officer leading to its discovery shall not be suppressed by the court if the court finds that the evidence was seized by the peace officer as a result of a good faith mistake or a technical violation and the evidence is otherwise admissible.

(4) Evidence that is obtained as a result of a confession voluntarily made in a noncustodial setting shall not be suppressed by the court in a delinquency proceeding if it is otherwise admissible.

(5) It shall be prima facie evidence that the conduct of the peace officer was taken in the reasonable good faith belief that it was proper if there is a showing that the evidence was obtained pursuant to and within the scope of a warrant, unless the warrant was obtained through intentional and material misrepresentation.

Source: L. 96: Entire article amended with relocations, p. 1656, § 1, effective January 1, 1997. **L. 2003:** (2)(b) amended, p. 1616, § 17, effective August 6.

Editor's note: (1) This section was formerly numbered as 19-2-209. Prior to relocation in 1996, the said section 19-2-209 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-2-107 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The provisions of former section 19-2-803 were relocated to sections 19-2-516 and 19-2-908 when this article was amended with relocations in 1996.

19-2-804. Procedures at trial. (1) At the adjudicatory trial, which shall be conducted as provided in section 19-1-106, the court shall consider whether the allegations of the petition are supported by evidence beyond a reasonable doubt. Jurisdictional matters of the age and

residence of the juvenile shall be deemed admitted by or on behalf of the juvenile unless specifically denied within a reasonable time prior to the trial.

(2) If the juvenile is found not guilty after an adjudicatory trial, the court shall order the petition dismissed and the juvenile discharged from any detention or restriction previously ordered. The juvenile's parents, guardian, or other legal custodian shall also be discharged from any restriction or other previous temporary order.

(3) If the juvenile is found guilty after an adjudicatory trial, the court may proceed to sentencing or direct that the matter be set for a separate sentencing hearing within forty-five days following completion of the adjudicatory trial.

Source: L. 96: Entire article amended with relocations, p. 1656, § 1, effective January 1, 1997.

Editor's note: (1) This section was formerly numbered as 19-2-504. Prior to relocation in 1996, the said section 19-2-504 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The provisions of the former section 19-2-804 were relocated to sections 19-2-516 and 19-2-601 when this article was amended with relocations in 1996.

19-2-805. Method of jury selection. Examination and selection of jurors shall be as provided by rule 47 of the Colorado rules of civil procedure; except that challenges for cause shall be as provided by rule 24 of the Colorado rules of criminal procedure.

Source: L. 96: Entire article amended with relocations, p. 1657, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-503 and the former section 19-2-805 was relocated to section 19-2-517.

PART 9

POSTADJUDICATORY PROCESS

Law reviews: For article, "The Overincarceration Rate of Minority Youth: A Judicial Response", see 19 Colo. Law. 1819 (1990).

19-2-901. Short title. This part 9 shall be known and may be cited as "Postadjudicatory Process".

Source: L. 96: Entire article amended with relocations, p. 1657, § 1, effective January 1, 1997.

19-2-902. Motion for new trial. (1) All motions for a new trial shall be made pursuant to rule 33 of the Colorado rules of criminal procedure.

(2) If the juvenile was not represented by counsel, the court shall inform the juvenile and his or her parent, guardian, or legal custodian at the conclusion of the trial that they have the right to file a motion for a new trial and that, if such motion is denied, they have the right to appeal.

Source: L. 96: Entire article amended with relocations, p. 1657, § 1, effective January 1, 1997.

Editor's note: (1) This section was formerly numbered as 19-2-601. Prior to relocation in 1996, the said section 19-2-601 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-106 and 19-3-116, as said sections existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-902 was relocated to section 19-1-306 when this article was amended with relocations in 1996.

19-2-903. Appeals. (1) Appellate procedure shall be provided by the Colorado appellate rules. Initials shall appear on the record on appeal in place of the name of the juvenile and other respondents. Appeals shall be advanced on the calendar of the appellate court and shall be decided at the earliest practical time.

(2) The prosecution in a delinquency case may appeal any decision of the trial court as provided in section 16-12-102, C.R.S.

Source: L. 96: Entire article amended with relocations, p. 1657, § 1, effective January 1, 1997.

Editor's note: (1) This section was formerly numbered as 19-2-602. Prior to relocation in 1996, the said section 19-2-602 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-1-112, as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The former section 19-2-903 was relocated to section 19-2-111 when this article was amended with relocations in 1996.

19-2-904. Posttrial bail. A juvenile's application for posttrial bail shall be governed by part 2 of article 4 of title 16, C.R.S., and the provisions concerning bail in section 19-2-509.

Source: L. 96: Entire article amended with relocations, p. 1657, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-603 and the former section 19-2-904 was relocated to section 19-2-110.

19-2-905. Presentence investigation. (1) (a) Prior to the sentencing hearing, the juvenile probation department for the judicial district in which the juvenile is adjudicated shall conduct a presentence investigation unless waived by the court on its own determination or on

recommendation of the prosecution or the juvenile. The presentence investigation shall take into consideration and build on the intake assessment performed by the screening team. The presentence investigation may address, but is not limited to, the following:

(I) The details of the offense;

(II) Statements made by the victims of the offense;

(III) The amount of restitution, if any, that should be imposed on the juvenile or the juvenile's parent, guardian, or legal custodian;

(IV) The juvenile's previous criminal record, if any, if the juvenile has not been adjudicated for an act that constitutes unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.;

(V) Any history of substance abuse by the juvenile;

(VI) The juvenile's education history, including any special education history and any current individualized education program the juvenile may have pursuant to section 22-20-108, C.R.S.;

(VI.5) The juvenile's employment history;

(VII) The juvenile's family;

(VIII) The juvenile's peer relationships;

(IX) The status of juvenile programs and community placements in the juvenile's judicial district of residence;

(X) Other related material;

(XI) Review of placement and commitment criteria adopted pursuant to section 19-2-212, which shall be the criteria for any sentencing recommendations included in the presentence investigation;

(XII) Assessment of the juvenile's needs; and

(XIII) Recommendations and a proposed treatment plan for the juvenile.

(b) If the juvenile has been adjudicated for an act that constitutes unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S., then the report on the presentence investigation shall include the juvenile's previous criminal and juvenile delinquency records, if any.

(2) The probation department shall conduct a presentence investigation in each case unless waived by the court on its own determination or on recommendation of the prosecution or the juvenile. The level of detail included in the presentence investigation may vary, as appropriate, with the services being considered for the juvenile.

(3) (a) The state court administrator may implement a behavioral or mental health disorder screening program to be used by the juvenile court. If the state court administrator chooses to implement a behavioral or mental health disorder screening program, the juvenile court shall use the standardized behavioral or mental health disorder screening developed pursuant to section 16-11.9-102 and conduct the screening in accordance with the procedures established pursuant to said section. The findings and results of any standardized behavioral or mental health disorder screening conducted pursuant to this subsection (3) must be included in the written report to the court prepared and submitted pursuant to this section.

(b) Prior to implementation of a behavioral or mental health disorder screening program pursuant to this subsection (3), if implementation of the program would require an increase in appropriations, the state court administrator shall submit to the joint budget committee a request for funding in the amount necessary to implement the behavioral or mental health disorder

screening program. If implementation of the behavioral or mental health disorder screening program would require an increase in appropriations, implementation of the program is conditional upon approval of the funding request.

(4) Prior to sentencing a juvenile who was adjudicated for an offense that would be a felony or misdemeanor not contained in title 42, C.R.S., if committed by an adult, the court may order the juvenile to participate in an assessment to determine whether the juvenile would be suitable for participation in restorative justice practices that would be a part of the juvenile's sentence; except that the court may not order participation in a restorative justice practice if the juvenile was adjudicated a delinquent for unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., a crime in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1), C.R.S., stalking as defined in section 18-3-602, C.R.S., or violation of a protection order as defined in section 18-6-803.5, C.R.S. If the court orders a suitability assessment, the assessor shall provide the services for a fee of no more than forty dollars based on a sliding scale; however, the fee may be reduced by the court based on a sliding scale consistent with guidelines used to determine eligibility for appointment of counsel. If a juvenile wants to participate in restorative justice practices, the juvenile must make the request to the district attorney or the law enforcement agency administering the program and may not make the request to the victim. If requested by the juvenile or law enforcement agency, a victim-offender conference may only be conducted after the victim is consulted by the district attorney and offered an opportunity to participate or submit a victim impact statement. If a victim elects not to attend, a victim-offender conference may be held with a suitable victim surrogate or victim advocate, and the victim may submit a victim impact statement. If the juvenile participates in a restorative justice practices victim-offender conference, the facilitator shall provide these services for a fee of no more than one hundred twenty-five dollars based on a sliding scale; however, the fee may be waived by the court.

Source: L. 96: Entire article amended with relocations, p. 1658, § 1, effective January 1, 1997. **L. 99:** (1) amended, p. 314, § 1, effective July 1. **L. 2002:** (3) added, p. 578, § 10, effective May 24; (1)(a)(IV) and (1)(b) amended, p. 1187, § 25, effective July 1. **L. 2003:** (1)(a) amended, p.1807, § 3, effective August 6. **L. 2011:** (4) added, (HB 11-1032), ch. 296, p. 1406, § 14, effective August 10. **L. 2013:** (4) amended, (HB 13-1254), ch. 341, p. 1988, § 9, effective August 7. **L. 2017:** (3) amended, (SB 17-242), ch. 263, p. 1311, § 155, effective May 25.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-2-906. Sentencing hearing. (1) (a) After making a finding of guilt, the court shall hear evidence on the question of the proper disposition best serving the interests of the juvenile and the public. Such evidence shall include, but not necessarily be limited to, the social study and other reports as provided in section 19-1-107.

(b) In those cases in which the juvenile is adjudicated a juvenile delinquent for an act that constitutes unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S., the court shall consider the juvenile's previous criminal and juvenile delinquency records, if any, set forth in the presentence investigation report prepared pursuant to section 19-2-905 (1)(b) in determining the proper disposition for the juvenile and the public.

(2) If the court has reason to believe that the juvenile may have an intellectual and developmental disability, the court shall refer the juvenile to the community-centered board in the designated service area where the action is pending for an eligibility determination pursuant to article 10.5 of title 27. If the court has reason to believe that the juvenile may have a behavioral or mental health disorder, the court shall order a mental health hospital placement prescreening to be conducted in any appropriate place.

(2.5) (a) If the court receives a mental health screening or mental health assessment pursuant to section 19-2-710 determining that the juvenile could benefit from mental health services, or the court already has sufficient information to determine that the juvenile could benefit from mental health services, the court may order mental health services as a part of the disposition.

(b) Repealed.

(3) (a) The court may continue the sentencing hearing, either on its own motion or on the motion of any interested party, for a reasonable period to receive reports or other evidence; except that the court shall determine sentencing within forty-five days following completion of the adjudicatory trial.

(b) If the hearing is continued, the court shall make an appropriate order for detention of the juvenile or for his or her release in the custody of his or her parents, guardian, or other responsible person or agency under such conditions of supervision as the court may impose during the continuance.

(c) In scheduling investigations and hearings, the court shall give priority to proceedings concerning a juvenile who is in detention or who has otherwise been removed from his or her home before an order of disposition has been made.

(4) In any case in which the sentence is placement out of the home, except for juveniles committed to the department of human services, the court shall, at the time of placement, set a review within ninety days to determine if continued placement is necessary and is in the best interest of the juvenile and of the community. 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 juvenile is placed and any person who has physical custody of the juvenile and any attorney or guardian ad litem of record.

Source: L. 96: Entire article amended with relocations, p. 1659, § 1, effective January 1, 1997. **L. 99:** (1) amended, p. 315, § 2, effective July 1. **L. 2002:** (2) amended, p. 578, § 11, effective May 24; (1)(b) amended, p. 1188, § 26, effective July 1. **L. 2006:** (2) amended, p. 1401, § 54, effective August 7. **L. 2008:** (2.5) added, p. 348, § 2, effective July 1. **L. 2017:** (2) amended, (SB 17-242), ch. 263, p. 1312, § 156, effective May 25.

Editor's note: (1) This section was formerly numbered as § 19-2-701. Prior to relocation in 1996, the said § 19-2-701 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in § 19-3-109 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Subsection (2.5)(b)(II) provided for the repeal of subsection (2.5)(b), effective July 1, 2011. (See L. 2008, p. 348.)

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-2-906.5. Orders - community placement - reasonable efforts required - reviews. (1) If the court orders legal custody of a juvenile to a county department of social services pursuant to the provisions of this article, said order shall contain specific findings as follows:

(a) Whether placement of the juvenile out of the home would be in the juvenile's and the community's best interests; and

(b) Whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the home, whether it is reasonable that such efforts are not made because an emergency situation exists that requires the immediate removal of the juvenile from the home, or whether such efforts are not required because of circumstances described in section 19-1-115 (7).

(c) (Deleted by amendment, L. 2006, p. 508, § 3, effective April 18, 2006.)

(1.5) For all hearings and reviews concerning the juvenile, the court shall ensure that notice is provided to the juvenile and to the following persons with whom the juvenile is placed:

(a) Foster parents;

(b) Pre-adoptive parents; or

(c) Relatives.

(2) (a) Every six months after the sentencing hearing provided in section 19-2-906, the court shall hold a hearing to review any order of community placement or, if there is no objection by any party to the action, the court may require the department of human services to conduct an administrative review. The entity scheduling the review shall provide notice of the review to the juvenile, the juvenile's parents or guardian, any service providers working with the juvenile, the juvenile's guardian ad litem, if one has been appointed, and all attorneys of record to allow appearances of any of said persons at the review. At the review conducted pursuant to this subsection (2), the reviewing entity shall determine:

(I) Whether continued community placement is in the best interests of the juvenile and the community;

(II) Whether the juvenile's safety is protected in the community placement;

(III) Whether reasonable efforts have been made to return the juvenile to the home or whether the juvenile should be permanently removed from his or her home;

(IV) Whether continued community placement is necessary and appropriate;

(V) Whether there has been compliance with the juvenile's case plan;

(VI) Whether progress has been made toward alleviating or mitigating the causes that necessitated the community placement; and

(VII) Whether there is a date projected by which the juvenile will be returned and safely maintained in his or her home, placed for legal guardianship, or placed in a planned permanent living arrangement.

(b) If the juvenile resides in a placement out of state, the entity conducting the review shall make a determination that the out-of-state placement continues to be appropriate and in the best interests of the juvenile.

(c) (Deleted by amendment, L. 2001, p. 844, § 5, effective June 1, 2001.)

(3) (a) If the juvenile is in the legal custody of a county department of social services and is placed in a community placement for a period of twelve months or longer, the district court, another court of competent jurisdiction, or an administrative body appointed or approved by the court that is not under the supervision of the department shall conduct a permanency hearing within said twelve months and every twelve months thereafter for as long as the juvenile

remains in community placement. At the permanency hearing, the entity conducting the hearing shall make the following determinations:

(I) Whether continued community placement is in the best interests of the juvenile and the community;

(II) Whether the juvenile's safety is protected in the community placement;

(III) Whether reasonable efforts have been made to finalize the juvenile's permanency plan that is in effect at that time;

(IV) Whether continued community placement is necessary and appropriate;

(V) Whether there has been compliance with the juvenile's case plan;

(VI) Whether progress has been made toward alleviating or mitigating the causes that necessitated the community placement;

(VII) Whether there is a date projected by which the juvenile will be returned and safely maintained in his or her home, placed for legal guardianship, or placed in a planned permanent living arrangement; and

(VIII) Whether procedural safeguards to preserve parental rights have been applied in connection with the removal of the juvenile from the home, any change in the juvenile's community placement, or any determination affecting parental visitation.

(b) If the juvenile resides in a placement out of state, the entity conducting the review shall make a determination that the out-of-state placement continues to be appropriate and in the best interests of the juvenile.

(c) (Deleted by amendment, L. 2001, p. 844, § 5, effective June 1, 2001.)

(d) The entity conducting the permanency hearing shall consult with the juvenile, in an age-appropriate manner, concerning the juvenile's permanency plan.

Source: L. 99: Entire section added, p. 909, § 4, effective July 1. **L. 2001:** Entire section amended, p. 844, § 5, effective June 1. **L. 2006:** (1) and (3)(a) amended, p. 508, § 3, effective April 18. **L. 2007:** (1.5) and (3)(d) added, p. 1016, §§ 3, 2, effective May 22.

Cross references: For the legislative declaration contained in the 1999 act enacting this section, see section 1 of chapter 233, Session Laws of Colorado 1999. For the legislative declaration contained in the 2001 act amending this section, see section 1 of chapter 241, Session Laws of Colorado 2001.

19-2-907. Sentencing schedule - options. (1) Upon completion of the sentencing hearing, pursuant to section 19-2-906, the court shall enter a decree of sentence or commitment imposing any of the following sentences or combination of sentences, as appropriate:

(a) Commitment to the department of human services, as provided in section 19-2-909;

(b) Confinement in the county jail or in community corrections, as provided in section 19-2-910;

(c) Detention, as provided in section 19-2-911;

(d) Placement of legal custody of the juvenile with a relative or other suitable person, as provided in section 19-2-912;

(e) Probation, as provided in section 19-2-913;

(f) Commitment to the community accountability program, as provided in section 19-2-914;

(g) Placement of legal custody of the juvenile in the county department of social services or a child placement agency, as provided in section 19-2-915;

(h) Placement of the juvenile in a hospital or other suitable facility for receipt of special care, as provided in section 19-2-916;

(i) Imposition of a fine, as provided in section 19-2-917;

(j) Ordering the juvenile to pay restitution, as provided in section 19-2-918;

(k) Ordering the juvenile to complete an anger management treatment program or any other appropriate treatment program, as provided in section 19-2-918.5;

(l) Participation in an evaluation to determine whether the juvenile would be suitable for restorative justice practices that would be a part of the juvenile's sentence; except that the court may not order participation in restorative justice practices if the juvenile was adjudicated a delinquent for unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S., a crime in which the underlying factual basis involves domestic violence as defined in section 18-6-800.3 (1), C.R.S., stalking as defined in section 18-3-602, C.R.S., or violation of a protection order as defined in section 18-6-803.5, C.R.S. If the court orders participation in restorative justice practices, the facilitator shall provide these services for a fee of no more than one hundred twenty-five dollars based on a sliding scale; however, the fee may be waived by the court. Nothing in this paragraph (l) shall be construed to require a victim to participate in a restorative justice victim-offender conference.

(2) The judge shall sentence any juvenile adjudicated as a special offender as provided in section 19-2-908.

(3) Any sentence imposed on a juvenile pursuant to this section may include the juvenile's parent or guardian, as provided in section 19-2-919.

(4) If, as a condition of or in connection with any sentence imposed pursuant to this section, the court requires a juvenile to attend school, the court shall notify the school district in which the juvenile is enrolled of such requirement.

(5) (a) Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender, if the court finds that placement out of the home is necessary and is in the best interests of the juvenile and the community, the court shall place the juvenile, following the criteria established pursuant to section 19-2-212, in the facility or setting that most appropriately meets the needs of the juvenile, the juvenile's 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 or the evaluation for placement required by section 19-1-115 (8)(e). Any placement recommendation in the evaluation prepared by the county department of social services shall be accorded great weight as the placement that most appropriately meets the needs of the juvenile, the juvenile's family, and the community. Such recommendation prepared by the county department of social services shall set forth specific facts and reasons for the placement recommendation. If the evaluation for placement recommends placement in a facility located in Colorado that can provide appropriate treatment and that will accept the juvenile, then the court shall not place the juvenile in a facility outside this state. If the court places the juvenile in a facility located in Colorado other than one recommended by the evaluation for placement, in a facility located outside this state in accordance with the evaluation for placement, or in a facility in which the average monthly cost exceeds the amount established by the general assembly in the general appropriation bill, it shall make specific findings of fact, including the monthly cost of the facility in which such juvenile is placed, relating to its placement decision. A copy of such

findings shall be sent to the chief justice of the supreme court, who shall, notwithstanding section 24-1-136 (11)(a)(I), report monthly to the joint budget committee and annually to the house and senate committees on health and human services, or any successor committees, on such placements. If the court commits the juvenile to the department of human services, it shall not make a specific placement, nor shall the provisions of this subsection (5) relating to specific findings of fact be applicable.

(b) If the court sentences a juvenile to an out-of-home placement funded by the department of human services or any county, or commits a juvenile to the department of human services, and the receiving agency determines that such placement or commitment does not follow the criteria established pursuant to section 19-2-212, including the placement recommended by the receiving agency, the receiving agency may, after assessing such juvenile's needs, file a petition with the court for reconsideration of the placement or commitment. Any such petition shall be filed not later than thirty days after the placement or commitment. The court shall hear such petition and enter an order thereon not later than thirty days after the filing of the petition, and after notice to all agencies or departments that might be affected by the resolution of the petition, and after all such agencies or departments have had an opportunity to participate in the hearing on the petition. Failure of any such agency or department to appear may be a basis for refusal to accept a subsequent petition by any such agency or department that had an opportunity to appear and be present at the original petition hearing. The notification to the parties required pursuant to this paragraph (b) shall be made by the petitioning party, and proof of such service shall be filed with the court. If the court sentences a juvenile to an out-of-home placement funded by the county department of social services, temporary legal custody of such juvenile shall be placed with the county department of social services, and the placement recommended by such county department shall be accorded great weight as the placement that most appropriately meets the needs of the juvenile, the juvenile's family, and the community. Any deviation from such recommendation shall be supported by specific findings on the record of the case detailing the specific extraordinary circumstances that constitute the reasons for deviations from the placement recommendation of the county department of social services.

(6) On and after July 1, 2000, each juvenile who is adjudicated for commission of an offense that would constitute a sex offense if committed by an adult or who receives for such offense a deferred adjudication shall be required to pay a surcharge to the sex offender surcharge fund, as provided in section 18-21-103, C.R.S.; except that the judge may waive payment of all or any portion of such surcharge as provided in section 18-21-103 (4), C.R.S.

(7) The juvenile court in each judicial district may implement a behavioral or mental health disorder screening program to screen juveniles sentenced pursuant to this part 9. If the juvenile court chooses to implement a behavioral or mental health disorder screening program, the juvenile court shall use the standardized behavioral or mental health disorder screening developed pursuant to section 16-11.9-102 and conduct the screening in accordance with procedures established pursuant to said section.

Source: L. 96: Entire article amended with relocations, p. 1659, § 1, effective January 1, 1997. **L. 97:** (1)(k) added, p. 1570, § 3, effective July 1. **L. 2000:** (6) added, p. 924, § 14, effective July 1. **L. 2001:** (1)(f) amended, p. 718, § 2, effective May 31. **L. 2002:** (7) added, p. 578, § 12, effective May 24. **L. 2007:** (5)(a) amended, p. 2029, § 38, effective June 1. **L. 2008:** (1)(l) added, p. 227, § 5, effective March 31; (5)(a) amended, p. 1893, § 64, effective August 5.

L. 2011: (1)(l) amended, (HB 11-1032), ch. 296, p. 1406, § 15, effective August 10. **L. 2012:** (5)(a) amended, (HB 12-1310), ch. 268, p. 1399, § 19, effective June 7. **L. 2017:** (5)(a) amended, (SB 17-241), ch. 171, p. 624, § 8, effective April 28; (7) amended, (SB 17-242), ch. 263, p. 1312, § 157, effective May 25.

Editor's note: This section was formerly numbered as § 19-2-703 (2).

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-2-908. Sentencing - special offenders. (1) The court shall sentence a juvenile adjudicated as a special offender as follows:

(a) **Mandatory sentence offender.** The court shall place or commit any juvenile adjudicated as a mandatory sentence offender, as described in section 19-2-516 (1), out of the home for not less than one year, unless the court finds that an alternative sentence or a commitment of less than one year out of the home would be more appropriate; except that:

(I) If the person adjudicated as a mandatory sentence offender is eighteen years of age or older on the date of the sentencing hearing, the court may sentence that person to the county jail or to a community correctional facility or program for a period not to exceed two years, if such person has been adjudicated a mandatory sentence offender pursuant to this article for acts committed prior to such person's eighteenth birthday; or

(II) The juvenile or person may be released by the committing judge upon a showing of exemplary behavior.

(b) **Repeat juvenile offender.** The court shall sentence any juvenile adjudicated as a repeat juvenile offender, as described in section 19-2-516 (2), out of the home for not less than one year, unless the court finds that an alternative sentence or a commitment of less than one year out of the home would be more appropriate; except that:

(I) If the person adjudicated as a repeat juvenile offender is eighteen years of age or older on the date of the sentencing hearing, the court may sentence that person to the county jail or to a community correctional facility or program for a period not to exceed two years, if such person has been adjudicated a repeat juvenile offender pursuant to this article for acts committed prior to such person's eighteenth birthday; or

(II) The juvenile or person may be released by the committing judge upon a showing of exemplary behavior.

(c) **Violent juvenile offender.** (I) (A) Upon adjudication as a violent juvenile offender, as described in section 19-2-516 (3), the juvenile shall be placed or committed out of the home for not less than one year; except that this sub-subparagraph (A) shall not apply to a juvenile who is ten years of age or older, but less than twelve years of age, when the court finds that an alternative sentence or a commitment of less than one year out of the home would be more appropriate.

(B) Upon adjudication as a violent juvenile offender, if the person is eighteen years of age or older on the date of the sentencing hearing, the court may sentence such person to the county jail or to a community correctional facility or program for a period not to exceed two years, if such person has been adjudicated a violent juvenile offender pursuant to this article for acts committed prior to such person's eighteenth birthday.

(II) The court may commit a violent juvenile offender to the department of human services. The court may impose a minimum sentence during which the juvenile shall not be released from a residential program without prior written approval of the court that made the commitment.

(d) **Aggravated juvenile offender.** The court shall sentence an aggravated juvenile offender as provided in section 19-2-601.

Source: L. 96: Entire article amended with relocations, p. 1661, § 1, effective January 1, 1997. **L. 99:** (1)(b) amended, p. 1372, § 4, effective July 1.

Editor's note: This section was formerly numbered as 19-2-801 (2), 19-2-802 (2), and 19-2-803 (2) and (3). Prior to relocation in 1996, these sections were contained in a title that was repealed and reenacted in 1987. Provisions of these sections, as they existed in 1987, were contained in several sections in 1986, the year prior to the repeal and reenactment of this title. For a detailed comparison, see the "Children's Code (1987)" table located in the back of the index.

19-2-909. Sentencing - commitment to the department of human services. (1) (a) Except as otherwise provided in sections 19-2-601 and 19-2-921 for an aggravated juvenile offender, the court may commit a juvenile to the department of human services for a determinate period of up to two years if the juvenile is adjudicated for an offense that would constitute a felony or a misdemeanor if committed by an adult; except that, if the juvenile is younger than twelve years of age and is not adjudicated an aggravated juvenile offender, the court may commit the juvenile to the department of human services only if the juvenile is adjudicated for an offense that would constitute a class 1, class 2, or class 3 felony if committed by an adult.

(b) Any commitment to the department of human services pursuant to section 19-2-601 or paragraph (a) of this subsection (1) shall be followed by a mandatory period of parole of six months, unless the period of parole is extended by the juvenile parole board pursuant to section 19-2-1002 (5).

(c) For purposes of this section:

(I) "Determinate period" is defined in section 19-1-103 (40.5).

(II) "Period of parole" means the period between the parole period start date and the parole period end date as determined by the juvenile parole board. The period of parole applies to both mandatory six-month parole and extended parole pursuant to section 19-2-1002 (5). The period of parole continues unless the juvenile is deemed to be on escape status, parole has been suspended pursuant to section 19-2-1002, or the juvenile returns to commitment status pursuant to section 19-2-1004. In such circumstances, the period of parole stops until the juvenile has returned to parole status.

(2) Any juvenile committed to the department of human services may be placed in the Lookout Mountain school, the Mount View school, or any other training school or facility, or any other disposition may be made that the department may determine as provided by law.

(3) (Deleted by amendment, L. 2008, p. 1106, § 12, effective July 1, 2008.)

Source: L. 96: Entire article amended with relocations, p. 1662, § 1, effective January 1, 1997. **L. 97:** (1)(a) amended, p. 998, § 1, effective May 27. **L. 2001:** (1)(b) amended and (3)

added, p. 583, § 1, effective July 1. **L. 2003:** IP(1)(b) amended, p. 1518, § 1, effective May 1. **L. 2008:** (1)(b), (1)(c), and (3) amended, p. 1106, § 12, effective July 1.

19-2-910. Sentencing - persons eighteen years of age or older - county jail - community corrections. (1) Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender, the court may commit a person eighteen years of age or older but less than twenty-one years of age to the department of human services if he or she is adjudicated a juvenile delinquent for an act committed prior to his or her eighteenth birthday or upon revocation of probation.

(2) Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender, the court may sentence a person who is eighteen years of age or older on the date of a sentencing hearing to the county jail for a period not to exceed six months or to a community correctional facility or program for a period not to exceed one year, which may be served consecutively or in intervals, if he or she is adjudicated a juvenile delinquent for an act committed prior to his or her eighteenth birthday.

Source: L. 96: Entire article amended with relocations, p. 1663, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-703 (1)(b) and (1)(c). Prior to relocation in 1996, the said 19-2-703 (1)(b) and (1)(c) were contained in a title that was repealed and reenacted in 1987. Provisions of those sections, as they existed in 1987, are similar to those contained in 19-3-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-911. Sentencing - alternative services - detention. (1) Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender and except as provided in subsection (2) of this section, the court may sentence the juvenile to alternative services funded through section 19-2-212 or other alternative services programs. If a juvenile who is thirteen years of age or older fails to make satisfactory progress in the alternative services to which he or she is sentenced or if the court finds that a sentence to alternative services would be contrary to the community interest, the court may sentence any juvenile adjudicated for an offense that would constitute a class 3, class 4, class 5, or class 6 felony or a misdemeanor weapons charge if committed by an adult to detention for a period not to exceed forty-five days. Release for purposes of work, therapy, education, or other good cause may be granted by the court. The court may not sentence to detention any juvenile adjudicated for an offense that would constitute a class 1 or class 2 felony if committed by an adult.

(2) In the case of a juvenile who has been adjudicated a juvenile delinquent for the commission of one of the offenses described in section 19-2-508 (3)(a)(III), the court shall sentence the juvenile to a minimum mandatory period of detention of not fewer than five days.

(3) A juvenile who is less than thirteen years of age may not be sentenced to detention unless he or she has been adjudicated for a felony or weapons charge pursuant to section 18-12-102, 18-12-105, 18-12-106, or 18-12-108.5. As an alternative, the juvenile probation department may conduct a presentence investigation pursuant to section 19-2-905. The investigation may result in the juvenile:

(a) Remaining in the custody of a parent, guardian, or legal custodian; or

(b) Being placed in the temporary legal custody of kin, for purposes of a kinship foster care home or noncertified kinship care placement, as defined in section 19-1-103 (71.3), or other suitable person under such conditions as the court may impose; or

(c) Being placed in a shelter facility; or

(d) Being referred to a local county department of human or social services for assessment for placement.

Source: L. 96: Entire article amended with relocations, p. 1663, § 1, effective January 1, 1997. **L. 2001:** (2) amended, p. 137, § 1, effective July 1. **L. 2017:** (1) amended and (3) added, (HB 17-1207), ch. 269, p. 1484, § 5, effective May 31.

Editor's note: This section was formerly numbered as 19-2-703 (1)(e)(I) and (1)(h)(I). Prior to relocation in 1996, the said 19-2-703 (1)(e)(I) and (1)(h)(I) were contained in a title that was repealed and reenacted in 1987. Provisions of those sections, as they existed in 1987, are similar to those contained in 19-3-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-912. Sentencing - placement with relative. Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender, the court may place the juvenile in the legal custody of a relative or other suitable person under such conditions as the court may impose, which may include placing the juvenile on probation, as provided in section 19-2-913, or under protective supervision.

Source: L. 96: Entire article amended with relocations, p. 1664, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-703 (1)(g). Prior to relocation in 1996, the said 19-2-703 (1)(g) was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-913. Sentencing - probation - supervised work program. (1) Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender:

(a) The court may place the juvenile on probation or under protective supervision in the legal custody of one or both parents or the guardian under such conditions as the court may impose;

(b) The court may place the juvenile on probation and place the juvenile in the juvenile intensive supervision program created pursuant to section 19-2-306;

(c) The court may require as a condition of probation that the juvenile report for assignment to a supervised work program, place such juvenile in a child care facility that shall provide a supervised work program, or require that the custodial parent or guardian of the juvenile assist the juvenile in participating in a supervised work program, if:

(I) The juvenile is not deprived of the schooling that is appropriate to his or her age, needs, and specific rehabilitative goals;

(II) The supervised work program is of a constructive nature designed to promote rehabilitation, is appropriate to the age level and physical ability of the juvenile, and is combined with counseling from a juvenile probation officer or other guidance personnel;

(III) The supervised work program assignment is made for a period of time consistent with the juvenile's best interest, but not exceeding one hundred eighty days.

Source: L. 96: Entire article amended with relocations, p. 1664, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-703 (1)(f), (1)(f.5), and (1)(i). Prior to relocation in 1996, the said 19-2-703 (1)(f), (1)(f.5), and (1)(i) were contained in a title that was repealed and reenacted in 1987. Provisions of those sections, as they existed in 1987, are similar to those contained in 19-3-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-914. Sentencing - community accountability program. Except as otherwise provided in section 19-2-601, the court may sentence the juvenile to participate in the community accountability program as set forth in section 19-2-309.5. Such a sentence is a condition of probation for higher-risk juveniles who would have otherwise been sentenced to detention or out-of-home placement or committed to the department of human services. A sentence pursuant to this section is conditioned on the availability of space in the community accountability program and on a determination by the division of youth services that the juvenile's participation in the program is appropriate. In the event that the division of youth services determines the program is at maximum capacity or that a juvenile's participation is not appropriate, the juvenile must be ordered to return to the sentencing court for another sentencing hearing.

Source: L. 96: Entire article amended with relocations, p. 1664, § 1, effective January 1, 1997. **L. 2001:** Entire section R&RE, p. 718, § 3, effective May 31. **L. 2017:** Entire section amended, (HB 17-1329), ch. 381, p. 1976, § 38, effective June 6.

Editor's note: This section was formerly numbered as 19-2-703 (1)(e)(II). Prior to relocation in 1996, the said 19-2-703 (1)(e)(II) was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 48 of chapter 283, Session Laws of Colorado 1996.

19-2-915. Sentencing - legal custody - social services. Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender, the court, following the criteria for out-of-

home placement established pursuant to section 19-2-212, may place legal custody of the juvenile in the county department of social services.

Source: L. 96: Entire article amended with relocations, p. 1665, § 1, effective January 1, 1997. **L. 2001:** Entire section amended, p. 845, § 6, effective June 1.

Editor's note: This section was formerly numbered as 19-2-703 (1)(j). Prior to relocation in 1996, the said 19-2-703 (1)(j) was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2001 act amending this section, see section 1 of chapter 241, Session Laws of Colorado 2001.

19-2-916. Sentencing - placement based on special needs of the juvenile. (1) Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender, the court may order that the juvenile be examined or treated by a physician, surgeon, psychiatrist, or psychologist or that he or she receive other special care and may place the juvenile in a hospital or other suitable facility for such purposes; except that no juvenile may be placed in a mental health facility operated by the department of human services until the juvenile has received a mental health hospital placement prescreening resulting in a recommendation that the juvenile be placed in a facility for an evaluation pursuant to section 27-65-105 or 27-65-106, or a hearing has been held by the court after notice to all parties, including the department of human services. An order for a seventy-two-hour treatment and evaluation shall not be entered unless a hearing is held and evidence indicates that the prescreening report is inadequate, incomplete, or incorrect and that competent professional evidence is presented by a mental health professional that indicates that the juvenile has a behavioral or mental health disorder. The court shall make, prior to the hearing, such orders regarding temporary custody of the juvenile as are deemed appropriate.

(2) Placement in any mental health facility operated by the department of human services shall continue for such time as ordered by the court or until the professional person in charge of the juvenile's treatment concludes that the treatment or placement is no longer appropriate. If placement or treatment is no longer deemed appropriate, the court shall be notified and a hearing held for further disposition of the juvenile within five days excluding Saturdays, Sundays, and legal holidays. The court shall make, prior to the hearing, such orders regarding temporary custody of the juvenile as are deemed appropriate.

Source: L. 96: Entire article amended with relocations, p. 1665, § 1, effective January 1, 1997. **L. 2002:** (1) amended, p. 579, § 13, effective May 24. **L. 2010:** (1) amended, (SB 10-175), ch. 188, p. 789, § 39, effective April 29. **L. 2017:** (1) amended, (SB 17-242), ch. 263, p. 1312, § 158, effective May 25.

Editor's note: This section was formerly numbered as 19-2-703 (1)(k). Prior to relocation in 1996, the said 19-2-703 (1)(k) was contained in a title that was repealed and

reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-2-917. Sentencing - fines. Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender, the court may, as the sole punishment or in addition to any other sentence or commitment specified in section 19-2-907, impose on the juvenile a fine of not more than three hundred dollars.

Source: L. 96: Entire article amended with relocations, p. 1665, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-703 (1)(d). Prior to relocation in 1996, the said 19-2-703 (1)(d) was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-918. Sentencing - restitution by juvenile. (1) If the court finds that a juvenile who receives a deferral of adjudication or who is adjudicated a juvenile delinquent has damaged the personal or real property of a victim, that the victim's personal property has been lost, or that personal injury has been caused to a victim as a result of the juvenile's delinquent act, the court, in addition to any other sentence or commitment that it may impose on the juvenile pursuant to section 19-2-907, shall enter a sentencing order requiring the juvenile to make restitution as required by article 18.5 of title 16 and part 6 of article 1.3 of title 18, C.R.S.

(2) Restitution shall be ordered to be paid in a reasonable manner, as determined by the court and in accordance with article 18.5 of title 16 and part 6 of article 1.3 of title 18, C.R.S.

Source: L. 96: Entire article amended with relocations, p. 1666, § 1, effective January 1, 1997; entire section amended, p. 1782, § 10, effective January 1, 1997. **L. 2000:** Entire section amended, p. 1041, § 2, effective September 1. **L. 2006:** Entire section amended, p. 1493, § 23, effective June 1.

Editor's note: This section was formerly numbered as 19-2-703 (4)(a) and (4)(b). Prior to relocation in 1996, the said 19-2-703 (4)(a) and (4)(b) were contained in a title that was repealed and reenacted in 1987. Provisions of those sections, as they existed in 1987, are similar to those contained in 19-3-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-918.5. Sentencing - animal cruelty - anger management treatment. (1) In addition to any sentence imposed pursuant to this section, any juvenile who has been adjudicated a juvenile delinquent for the commission of cruelty to animals, as described in section 18-9-202

(1)(a), C.R.S., in which the underlining factual basis of which has been found by the court to include the knowing or intentional torture or torment of an animal which needlessly injures, mutilates, or kills an animal, may be ordered to complete an anger management treatment program or any other treatment program deemed appropriate by the court.

(2) The court may order an evaluation to be conducted prior to disposition if an evaluation would assist the court in determining an appropriate disposition. The parents or legal guardian of the juvenile ordered to undergo an evaluation shall be required to pay the cost of the evaluation. If the evaluation results in a recommendation of treatment and if the court so finds, the juvenile shall be ordered to complete an anger management treatment program or any other treatment program deemed appropriate by the court.

(3) The disposition for any juvenile who has been adjudicated a juvenile delinquent a second or subsequent time, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, as described in section 18-9-202 (1)(a), C.R.S., shall include the completion of an anger management treatment program or any other treatment program deemed appropriate by the court.

(4) Nothing in this section shall preclude the court from ordering treatment in any appropriate case.

(5) This section does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 60 of title 12, C.R.S., the treatment of animals involved in research if such research facility is operating under rules and regulations set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

Source: L. 97: Entire section added, p. 1570, § 4, effective July 1.

19-2-919. Sentencing - requirements imposed on parents. (1) In addition to any of the provisions specified in sections 19-2-907 to 19-2-918, any sentence imposed pursuant to section 19-2-907 may require:

(a) The juvenile or both the juvenile and his or her parent or guardian to perform volunteer service in the community designed to contribute to the rehabilitation of the juvenile or to the ability of the parent or guardian to provide proper parental care and supervision of the juvenile;

(b) The parent or guardian of a juvenile or both the parent or guardian and the juvenile to attend the parental responsibility training program described in section 19-2-304. The court may make reasonable orders requiring proof of completion of such training course within a certain time period and may provide that any violation of such orders shall subject the parent or guardian to the contempt sanctions of the court.

(c) The juvenile or both the juvenile and his or her custodial parent or parent with parental responsibilities or guardian to perform services for the victim, as provided in section 19-2-308, designed to contribute to the rehabilitation of the juvenile, if the victim consents in writing to such services. However, the value of the services required to be rendered by the

parent, guardian, legal custodian of, or parent with parental responsibilities with respect to the juvenile under this paragraph (c) shall not exceed twenty-five thousand dollars for any one delinquent act.

(2) In addition to any sentence imposed pursuant to section 19-2-907 or subsection (1) of this section and regardless of whether the court orders the juvenile to pay restitution pursuant to section 19-2-918, the court may order:

(a) The guardian or legal custodian of the juvenile or the parent allocated parental responsibilities with respect to the juvenile to make restitution to one or more victims pursuant to the terms and conditions set forth in this subsection (2); except that the liability of the guardian or legal custodian of the juvenile or parent allocated parental responsibilities with respect to the juvenile under this subsection (2) shall not exceed twenty-five thousand dollars for any one delinquent act. If the court finds, after a hearing, that the guardian or legal custodian of the juvenile or the parent allocated parental responsibilities with respect to the juvenile has made diligent, good faith efforts to prevent or discourage the juvenile from engaging in delinquent activity, the court shall absolve the guardian or legal custodian or parent allocated parental responsibilities with respect to the juvenile of liability for restitution under this subsection (2).

(b) The juvenile's parent, so long as the parent is a party to the delinquency proceedings, to make restitution to one or more victims pursuant to the terms and conditions set forth in this paragraph (b); except that the liability of the juvenile's parent under this paragraph (b) shall not exceed the amount of twenty-five thousand dollars for any one delinquent act. Notwithstanding the provisions of this subsection (2), the court may not enter an order of restitution against a juvenile's parent unless the court, prior to entering the order of restitution, holds a restitution hearing at which the juvenile's parent is present. If the court finds, after the hearing, that the juvenile's parent has made diligent, good faith efforts to prevent or discourage the juvenile from engaging in delinquent activity, the court shall absolve the parent of liability for restitution under this paragraph (b). For purposes of this paragraph (b), "parent" is defined in section 19-1-103 (82)(a).

(3) Any order of restitution entered pursuant to this section may be collected pursuant to the provisions of article 18.5 of title 16, C.R.S.

Source: L. 96: Entire article amended with relocations, p. 1666, § 1, effective January 1, 1997; (2) amended, p. 1782, § 11, effective January 1, 1997. **L. 98:** (1)(c) and (2)(a) amended, p. 1408, § 69, effective February 1, 1999. **L. 2000:** (1)(c) and (2) amended and (3) added, p. 1042, § 3, effective September 1.

Editor's note: This section was formerly numbered as 19-2-703 (1)(l) and (4)(c). Prior to relocation in 1996, the said 19-2-703 (1)(l) and (4)(c) were contained in a title that was repealed and reenacted in 1987. Provisions of those sections, as they existed in 1987, are similar to those contained in 19-3-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-920. Out-of-home placement - runaways - duty to notify. When a juvenile who is sentenced to detention, committed to the department of human services, or otherwise sentenced or placed in out-of-home placement pursuant to section 19-2-907 runs away from the facility or home in which the juvenile is placed, the person in charge of the facility or the foster

parent shall notify the court and the local law enforcement agency as soon as possible after discovering that the juvenile has run away from the facility or home.

Source: L. 96: Entire article amended with relocations, p. 1667, § 1, effective January 1, 1997.

19-2-921. Commitment to department of human services. (1) (a) When a juvenile is committed to the department of human services, the court shall transmit, with the commitment order, a copy of the petition, the order of adjudication, copies of the social study, any clinical or educational reports, and other information pertinent to the care and treatment of the juvenile.

(b) The department of human services shall provide the court with any information concerning a juvenile committed to its care that the court at any time may require.

(1.5) (a) When a court commits a juvenile to the state department of human services pursuant to the provisions of this article, the court shall make the following specific determinations:

(I) Whether placement of the juvenile outside the home would be in the juvenile's and community's best interest; and

(II) Whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the home; whether it is reasonable that such efforts are not made because an emergency situation exists that requires the immediate removal of the juvenile from the home; or whether such efforts are not required because of circumstances described in section 19-1-115 (7).

(b) If a juvenile is making a transition from the legal custody of a county department of social services to commitment with the state department of human services, the court shall conduct a permanency hearing in combination with the sentencing hearing. The court shall consider multidisciplinary recommendations for sentencing and permanency planning. In conducting such a permanency hearing, the court shall make determinations pursuant to section 19-2-906.5 (3)(a).

(2) (a) The department of human services shall designate receiving centers for juvenile delinquents committed to the department.

(b) If a change is made in the designation of a receiving center by the department, it shall so notify the juvenile courts at least thirty days prior to the date that the change takes effect.

(3) (a) As provided in section 19-2-907, commitment of a juvenile to the department of human services shall be for a determinate period.

(b) (I) The juvenile court may commit any juvenile adjudicated as an aggravated juvenile offender for an offense other than an offense that would constitute a class 1 or class 2 felony if committed by an adult to the department of human services for a determinate period of up to five years.

(II) The juvenile court shall commit any juvenile adjudicated as an aggravated juvenile offender for an offense that would constitute a class 2 felony if committed by an adult to the department of human services for a determinate period of at least three but not more than five years.

(III) The juvenile court shall commit any juvenile adjudicated as an aggravated juvenile offender for an offense that would constitute a class 1 felony if committed by an adult to the

department of human services for a determinate period of at least three but not more than seven years.

(c) The juvenile court may commit any juvenile who is not adjudicated an aggravated juvenile offender but is adjudicated for an offense that would constitute a felony or a misdemeanor to the department of human services, and the determinate period of commitment shall not exceed two years; except that, if the juvenile is ten or eleven years of age and is not adjudicated an aggravated juvenile offender, the juvenile may be committed to the department of human services only if the juvenile is adjudicated for an offense that would constitute a class 1, class 2, or class 3 felony if committed by an adult.

(3.5) For all hearings and reviews concerning a juvenile who is committed to the department of human services, the entity conducting the hearing or review shall ensure that notice is provided to the juvenile and to the following persons with whom the juvenile is placed:

(a) Foster parents;

(b) Pre-adoptive parents; or

(c) Relatives.

(4) The department of human services may petition the committing court to extend the commitment for an additional period not to exceed two years. The petition shall set forth the reasons why it would be in the best interest of the juvenile or the public to extend the commitment. Upon filing the petition, the court shall set a hearing to determine whether the petition should be granted or denied and shall notify all interested parties.

(5) (a) When a juvenile is placed in a community placement by the department of human services following commitment pursuant to section 19-2-601 or 19-2-907, an administrative review shall be conducted every six months after said placement for as long as the juvenile remains in a community placement under the department of human services.

(b) When a juvenile is placed in a community placement for a period of twelve months or longer, a court of competent jurisdiction or an administrative body appointed or approved by the court that is not under the supervision of the department shall conduct a permanency hearing pursuant to the federal "Social Security Act", 42 U.S.C. sec. 675 (5)(C) no later than the twelfth month of the community placement and at least every twelve months thereafter while the juvenile remains in a community placement. At the permanency hearing, the entity conducting the hearing shall make the following determinations:

(I) Whether continued community placement is in the best interests of the juvenile and the community;

(II) Whether the juvenile's safety is protected in the community placement;

(III) Whether reasonable efforts have been made to finalize the juvenile's permanency plan that is in effect at that time;

(IV) Whether continued community placement is necessary and appropriate;

(V) Whether there has been compliance with the juvenile's case plan;

(VI) Whether progress has been made toward alleviating or mitigating the causes that necessitated the community placement;

(VII) Whether there is a date projected by which the juvenile will be returned and safely maintained in his or her home, placed for legal guardianship, or placed in a planned and permanent living arrangement; and

(VIII) Whether procedural safeguards to preserve parental rights have been applied in connection with the removal of the juvenile from the home, any change in the juvenile's community placement, or any determination affecting parental visitation.

(c) The entity conducting the permanency hearing shall consult with the juvenile, in an age-appropriate manner, concerning the juvenile's permanency plan.

(6) Parole supervision of juveniles committed to the department of human services under section 19-2-601 or 19-2-907, as determined by the juvenile parole board, shall not exceed six months, except as otherwise provided by statute.

(7) When a juvenile is released or released to parole supervision by the department of human services or escapes from said department, the department shall notify the committing court, the district attorney, the Colorado bureau of investigation, and the initiating law enforcement agency. If the juvenile is on parole status, the division of youth services shall notify the juvenile parole board, pursuant to section 19-2-1002 (7)(b)(II), of any discharge as a matter of law, any placement change that may impact public safety or victim safety as determined by the division of youth services, and any escape and recapture that occurs during the period of parole.

(7.5) If the terms and conditions of a juvenile's parole include the condition that the juvenile attend school, the department of human services shall notify the school district in which the juvenile will be enrolled of this condition.

(8) When a juvenile is released by the department of human services to parole supervision, the payment of any remaining restitution shall be a condition of parole.

(9) At least ninety days prior to expiration of commitment to the department of human services, notification shall be given to the responsible person who had custody of the juvenile immediately prior to the commitment. Reasonable efforts shall be made to return custody of the juvenile to the family or responsible person who had custody of the juvenile immediately prior to the commitment, unless a court of competent jurisdiction orders that custody of the juvenile shall be with a different person.

(10) When custody of a juvenile who will be under the age of eighteen years at the time of expiration of commitment cannot be determined or none of the resources described in subsection (9) of this section exist, the division of youth services shall make a referral to the last-known county of residence of the responsible person having custody of the juvenile immediately prior to the commitment. The referral to the county must be made by the division of youth services at least ninety days prior to the expiration of the juvenile's commitment. The county department of human services or county department of social services shall conduct an assessment of the child protection needs of the juvenile and, pursuant to rules adopted by the state board, provide services in the best interest of the juvenile. The division of youth services shall work in collaboration with the county department conducting the assessment and shall provide parole supervision services as described in section 19-2-1003.

(11) If a juvenile who is committed to the department of human services escapes from a facility operated by the department or a facility with which the department contracts, the department shall not count the time the juvenile is on escape status toward completion of the juvenile's commitment.

Source: L. 96: Entire article amended with relocations, p. 1667, § 1, effective January 1, 1997. **L. 97:** (3)(c) amended, p. 998, § 2, effective May 27; (3)(b) amended, p. 1031, § 68,

effective August 6. **L. 99:** (3)(b) amended, p. 34, § 2, effective July 1. **L. 2001:** (6) amended, p. 584, § 2, effective July 1. **L. 2003:** (6) amended, p. 1518, § 2, effective May 1. **L. 2006:** (1.5) added and (5) amended, p. 509, § 4, effective April 18. **L. 2007:** (3.5) and (5)(c) added, p. 1017, §§ 5, 4, effective May 22. **L. 2008:** (7) and (9) amended and (7.5) and (10) added, p. 1107, § 13, effective July 1. **L. 2010:** (11) added, (HB 10-1065), ch. 27, p. 102, § 1, effective March 18. **L. 2017:** (7) and (10) amended, (HB 17-1329), ch. 381, p. 1976, § 39, effective June 6.

Editor's note: This section was formerly numbered as 19-2-704. Prior to relocation in 1996, the said section 19-2-704 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-114 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-922. Juveniles committed to department of human services - evaluation and placement. (1) (a) Each juvenile committed to the custody of the department of human services shall be examined and evaluated by the department prior to institutional placement or other disposition.

(b) Such evaluation and examination shall be conducted at a detention facility and shall be completed within thirty days. The department of human services may, by rule, determine the extent and scope of the evaluation and examination. To the extent possible and relevant, the evidence, reports, examination, studies, and other materials utilized in a sentencing hearing conducted under section 19-2-906 shall also be utilized in evaluation and examination conducted under this section. The provisions of this paragraph (b) shall not apply to examination and evaluation conducted pursuant to section 19-2-923 (1).

(c) The examination and evaluation shall include the use of an objective risk assessment that is based upon researched factors that correlate to a risk to the community. The results of the objective risk assessment shall be used to help identify treatment services for the juvenile during his or her commitment and the period of parole supervision.

(2) Each juvenile shall then be placed by the department in the appropriate state institution or facility or placed as provided in section 19-2-409 or 19-2-410, as indicated by the examination and evaluation.

(3) (a) When the department of human services determines that a juvenile requires placement in a state facility for children with intellectual and developmental disabilities, as defined in article 10.5 of title 27, it shall initiate proceedings pursuant to article 10.5 of title 27 and notify the court.

(b) (I) When the department of human services determines that a juvenile may require treatment for a behavioral or mental health disorder, it shall conduct or have a mental health professional conduct a mental health hospital placement prescreening on the juvenile.

(II) If the mental health hospital placement prescreening report recommends that the juvenile be evaluated, the juvenile may be transferred to a mental health facility operated by the department of human services for such evaluation.

(III) If the evaluation report states that the juvenile has a mental health disorder, as provided in sections 27-65-105 and 27-65-106, the department of human services shall initiate proceedings pursuant to article 65 of title 27 and notify the court.

Source: L. 96: Entire article amended with relocations, p. 1669, § 1, effective January 1, 1997. **L. 2002:** (3)(b)(I) and (3)(b)(II) amended, p. 579, § 14, effective May 24. **L. 2006:** (3)(b)(III) amended, p. 1401, § 55, effective August 7. **L. 2008:** (1)(c) added, p. 1098, § 2, effective July 1. **L. 2009:** (1)(b) amended, (SB 09-044), ch. 57, p. 210, § 18, effective March 25. **L. 2010:** (3)(b)(III) amended, (SB 10-175), ch. 188, p. 790, § 40, effective April 29. **L. 2017:** (3) amended, (SB 17-242), ch. 263, p. 1313, § 159, effective May 25.

Editor's note: This section was formerly numbered as 19-2-1103. Prior to relocation in 1996, the said section 19-2-1103 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-103 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-2-923. Juveniles committed to department of human services - transfers. (1) The executive director of the department of human services may transfer any juvenile committed under section 19-2-601 or 19-2-907 among the facilities established under sections 19-2-403 and 19-2-406 to 19-2-408; except that, before any juvenile is transferred, he or she shall be examined and evaluated, and such evaluation shall be reviewed by the said executive director before he or she approves the transfer.

(2) When the executive director of the department of human services finds that the welfare and protection of a juvenile or of others requires the juvenile's immediate transfer to another facility, he or she shall make the transfer prior to having the juvenile examined and evaluated.

(3) (a) Any juvenile committed to the department of human services may be transferred temporarily to any state treatment facility for persons with behavioral or mental health disorders or intellectual and developmental disabilities for purposes of diagnosis, evaluation, and emergency treatment; except that a juvenile may not be transferred to a mental health facility until the juvenile has received a mental health hospital placement prescreening resulting in a recommendation that the juvenile be placed in a facility for evaluation pursuant to section 27-65-105 or 27-65-106. A juvenile committed to the department as an aggravated juvenile offender or violent juvenile offender shall not be transferred until the treatment facility has a secure setting in which to house the juvenile. The period of temporary transfer pursuant to this subsection (3)(a) must not exceed sixty days.

(b) When a juvenile has remained in the treatment facility for sixty days, the treatment facility shall determine whether the juvenile requires further treatment or services, and, if so, the treatment facility shall confer with the sending facility concerning continued placement. If both facilities agree that the juvenile should remain in the treatment facility, the executive director of the department of human services shall be notified of the recommendation, and he or she may authorize an additional sixty-day placement. When an additional placement is authorized, the court shall be notified of the transferred placement.

(c) During each subsequent sixty-day placement period, the juvenile shall be reevaluated by both the treatment facility and the sending facility to determine the need for continued transferred placement. The juvenile shall remain in transferred placement until the facilities

agree that such placement is no longer appropriate. At that time the juvenile shall be transferred back to the sending facility or to any other facility that the department determines to be appropriate. The period of placement shall not exceed the length of the original commitment to the department of human services unless authorized by the court after notice and a hearing.

(d) When a juvenile is in continued transferred placement and the treatment facility and the sending facility agree that the need for placement of the juvenile is likely to continue beyond the original period of commitment to the department of human services, the treatment facility shall initiate proceedings with the court having jurisdiction over the juvenile pursuant to article 65 of title 27 if the juvenile has a mental health disorder or pursuant to article 10.5 of title 27 if the juvenile has intellectual and developmental disabilities.

Source: L. 96: Entire article amended with relocations, p. 1670, § 1, effective January 1, 1997. **L. 2002:** (3)(a) amended, p. 579, § 15, effective May 24. **L. 2006:** (3)(a) and (3)(d) amended, p. 1401, § 56, effective August 7. **L. 2010:** (3)(a) and (3)(d) amended, (SB 10-175), ch. 188, p. 790, § 41, effective April 29. **L. 2017:** (3)(a) and (3)(d) amended, (SB 17-242), ch. 263, p. 1313, § 160, effective May 25.

Editor's note: This section was formerly numbered as 19-2-1104. Prior to relocation in 1996, the said section 19-2-1104 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-8-104 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-2-924. Juveniles committed to department of human services - emergency release. The department of human services and the judicial department shall establish guidelines for the emergency release of juveniles committed to the custody of the department of human services during periods of crisis overcrowding of facilities operated by such department. Such guidelines shall take into consideration the best interests of juveniles, the capacity of individual facilities, and the safety of the public.

Source: L. 96: Entire article amended with relocations, p. 1671, § 1, effective January 1, 1997.

Editor's note: This section was formerly numbered as 19-2-1607.

19-2-924.5. Juveniles committed to department of human services - genetic testing - repeal. (Repealed)

Source: L. 2000: Entire section added, p. 924, § 17, effective July 1. **L. 2002:** Entire section amended, p. 1154, § 11, effective July 1; (1)(a) amended, p. 1188, § 27, effective July 1. **L. 2006:** (5) added by revision, pp. 1690, 1693, §§ 11, 17.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2007. (See L. 2006, pp. 1690, 1693.)

19-2-924.7. Juveniles committed to the department of human services - prohibition against the use of restraints on pregnant juveniles. (1) The staff of the department of human services, in restraining a female juvenile committed to the department of human services or detained in a juvenile facility, shall use the least restrictive restraints necessary to ensure safety if the staff have actual knowledge or a reasonable belief that the juvenile is pregnant. The requirement that staff use the least restrictive restraints necessary to ensure safety shall continue during postpartum recovery and transport to or from a juvenile facility.

(2) (a) (I) Staff of the department of human services or medical facility staff shall not use restraints of any kind on a pregnant juvenile during labor and delivery of the child; except that staff may use restraints if:

(A) The medical staff determine that restraints are medically necessary for safe childbirth;

(B) The staff of the department of human services or medical staff determine that the juvenile presents an immediate and serious risk of harm to herself, to other patients, or to medical staff; or

(C) The staff of the department of human services determine that the juvenile poses a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (a) to the contrary, under no circumstances shall staff use leg shackles or waist restraints on a juvenile during labor and delivery of the child, postpartum recovery while in a medical facility, or transport to or from a medical facility for childbirth.

(b) The staff of the department of human services or medical facility authorizing the use of restraints on a pregnant juvenile during labor or delivery of the child shall make a written record of the use of restraints, which record shall include, at a minimum, the type of restraint used, the circumstances that necessitated the use of the restraint, and the length of time the restraint was used. The department of human services staff shall retain the record for a minimum of five years and shall make the record available for public inspection with individually identifying information redacted from the record unless the juvenile who is the subject of the record gives prior written consent for the public release of the record. The written record of the use of restraint shall not constitute a medical record under state or federal law.

(3) Upon return to a department of human services facility after childbirth, the juvenile shall be entitled to have a member of the department of human services' medical staff present during any strip search.

(4) When a juvenile's pregnancy is determined, the staff of the department of human services shall inform a pregnant juvenile committed to the department of human services in writing in a language and in a manner understandable to the juvenile of the provisions of this section concerning the use of restraints and the presence of medical staff during a strip search.

(5) The executive director of the department of human services shall ensure that the staff of the department of human services receive adequate training concerning the provisions of this section.

Source: L. 2010: Entire section added, (SB 10-193), ch. 312, p. 1466, § 3, effective January 1, 2011.

19-2-925. Probation - terms - release - revocation. (1) (a) The terms and conditions of probation shall be specified by rules or orders of the court. The court, as a condition of probation for a juvenile who is ten years of age or older but less than eighteen years of age on the date of the sentencing hearing, may impose a commitment or detention. The aggregate length of any such commitment or detention, whether continuous or at designated intervals, shall not exceed forty-five days; except that such limit shall not apply to any placement out of the home through a county department of social services. Each juvenile placed on probation shall be given a written statement of the terms and conditions of his or her probation and shall have such terms and conditions fully explained to him or her.

(b) The court, as a condition of probation for a juvenile eighteen years of age or older at the time of sentencing for delinquent acts committed prior to his or her eighteenth birthday, may impose as a condition of probation a sentence to the county jail that shall not exceed ninety days; except that such sentence may be for a period of up to one hundred eighty days if the court orders the juvenile released for school attendance, job training, or employment.

(2) The court shall, as minimum conditions of probation, order that the juvenile:

(a) Not violate any federal or state statutes, municipal ordinances, or orders of the court;

(b) Not consume or possess any alcohol or use any controlled substance without a prescription;

(c) Not use or possess a firearm, a dangerous or illegal weapon, or an explosive or incendiary device, unless granted written permission by the court or probation officer;

(d) Attend school or an educational program or work regularly at suitable employment, and, if the juvenile has an individualized education program pursuant to section 22-20-108, C.R.S., the court may order the juvenile to comply with his or her individualized education program, taking into account the intellectual functioning, adaptive behavior, and emotional behaviors associated with the juvenile's disabilities, and subject to a manifestation determination pursuant to section 22-33-106 (1)(c), C.R.S.; except that the court shall not require any such juvenile to attend a school from which he or she has been expelled without the prior approval of that school's local board of education;

(e) Report to a probation officer at reasonable times as directed by the court or probation officer;

(f) Permit the probation officer to visit the juvenile at reasonable times at his or her home or elsewhere;

(g) Remain within the jurisdiction of the court, unless granted permission to leave by the court or the probation officer;

(h) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment;

(i) Make restitution as ordered by the court;

(j) Pay the victim compensation fee as ordered by the court;

(k) Pay the surcharge levied pursuant to section 24-4.2-104 (1)(a)(I), C.R.S.; and

(l) May be evaluated to determine whether the juvenile would be suitable for restorative justice practices that would be a part of the juvenile's probation program; except that the court may not order participation in restorative justice practices if the juvenile was adjudicated a

delinquent for unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S., a crime in which the underlying factual basis involves domestic violence as defined in section 18-6-800.3 (1), C.R.S., stalking as defined in section 18-3-602, C.R.S., or violation of a protection order as defined in section 18-6-803.5, C.R.S.

(3) (a) The court may periodically review the terms and conditions of probation and the progress of each juvenile placed on probation. Counsel for the juvenile does not have to be present at any probation review hearing unless notified by the court that a petition to revoke probation has been filed.

(b) The court may release a juvenile from probation or modify the terms and conditions of his or her probation at any time, but any juvenile who has complied satisfactorily with the terms and conditions of his or her probation for a period of two years shall be released from probation, and the jurisdiction of the court shall be terminated.

(4) (a) When it is alleged that a juvenile has violated the terms and conditions of his or her probation, the court shall set a hearing on the alleged violation and shall give notice to the juvenile and his or her parents, guardian, or other legal custodian and any other parties to the proceeding as provided in section 19-2-514.

(b) The juvenile and his or her parents, guardian, or other legal custodian shall be given a written statement concerning the alleged violation and shall have the right to be represented by counsel at the hearing and shall be entitled to the issuance of compulsory process for the attendance of witnesses.

(c) When the juvenile has been taken into custody because of the alleged violation, the provisions of sections 19-2-507 and 19-2-508 shall apply.

(d) (I) The hearing on the alleged violation shall be conducted as provided in section 19-1-106.

(II) Subject to the provisions of section 19-2-907, if the court finds that the juvenile violated the terms and conditions of probation, it may modify the terms and conditions of probation, revoke probation, or take such other action permitted by this article that is in the best interest of the juvenile and the public.

(III) If the court finds that the juvenile did not violate the terms and conditions of his or her probation as alleged, it shall dismiss the proceedings and continue the juvenile on probation under the terms and conditions previously prescribed.

(e) If the court revokes the probation of a person over eighteen years of age, in addition to other action permitted by this article, the court may sentence him or her to the county jail for a period not to exceed one hundred eighty days during which time he or she may be released during the day for school attendance, job training, or employment, as ordered by the court; except that, if the sentence imposed exceeds ninety days, the court shall order the person released for school attendance, job training, or employment while serving his or her sentence.

(5) Following specification of the terms and conditions of probation, where the conditions of probation include requiring the juvenile to attend school, the court shall notify the school district in which the juvenile is enrolled of such requirement.

Source: L. 96: Entire article amended with relocations, p. 1671, § 1, effective January 1, 1997. **L. 99:** (1) and (4)(e) amended, p. 1372, § 5, effective July 1; (2)(d) amended, p. 59, § 2, effective July 1. **L. 2003:** (2)(d) amended, p. 1806, § 2, effective August 6. **L. 2008:** (2)(j) and

(2)(k) amended and (2)(l) added, p. 227, § 6, effective March 31. **L. 2011:** (2)(l) amended, (HB 11-1032), ch. 296, p. 1407, § 16, effective August 10.

Editor's note: This section was formerly numbered as 19-2-705. Prior to relocation in 1996, the said section 19-2-705 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-3-117 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-925.5. Genetic testing - repeal. (Repealed)

Source: L. 2000: Entire section added, p. 924, § 17, effective July 1. **L. 2002:** Entire section amended, p. 1154, § 12, effective July 1; (1)(a) amended, p. 1188, § 28, effective July 1. **L. 2006:** (5) added by revision, pp. 1690, 1693, §§ 12, 17.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2007. (See L. 2006, pp. 1690, 1693.)

19-2-925.6. Genetic testing of adjudicated offenders - definitions. (1) Beginning July 1, 2007, each of the following adjudicated offenders shall submit to and pay for collection and a chemical testing of the offender's biological substance sample to determine the genetic markers thereof, unless the offender has already provided a biological substance sample for such testing pursuant to a statute of this state:

(a) Every offender who, on or after July 1, 2007, is in the custody of the department of human services for a commitment imposed before that date, including an offender on parole, based on adjudication for an offense involving unlawful sexual behavior, or for which the underlying factual basis involved an offense involving unlawful sexual behavior. The department shall collect the sample as soon as possible.

(b) Every offender who, on or after July 1, 2007, is on probation or supervision for a sentence that was imposed before that date, or is on a deferred adjudication that was before that date, for an offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior. The judicial department shall collect the sample at least thirty days prior to the offender's scheduled termination of probation, supervision, or deferred adjudication.

(c) Every offender who, on or after July 1, 2007, is in a county jail or a community corrections facility for a sentence imposed before that date based on adjudication for an offense that would constitute a felony if committed by an adult. The sheriff or the community corrections program shall collect the sample at least thirty days prior to the offender's release from the custody of the county jail or community corrections facility.

(d) Every offender who, on or after July 1, 2007, is in a county jail or a community corrections facility for a sentence imposed before that date based on adjudication for a misdemeanor offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior. The sheriff or the community corrections program shall collect the sample at least thirty days prior to the offender's release from the custody of the county jail or community corrections facility.

(e) Every offender sentenced on or after July 1, 2007, for an offense that would constitute a felony if committed by an adult. This paragraph (e) shall not apply to an offender granted a deferred adjudication, unless otherwise required to submit to a sample pursuant to this section or unless the deferred adjudication is revoked and a sentence is imposed. The sample shall be collected:

(I) From an offender committed to the department of human services, by the department during the intake process but in any event within thirty days after the offender is received by the department;

(II) From an offender sentenced to county jail or to community corrections, by the sheriff or by the community corrections program within thirty days after the offender is received into the custody of the county jail or the community corrections facility;

(III) From an offender sentenced to probation, by the judicial department within thirty days after the offender is placed on probation; and

(IV) From an offender who receives any other sentence, by the judicial department within thirty days after the offender is sentenced.

(f) Every offender who, on or after July 1, 2007, is sentenced for an adjudication of, or who receives a deferred adjudication for, an offense involving unlawful sexual behavior or for which the underlying factual basis involves unlawful sexual behavior. The sample shall be collected:

(I) From an offender committed to the department of human services, by the department during the intake process but in any event within thirty days after the offender is received by the department;

(II) From an offender sentenced to county jail or community corrections, by the sheriff or by the community corrections facility within thirty days after the offender is received into the custody of the county jail or the community corrections facility;

(III) From an offender sentenced to probation, by the judicial department within thirty days after the offender is placed on probation;

(IV) From an offender who receives a deferred adjudication, by the judicial department within thirty days after the offender is granted the deferred adjudication; and

(V) From an offender who receives any other sentence, by the judicial department within thirty days after the offender is sentenced.

(2) For purposes of this section:

(a) "Adjudicated" means having received a verdict of guilty by a judge or jury or having pled guilty or nolo contendere. Except where otherwise indicated, "adjudicated" does not include deferred adjudication unless the deferred adjudication is revoked and a sentence is imposed.

(b) "Unlawful sexual behavior" shall have the same meaning as in section 16-22-102 (9), C.R.S.

(3) The judicial department, the department of human services, a sheriff, or a contractor may:

(a) Use reasonable force to obtain biological substance samples in accordance with this section using medically recognized procedures. In addition, an offender's refusal to comply with this section may be grounds for revocation or denial of parole, probation, or deferred adjudication. Failure to pay for collection and a chemical testing of a biological substance sample shall be considered a refusal to comply if the offender has the present ability to pay.

(b) Collect biological substance samples notwithstanding that the collection was not accomplished within an applicable deadline set forth in this section.

(4) Any moneys received from an offender pursuant to this section shall be deposited in the offender identification fund created in section 24-33.5-415.6, C.R.S.

(5) The Colorado bureau of investigation shall conduct the chemical testing of the biological substance samples obtained pursuant to this section. The Colorado bureau of investigation shall file and maintain the results thereof and shall furnish the results to a law enforcement agency upon request. The Colorado bureau of investigation shall store and preserve all biological substance samples obtained pursuant to this section.

Source: L. 2006: Entire section added, p. 1690, § 13, effective July 1, 2007. **L. 2007:** Entire section R&RE, p. 1616, § 2, effective July 1.

19-2-926. Juvenile probation officers - powers and duties. (1) Juvenile probation officers appointed under the provisions of section 19-2-204 shall make such investigations and keep written records thereof as the court may direct.

(2) When any juvenile is placed on probation, the juvenile probation officer shall give the juvenile a written statement of the terms and conditions of his or her probation and shall explain fully such terms and conditions to him or her, unless such statement has been given him or her and explanation made by the court pursuant to section 19-2-925.

(3) (a) Each juvenile probation officer shall keep informed as to the condition and conduct of each juvenile placed under his or her supervision and shall report thereon to the court as it may direct.

(b) Each juvenile probation officer shall use all suitable methods, including counseling, to aid each juvenile under his or her supervision and shall perform such other duties in connection with the care and custody of juveniles as the court may direct.

(c) Each juvenile probation officer shall keep complete records of all work done, as well as complete accounts of all money collected from those under supervision.

(4) Juvenile probation officers, for the purpose of performing their duties, shall have all the powers of peace officers, as described in sections 16-2.5-101 and 16-2.5-138, C.R.S.

(5) (a) When a juvenile probation officer learns that a juvenile under his or her supervision has changed his or her residence to another county, temporarily or permanently, such officer shall immediately notify the court.

(b) If, after such notification, the court determines that it is in the best interest of the juvenile to transfer jurisdiction to the court in the county in which the juvenile resides or is to reside, the court shall immediately notify such court and shall enter an order transferring jurisdiction to such court. The court transferring jurisdiction pursuant to this paragraph (b) shall transmit all documents and legal and social records, or certified copies thereof, to the receiving court, together with the order transferring jurisdiction. The receiving court shall proceed with the case as if the petition had been originally filed in said court.

Source: L. 96: Entire article amended with relocations, p. 1673, § 1, effective January 1, 1997. **L. 2003:** (4) amended, p. 1627, § 58, effective August 6.

Editor's note: This section was formerly numbered as 19-2-1002. Prior to relocation in 1996, the said section 19-2-1002 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-5-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

PART 10

POSTSENTENCE

Cross references: For provisions relating to volunteerism in connection with juvenile parole, see article 31 of title 17.

19-2-1001. Short title. This part 10 shall be known and may be cited as "Postsentence".

Source: L. 96: Entire article amended with relocations, p. 1674, § 1, effective January 1, 1997.

Editor's note: The former section 19-2-1001 was relocated to section 19-2-204.

19-2-1002. Juvenile parole. (1) **Juvenile parole board - hearing panels authority.** (a) The juvenile parole board, referred to in this part 10 as the "board", established pursuant to section 19-2-206, may grant, deny, defer, suspend, revoke, or specify or modify the conditions of any parole for any juvenile committed to the department of human services as provided in sections 19-2-601 and 19-2-907. In addition to any other conditions, the board may require, as a condition of parole, any adjudicated juvenile to attend school or an educational program or to work toward the attainment of a high school diploma or the successful completion of a high school equivalency examination, as that term is defined in section 22-33-102 (8.5), C.R.S.; except that the board shall not require any such juvenile to attend a school from which he or she has been expelled without the prior approval of that school's local board of education. The board may modify any of its decisions, or those of the hearing panel, except an order of discharge.

(b) (Deleted by amendment, L. 2008, p. 1098, § 3, effective July 1, 2008.)

(2) (a) The board or a hearing panel shall have subpoena power and the power to administer oaths to secure attendance and testimony at hearings before the board. All relevant records pertaining to the juvenile shall be made available to the board.

(b) The board or hearing panel shall take into consideration the results of the objective risk assessment administered by the department of human services.

(3) (a) Hearing panels consisting of two members of the board shall interview and review the record of each juvenile who comes before the board for the granting of parole. Whenever possible, one of the hearing panel members shall be a representative of an executive department, and the other shall be a member from the public at large. A hearing panel may grant, deny, defer, suspend, revoke, or specify or modify the conditions of any parole of a juvenile that are in the best interests of the juvenile and the public; except that:

(I) If the members of a hearing panel disagree, a review of that case shall be referred to the board for review and a decision made by a majority vote of the board members present. At

least a quorum, as defined in section 19-2-206 (4), of the board must be present to a make a decision under this subparagraph (I).

(II) The hearing panel shall not have authority to grant parole to juveniles committed as violent juvenile offenders as described in section 19-2-516 (3) or aggravated juvenile offenders as described in section 19-2-516 (4). In such cases, the board shall conduct a hearing and make a decision by a majority vote of the board members present at the hearing. However, if expiration of the juvenile's commitment is imminent, as defined by the juvenile parole board, the hearing panel shall hold a hearing and make a recommendation to the board. The board shall review the case and a make a decision by a majority vote of the board members present.

(III) If a written request is made by the juvenile, his or her parents, his or her guardian, or the executive director of the department of human services or his or her designee, the board may review the case of any juvenile who has been interviewed by a hearing panel. If such a review is made, the board shall have the authority to affirm or reverse the decision of the hearing panel or to impose such additional conditions for parole as the board deems appropriate.

(IV) (Deleted by amendment, L. 2008, p. 1098, § 3, effective July 1, 2008.)

(a.5) If a juvenile, while under a juvenile commitment, is in jail pending adult charges, the board may conduct a parole hearing without the presence of the juvenile.

(a.7) When the board conducts a hearing pursuant to paragraph (a) or (a.5) of this subsection (3), a quorum, as defined in section 19-2-206 (4), shall be present.

(b) (I) In addition to any other conditions, the hearing panel may require, as a condition of parole, any adjudicated juvenile to attend school or an educational program or to work toward the attainment of a high school diploma or the successful completion of a high school equivalency examination, as that term is defined in section 22-33-102 (8.5), C.R.S.; except that the hearing panel shall not require any such juvenile to attend a school from which he or she has been expelled without the prior approval of that school's local board of education.

(II) (Deleted by amendment, L. 2008, p. 1098, § 3, effective July 1, 2008.)

(4) The hearing panel shall be assisted in its duties by the juvenile parole board administrator appointed pursuant to section 19-2-206 (6). Said administrator shall also arrange training for the members of the juvenile parole board in all aspects of the juvenile justice system. It shall be mandatory for members of the board to attend such training.

(5) (a) If the hearing panel or the board determines that parole should be granted, the hearing panel shall establish six months as the length of the parole supervision. However, for a juvenile committed to the department of human services due to an adjudication for an offense specified in paragraph (b) of this subsection (5), the hearing panel may extend the period of parole supervision up to an additional fifteen months if the hearing panel makes findings of special circumstances that warrant an extended period of parole services for the juvenile.

(b) The provisions of paragraph (a) of this subsection (5) allowing for extension of the period of parole shall apply to juveniles committed to the department of human services due to an adjudication for one or more of the following offenses:

(I) Any offense specified in article 3 of title 18 or in part 3 of article 4 of title 18, C.R.S., that would constitute a felony if committed by an adult;

(II) Incest, as described in section 18-6-301, C.R.S.;

(III) Aggravated incest, as described in section 18-6-302, C.R.S.;

(IV) Child abuse, as described in section 18-6-401, C.R.S., that would constitute a felony if committed by an adult;

(V) Fourth degree arson, as described in section 18-4-105, C.R.S., that would constitute a felony if committed by an adult;

(VI) Assault during escape, as described in section 18-8-206, C.R.S., that would constitute a felony if committed by an adult;

(VII) Illegal possession of a handgun by a juvenile, as described in section 18-12-108.5, C.R.S., that would constitute a felony if committed by an adult;

(VIII) Illegal possession of a handgun by a juvenile, as described in section 18-12-108.5, C.R.S., that would constitute a misdemeanor if committed by an adult, if the juvenile is contemporaneously committed to the department of human services for an offense that would constitute a felony if committed by an adult; or

(IX) Attempt, conspiracy, or solicitation to commit any of the offenses specified in this paragraph (b), which attempt, conspiracy, or solicitation would constitute a felony if committed by an adult.

(c) Upon completion of the period of parole supervision as established by the board, the juvenile shall be deemed to have discharged the juvenile's sentence to commitment in the same manner as if the sentence were discharged pursuant to law.

(d) (I) If the juvenile court commits a juvenile to the department of human services for concurrent sentences based on the commission of two or more offenses or consecutive sentences based on commission of two or more offenses, the juvenile shall be subject to one six-month mandatory period of parole, unless the period of parole is extended pursuant to paragraph (a) of this subsection (5).

(II) As used in this paragraph (d), "concurrent sentence" means sentences identified by the court as concurrent and any sentences, or portions thereof, that are served simultaneously and that are the basis of the juvenile's treatment services during the juvenile's commitment.

(e) (I) If a juvenile's parole is revoked pursuant to section 19-2-1004, the juvenile shall serve all or a portion of the remainder of his or her sentence to commitment, and the period of reparole or extended period of reparole imposed pursuant to paragraph (a) of this subsection (5), shall be reduced by any time served on parole prior to the revocation. The provisions of this paragraph (e) shall not limit the board's authority to grant, deny, defer, suspend, revoke, or modify a juvenile's parole within the period of parole.

(II) If a juvenile's parole is revoked or modified pursuant to section 19-2-1004, and the juvenile has completed the period of commitment imposed by the court, the period of parole, or extended period of parole imposed pursuant to paragraph (a) of this subsection (5), shall continue pursuant to section 19-2-909 (1)(c)(II). The period of parole shall continue regardless of whether the revocation or modification authorizes the department of human services to place the juvenile in a residential placement while on parole status. This provision shall not limit the board's authority to grant, deny, defer, suspend, revoke, or modify a juvenile's parole within the period of parole.

(6) If the hearing panel or the board determines that parole should be granted, the parolee shall be ordered to pay any unpaid restitution that has previously been ordered as a condition of parole.

(7) **Notice.** (a) The board, prior to consideration of the case of a juvenile for parole, shall notify the committing court, any affected juvenile community review board, the prosecuting attorney, and any victims of the juvenile's actions whose names and addresses have been provided by the district attorney of the time and place of the juvenile's hearing before the

board or a hearing panel of the board. The notice shall be given in order that the persons notified will have an opportunity to present written testimony to the hearing panel or the board. The board, in its sole discretion, may allow oral testimony at any hearing and has sole discretion regarding who may attend a juvenile parole hearing.

(b) (I) (A) Prior to consideration of the case of a juvenile for parole, the board shall provide notice of the time and place of the juvenile's hearing before the board or a hearing panel of the board to a victim who has provided to the division of youth services or the board a written statement pursuant to sections 24-4.1-302.5 and 24-4.1-303. The notice and subsequent interactions with the victim must be consistent with the provisions of article 4.1 of title 24.

(B) The board shall notify the victim of changes in the juvenile's parole pursuant to section 24-4.1-303 (14.3), C.R.S.

(II) For a juvenile who is currently serving parole that implicates the provisions of article 4.1 of title 24, the division of youth services shall notify the board of any discharge as a matter of law and any placement change that may impact public safety or victim safety as determined by the division of youth services, including any escape or recapture.

(8) **Representation of juvenile - parent.** The juvenile and his or her parents or guardian shall be informed that they may be represented by counsel in any hearing before the board or a hearing panel to grant, modify, or revoke parole.

(9) **Parole discharge.** (a) The board may discharge a juvenile from parole after the juvenile has served the mandatory parole period of six months but prior to the expiration of his or her period of parole supervision when it appears to the board that there is a reasonable probability that the juvenile will remain at liberty without violating the law.

(b) (I) Based upon a request and recommendation by the division of youth services, the board may discharge all or a portion of a juvenile's period of parole, as defined in section 19-2-909 (1)(b), without holding a hearing before the board or a hearing panel of the board, if the board finds that:

(A) The juvenile is unavailable to complete the period of parole or the extended period of parole and the juvenile is not likely to become available in a time or manner in which he or she will benefit from parole services and neither community safety nor restorative justice interests will be served through the imposition or continuation of the juvenile's parole; or

(B) The community interest in safety or restorative justice will not be served through the imposition or continuation of juvenile parole because the juvenile is under the adult probation supervision of the district court.

(II) As used in this subsection (9), a juvenile is unavailable to complete the period of parole if:

(A) The juvenile, pursuant to an adult sentence, has been placed in a department of corrections facility, adult community corrections, the youthful offender system, or a local jail as defined in section 17-1-102, C.R.S.; or

(B) The juvenile has been or will be transferred out of the state of Colorado and the division of youth services determines that the discharge is not in conflict with the interstate compact on juveniles, part 7 of article 60 of title 24; or

(C) The juvenile is in a medical, mental, or treatment facility or similar institution; or

(D) The board finds any other circumstance that constitutes unavailability as established in rule.

(c) The board may discharge a juvenile from parole before completion of the mandatory six-month parole period when the board finds that the juvenile meets, at a minimum, all of the following conditions of special achievement:

(I) Graduation from a public high school or successful completion of a high school equivalency examination, as that term is defined in section 22-33-102 (8.5);

(II) Payment of one hundred percent of any restitution the juvenile has been ordered to pay;

(III) Certification by the juvenile's parole officer that the juvenile is ready for discharge from parole, which shall take into consideration the results of an objective risk assessment conducted by the department of human services and shall be based upon researched factors that have been demonstrated to be correlative to risk to the community; and

(IV) Presentation to the board of a plan of action prepared by the juvenile that includes the steps the juvenile will accomplish to ensure his or her transition to law-abiding citizenship. If the juvenile's plan of action includes an intent to enlist in military service, the plan shall specify the interim steps that the juvenile will take prior to entering military service.

(d) A discharge from parole pursuant to this subsection (9) shall have the same legal effect as if parole had been discharged upon completion of juvenile parole or when the sentence to commitment was discharged as a matter of law.

(10) Notwithstanding any provisions of law to the contrary, the department of human services shall not retain custody of or jurisdiction over an individual who reaches twenty-one years of age. The sentence to commitment and the period of parole are discharged as a matter of law when a juvenile reaches twenty-one years of age.

Source: L. 96: Entire article amended with relocations, p. 1674, § 1, effective January 1, 1997. **L. 99:** (1) and (3) amended, p. 60, § 3, effective July 1. **L. 2001:** (3)(a)(IV) added, p. 819, § 2, effective July 1; (5) amended, p. 584, § 3, effective July 1. **L. 2003:** (5)(c) and (5)(d) added and (9) amended, p. 767, §§ 1, 2, effective March 25; IP(5)(a) and (9) amended, pp. 1518, 1519, §§ 3, 4, effective May 1. **L. 2005:** (3)(a) and (5)(d) amended and (3)(a.5) and (3)(a.7) added, p. 271, § 1, effective April 14. **L. 2006:** (9) amended, p. 221, § 1, effective March 31. **L. 2008:** (1)(b), (2), IP(3)(a), (3)(a)(IV), (3)(b)(II), (5), (7), and (9) amended and (10) added, p. 1098, § 3, effective July 1. **L. 2012:** (1)(a), (3)(b)(I), and (9)(c)(I) amended, (HB 12-1345), ch. 188, p. 748, § 39, effective May 19. **L. 2014:** (1)(a), (3)(b)(I), and (9)(c)(I) amended, (SB 14-058), ch. 102, p. 379, § 7, effective April 7. **L. 2017:** (7)(b)(I)(A), (7)(b)(II), IP(9)(b)(I), and (9)(b)(II)(B) amended, (HB 17-1329), ch. 381, p. 1977, § 40, effective June 6; (9)(c)(I) amended, (SB 17-052), ch. 5, p. 11, § 5, effective August 9.

Editor's note: (1) This section was formerly numbered as 19-2-1202 and 19-2-1207. Prior to relocation in 1996, the said section 19-2-1202 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-9-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title. The said section 19-2-1207 was enacted in 1996 when this article was amended with relocations.

(2) The former section 19-2-1002 was located to section 19-2-926 when this article was amended with relocations in 1996.

Cross references: For the legislative declaration in the 2012 act amending subsections (1)(a), (3)(b)(I), and (9)(c)(I), see section 21 of chapter 188, Session Laws of Colorado 2012. However, section 21 of chapter 188 was repealed by section 7 of chapter 323 (HB 15-1273), Session Laws of Colorado 2015.

19-2-1003. Parole officers - powers - duties. (1) Under the direction of the director of the division of youth services, the juvenile parole officer or officers in each region established in section 19-2-209 (3) shall supervise all juveniles living in the region who, having been committed to the department of human services, are on parole from one of its facilities.

(2) The juvenile parole officer shall give to each juvenile granted parole a written statement of the conditions of his or her parole, shall explain such conditions fully, and shall aid the juvenile to observe them. He or she shall have periodic conferences with and reports from the juvenile. The juvenile parole officer may conduct such investigations or other activities as may be necessary to determine whether the conditions of parole are being met and to accomplish the rehabilitation of the juvenile.

(3) All juvenile parole officers shall have the powers of peace officers, as described in sections 16-2.5-101 and 16-2.5-138, C.R.S., in performing the duties of their position.

Source: L. 96: Entire article amended with relocations, p. 1676, § 1, effective January 1, 1997. **L. 2003:** (3) amended, p. 1627, § 59, effective August 6. **L. 2008:** (1) amended, p. 1103, § 4, effective July 1. **L. 2017:** (1) amended, (HB 17-1329), ch. 381, p. 1977, § 41, effective June 6.

Editor's note: This section was formerly numbered as 19-2-1205. Prior to relocation in 1996, the said section 19-2-1205 was contained in a title that was repealed and reenacted in 1987. Provisions of that section, as it existed in 1987, are similar to those contained in 19-9-105 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-2-1004. Parole violation and revocation. (1) The director of the division of youth services or any juvenile parole officer may arrest any parolee when:

(a) He or she has a warrant commanding that such parolee be arrested; or

(b) He or she has probable cause to believe that a warrant for the parolee's arrest has been issued in this state or another state for any criminal offense or for violation of a condition of parole; or

(c) Any offense under the laws of this state has been or is being committed by the parolee in his or her presence; or

(d) He or she has probable cause to believe that a violation of law has been committed and that the parolee has committed such a violation; or

(e) He or she has probable cause to believe that a condition of the juvenile's parole has been violated by the parolee and probable cause to believe that the parolee is leaving or about to leave the state, or that the parolee will fail or refuse to appear before the hearing panel to answer charges of violations of one or more conditions of parole, or that the arrest of the parolee is necessary to prevent physical harm to the parolee or another person or to prevent the violation of a law.

(2) When an alleged parole violator is taken into custody, the director of the division of youth services or the juvenile parole officer shall notify the parents, guardian, or legal custodian of the juvenile without unnecessary delay.

(3) When a juvenile parole officer has reasonable grounds to believe that a condition of parole has been violated by any parolee, he or she may issue a summons requiring the parolee to appear before the hearing panel at a specified time and place to answer charges of violation of one or more conditions of parole. Such summons, unless accompanied by a copy of a complaint filed before the hearing panel seeking revocation or suspension of parole or modification of parole conditions, shall contain a brief statement of the alleged parole violation and the date and place thereof. Failure of the parolee to appear before the hearing panel as required by such summons shall be deemed a violation of a condition of parole.

(4) If, rather than issuing a summons, a parole officer makes an arrest of a parolee with or without a warrant or takes custody of a parolee who has been arrested by another, the parole officer shall place the parolee in the nearest local juvenile detention facility or shelter care facility approved by the department of human services, if under eighteen years of age, or in the nearest county jail, if eighteen years of age or older. Within forty-eight hours, not including Saturdays, Sundays, and legal holidays, the parole officer shall take one of the following actions:

(a) Notify the juvenile parole board that the parolee has been arrested or taken into custody and request that a juvenile parole preliminary hearing be conducted by an administrative law judge; or

(b) Repealed.

(c) Obtain from the parolee a written agreement that the parolee waives his or her right to a juvenile parole preliminary hearing, which waiver shall also be signed by a parent or guardian of the parolee if the parolee is a juvenile; or

(d) Release the parolee if he or she is not subject to other actions that require his or her further detention.

(5) An administrative law judge shall, upon the request of the juvenile parole board, conduct a preliminary hearing in a case in which a parole violation has been alleged, to determine whether there is probable cause to believe that a condition of parole has been violated by the parolee, as provided in subsection (4) of this section.

(6) Whenever an administrative law judge schedules a preliminary hearing pursuant to subsection (5) of this section, the juvenile parole officer shall notify the parolee and his or her parent, guardian, or legal custodian of the following information:

(a) The date, the time, and the place of the preliminary hearing and the name of the administrative law judge;

(b) That the purpose of the hearing will be to determine whether there is probable cause to believe that the parolee has violated his or her parole;

(c) That at the preliminary hearing the parolee will be permitted to present evidence, either oral or documentary, in person or by other witnesses, in defense of any alleged parole violation;

(d) A statement of any alleged parole violation;

(e) A brief summary of the evidence tending to establish any alleged parole violation;

(f) That the parolee has the right to counsel at the preliminary hearing.

(7) At any preliminary hearing held pursuant to subsection (5) of this section, the administrative law judge shall hear such testimony as shall be offered and shall determine

whether there is probable cause to believe that the parolee has violated his or her parole. If probable cause has not been shown, the administrative law judge shall order the release of the parolee and shall make a written report of his or her findings to the juvenile parole board within ten days of the hearing. If the administrative law judge finds that probable cause exists to believe that the parolee has violated his or her parole, he or she shall order that the parolee be held to answer the charge before a hearing panel and shall order that the juvenile parole officer return the parolee without unnecessary delay to any of the juvenile corrections facilities of the department of human services pending a hearing before a hearing panel on the complaint for revocation, suspension, or modification of the juvenile's parole.

(8) Within ten working days after the finding of probable cause by the preliminary administrative law judge, the juvenile parole officer shall complete his or her investigation and either:

(a) File a complaint before the hearing panel in which the facts are alleged upon which a revocation of parole is sought; or

(b) Recommend to the director of the division of youth services, or his or her designee, that the parolee, if detained, be released and the violation proceedings be dismissed. The director, or his or her designee, shall determine whether to cause the violation proceedings to be dismissed, and, if he or she elects to cause dismissal, the parolee must be released or notified that he or she is relieved of obligation to appear before the hearing panel. In such event, the director, or his or her designee, shall give written notification to the board of his or her action.

(9) A complaint filed by a juvenile parole officer in which revocation of parole is sought shall contain the name of the parolee, shall identify the violation charged and the condition or conditions of parole alleged to have been violated, including the date and approximate location thereof, and shall be signed by the juvenile parole officer. A copy thereof shall be given to the parolee and his or her parents, guardian, or legal custodian at least five days before a hearing on the complaint is held before the hearing panel.

(10) The board may order the detention of any parolee for failure to appear as required by the summons issued under subsection (3) of this section.

(11) At least five days before the appearance of a parolee before the hearing panel, the parolee and his or her parents, guardian, or legal custodian shall be advised in writing by the parole officer of the nature of the charges that are alleged to justify revocation or suspension of his or her parole and the substance of the evidence sustaining the charges; he or she shall be given a copy of the complaint unless he or she has already received one; he or she shall be informed of the consequences that may follow in the event his or her parole is revoked; and he or she shall be advised that, if the parolee denies the charges, a hearing will be held before the hearing panel, that, at the hearing, he or she may testify and present witnesses and documentary evidence in defense of the charges or in mitigation or explanation thereof, and that he or she has the right to counsel at the hearing.

(12) At the hearing before the hearing panel, if the parolee denies the violation, the division of youth services has the burden of establishing by a preponderance of the evidence the violation of a condition or conditions of parole. The hearing panel shall, when it appears that the alleged violation of conditions of parole consists of an offense with which the parolee is charged in a criminal case then pending, continue the parole violation hearing until the termination of the criminal proceeding. Any evidence having probative value is admissible regardless of its admissibility under exclusionary rules of evidence if the parolee is accorded a fair opportunity to

rebut hearsay evidence. The parolee has the right to confront and to cross-examine adverse witnesses unless the administrative law judge specifically finds good cause for not allowing confrontation.

(13) If the hearing panel determines that a violation of a condition or conditions of parole has been committed, it shall hear further evidence related to the disposition of the parolee. At the conclusion of the hearing, the hearing panel shall advise the parties before it of its findings and recommendations and of their right to request a review before the board. Such review may be held if a written request is filed within ten days after the conclusion of the hearing before the hearing panel. If a review before the board is not requested or the right to review is waived, the findings and recommendations of the hearing panel, if unanimous, shall become the decision of the juvenile parole board unless the board on its own motion orders a review.

(14) The case of a juvenile alleged or found to have violated the conditions of his or her parole outside the state of Colorado shall be handled according to the provisions of the interstate compact on juveniles, part 7 of article 60 of title 24, C.R.S.

Source: L. 96: Entire article amended with relocations, p. 1676, § 1, effective January 1, 1997. **L. 2008:** IP(1), (2), (8)(b), (11), and (12) amended, p. 1103, § 5, effective July 1. **L. 2014:** (4)(b) repealed, (HB 14-1032), ch. 247, p. 954, § 8, effective November 1. **L. 2017:** IP(1), (2), (8)(b), and (12) amended, (HB 17-1329), ch. 381, p. 1977, § 42, effective June 6.

Editor's note: This section was formerly numbered as 19-2-1206 and 19-2-1203 (2). Prior to relocation in 1996, the said sections 19-2-1206 and 19-2-1203 (2) were contained in a title that was repealed and reenacted in 1987. Provisions of those sections, as they existed in 1987, are similar to those contained in 19-9-103 and 19-9-106 as said sections existed in 1986, the year prior to the repeal and reenactment of this title.

PART 11

TEEN COURTS

19-2-1101. Short title. This part 11 shall be known and may be cited as the "Colorado Teen Court Program".

Source: L. 97: Entire part added, p. 1595, § 1, effective August 6.

19-2-1102. Definitions. As used in this part 11, unless the context otherwise requires:

(1) "Minor offense" means any offense denominated a misdemeanor in title 18, C.R.S., or violation of a municipal ordinance where the maximum penalty authorized does not exceed imprisonment for more than six months.

(2) "Supervising court" means the juvenile court for the city and county of Denver, the district courts of the state other than that of Denver, and any municipal court that establishes a teen court program pursuant to this part 11.

(3) "Teen" means any person over the age of twelve years and under the age of nineteen years who is enrolled in school.

(4) "Teen court judge" means a volunteer, licensed to practice law in the state of Colorado, approved by and serving at the pleasure of the chief judge of the supervising court.

(5) "Teen defendant" means a teen ordered to participate in a teen court program under this part 11.

(6) "Teen defense attorney" means a teen who is chosen by a teen court judge to speak on behalf of a teen defendant.

(7) "Teen jury" means not less than three teens who have been chosen by a teen court judge to decide what sentence should be imposed against a teen defendant.

(8) "Teen prosecutor" means a teen who has been chosen by a teen court judge to advocate on behalf of a school or community for any sentence to be imposed.

Source: L. 97: Entire part added, p. 1595, § 1, effective August 6.

19-2-1103. Teen court program - supervising courts. (1) Any supervising court is authorized to establish a teen court program pursuant to the provisions of this part 11. In any jurisdiction where a teen court program is established, a teen charged with a minor offense may receive a deferred judgment, a condition of which is successful participation in the teen court program.

(2) The procedure for determining the eligibility for and imposition of the deferred judgment shall be as follows:

(a) The teen, in the presence of at least one of his or her parents or legal guardian, must enter a plea of guilty to the minor offense charged.

(b) The teen must request to participate in the teen court program, agree to the deferral of further proceedings in the supervising court for a period of six months or until the teen has successfully completed the teen court program, and provide the court with addresses for mailing notices to both the teen and his or her parent or legal guardian.

(c) The supervising court must find that the teen will benefit more from participation in the teen court program than from any other sentence that may be imposed.

(d) The supervising court may accept the teen's plea, order that the teen participate in the teen court program, and defer further proceedings in the supervising court for up to six months.

(e) In addition to ordering the teen to participate in the teen court program, the supervising court may enter an order that the teen pay any restitution otherwise authorized by law.

(3) If the supervising court receives a report from the teen court judge that the teen has not successfully completed the teen court program, or if within six months after the entry of the order for deferred judgment the supervising court has not received a report that the teen has successfully completed the teen court program, the court shall schedule a sentencing hearing, send notice to the teen and his or her parent or legal guardian at the addresses given at the time of the order for deferred judgment or any changed address, and at the sentencing hearing impose any other sentence authorized for the offense charged.

(4) If the supervising court receives a report from the teen court judge that the teen has successfully completed the teen court program, the court shall dismiss all charges against the teen. The dismissal shall not constitute a conviction for any purpose.

Source: L. 97: Entire part added, p. 1596, § 1, effective August 6.

19-2-1104. Procedures - hearings. (1) Subject to any applicable rules of the Colorado supreme court, the supervising court shall be responsible for establishing procedures for any teen court program under its jurisdiction, including but not limited to:

(a) The use of its courtroom and other facilities during times when they are not required for other court business;

(b) The approval of teen court judges;

(c) The collection of a fee from any teen defendant;

(d) The range of sentencing options that may be imposed upon a teen defendant that shall not include a term of imprisonment nor the payment of restitution but may include:

(I) Community service supervised by the supervising court;

(II) Participation in law-related education classes, counseling, treatment, or other programs; or

(III) Participation as a juror or other teen court member in proceedings involving teen defendants.

(2) Whenever a teen, as a condition of a deferred judgment, has been ordered to participate in a teen court program, the teen and his or her parent or legal guardian shall be ordered to appear at a teen court sentencing hearing. The teen court judge shall preside over the sentencing hearing. The teen defendant may represent himself or herself or be represented by a teen defense attorney. The following procedures shall be followed at the teen court sentencing hearing:

(a) The teen court judge shall select a teen jury.

(b) The teen prosecutor and either the teen defendant or teen defense attorney may question the jury on their knowledge of the defendant or the facts of the offense for which the teen defendant was charged.

(c) The teen court judge may order that a teen juror be replaced if the judge finds that the juror may be biased.

(d) The teen prosecutor and either the teen defendant or teen defense attorney may make an opening statement.

(e) The teen defendant shall be subject to cross examination by the teen prosecutor concerning the circumstances or facts surrounding the offense or the character of the teen defendant and may either make a statement or be subject to direct examination by the teen defense attorney.

(f) Each side may offer witnesses and documents concerning the circumstances or facts surrounding the offense or the character of the teen defendant.

(g) The teen prosecutor and either the teen defendant or teen defense attorney may make a closing statement.

(h) Unless otherwise ordered by the teen court judge, the teen jury shall deliberate in private and shall unanimously agree upon the sentence to be imposed against the teen defendant, pursuant to guidelines adopted by the court.

(i) If the jury is unable to unanimously agree on a sentence, then the teen court judge shall impose the sentence, pursuant to guidelines adopted by the court.

(3) The teen court judge shall enter a written order that:

(a) Orders the teen defendant to complete the sentence imposed by the teen jury;

(b) Orders the teen defendant to submit a written report to the teen court judge within three months after the sentencing hearing showing satisfactory completion of the terms of the sentence; and

(c) Notifies the teen defendant that if the teen court judge does not receive the written report within the time required, the teen court judge shall file with the supervising court a report stating that the teen defendant has not satisfactorily completed the teen court program.

(4) Within six months after the order for deferred judgment, the teen court judge shall file a written report with the supervising court notifying the court whether the teen defendant has satisfactorily completed the teen court program.

Source: L. 97: Entire part added, p. 1597, § 1, effective August 6.

19-2-1105. Alternative procedures. Nothing contained in this part 11 shall be deemed to impair the authority of courts to adopt different or alternative procedures for the establishment and operation of teen court programs within their respective jurisdictions.

Source: L. 97: Entire part added, p. 1599, § 1, effective August 6.

PART 12

DETENTION BED MANAGEMENT

19-2-1201. Juvenile detention bed cap. (1) For the fiscal year 2003-04 through fiscal year 2010-11, the number of available juvenile detention beds statewide shall be limited to four hundred seventy-nine.

(2) For the fiscal year 2011-12 and from July 1, 2012, through March 31, 2013, the number of available juvenile detention beds statewide shall be limited to four hundred twenty-two.

(3) From April 1, 2013, through June 30, 2013, and for the fiscal year 2013-14 and each fiscal year thereafter, the number of available juvenile detention beds statewide shall be limited to three hundred eighty-two.

Source: L. 2003: Entire part added, p. 1522, § 1, effective May 1. **L. 2011:** Entire section amended, (SB 11-217), ch. 150, p. 523, § 1, effective May 5. **L. 2013:** (2) amended and (3) added, (SB 13-177), ch. 88, p. 281, § 1, effective March 29.

19-2-1202. Working group - allocation of beds. (1) The executive director of the department of human services and the state court administrator in the judicial department, or a designee of such persons, in consultation with the division of criminal justice of the department of public safety, the office of state planning and budgeting, the Colorado district attorneys council, and law enforcement representatives shall form a working group which shall carry out the following duties:

(a) The working group established pursuant to this subsection (1) shall annually allocate the number of juvenile detention beds to each catchment area in the state created pursuant to section 19-2-402.5, based on the number of juvenile beds established pursuant to section 19-2-

1201. Once the allocation of juvenile detention beds is made to the catchment areas, the working group shall allocate detention beds within the catchment areas to the judicial districts within each catchment area. Judicial districts shall not exceed the number of beds allocated to them except for circumstances provided for in paragraph (b) of this subsection (1).

(b) The working group shall develop a mechanism for judicial districts within the same catchment area to loan detention beds to other judicial districts within the catchment area in cases of need.

(c) The working group shall develop emergency release guidelines that shall be used by each judicial district to prevent placement of a juvenile in a juvenile detention facility in excess of the number of beds allocated to the judicial district.

(d) The working group shall develop juvenile detention placement guidelines for each judicial district to use in complying with the number of juvenile detention beds allocated to the judicial district.

Source: L. 2003: Entire part added, p. 1522, § 1, effective May 1.

19-2-1203. Judicial districts - plans for the cap. Each judicial district shall annually develop a plan to manage the limit on the number of juvenile detention beds allocated to the judicial district by the working group pursuant to section 19-2-1202 (1)(a). The judicial district shall consider the emergency release guidelines and placement guidelines developed pursuant to section 19-2-1202 in its annual plan to manage the limit. The annual plan developed by the judicial district shall ensure the judicial district does not exceed the number of juvenile detention beds allocated to it pursuant to section 19-2-1202.

Source: L. 2003: Entire part added, p. 1523, § 1, effective May 1.

19-2-1204. Use of juvenile detention beds. A juvenile committed to the department of human services pursuant to article 3 of this title shall not be placed in a juvenile detention bed unless the juvenile is subject to an action proceeding under this article.

Source: L. 2003: Entire part added, p. 1523, § 1, effective May 1.

PART 13

COMPETENCY TO PROCEED

19-2-1301. Mental incompetency to proceed - effect - how and when raised. (1) The provisions of this part 13 shall only apply to proceedings under this title.

(2) A juvenile shall not be tried or sentenced if the juvenile is incompetent to proceed, as defined in section 16-8.5-101 (11), C.R.S., at that stage of the proceedings against him or her.

(3) When a party specified in this subsection (3) has reason to believe that a juvenile is incompetent to proceed in a delinquency action, the party shall raise the question of the juvenile's competency in the following manner:

(a) On its own motion, the court shall suspend the proceeding and determine the competency or incompetency of the juvenile as provided in section 19-2-1302.

(b) By motion of the prosecution, probation officer, guardian ad litem, or defense, made in advance of the commencement of the particular proceeding. The motion may be filed after the commencement of the proceeding if, for good cause shown, the mental condition of the juvenile was not known or apparent before the commencement of the proceeding.

(c) By the juvenile's parent or legal guardian.

(4) If the issue of competency is raised at the time charges are filed or at any time thereafter and the juvenile is not represented by counsel, the court may immediately appoint counsel and may also appoint a guardian ad litem to assure the best interests of the juvenile are addressed in accordance with existing law.

Source: L. 2005: Entire part added, p. 1050, § 1, effective July 1. **L. 2008:** (2) amended, p. 1859, § 15, effective July 1. **L. 2009:** (2) amended, (SB 09-292), ch. 369, p. 1950, § 37, effective August 5.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (2), see section 1 of chapter 389, Session Laws of Colorado 2008.

19-2-1302. Determination of incompetency to proceed. (1) Whenever the question of a juvenile's competency to proceed is raised, the court shall make a preliminary finding that the juvenile is or is not competent to proceed. If the court feels that the information available to it is inadequate for making such a finding, it shall order a competency examination.

(2) The court shall immediately notify the prosecuting attorney and defense counsel of the preliminary finding regarding competency. The prosecuting attorney or the defense counsel may request a hearing on the preliminary finding by filing a written request with the court within ten days after the date on which the court issues the preliminary finding, unless the court extends the time period for good cause. The preliminary finding becomes a final determination if neither the prosecuting attorney nor defense counsel requests a hearing. Upon the timely written request of either the prosecuting attorney or defense counsel, the court shall hold a competency hearing. If the court did not order a competency examination or other evaluation prior to its preliminary determination and the court determines adequate mental health information is not available, the court shall refer the juvenile for a competency examination prior to the hearing. At the conclusion of the competency hearing, the court shall make a final determination regarding the juvenile's competency to proceed. At a competency hearing held pursuant to this subsection (2), the burden of submitting evidence and the burden of proof by a preponderance of the evidence are upon the party asserting the incompetency of the juvenile.

(3) If the question of a juvenile's incompetency to proceed is raised after a jury is impaneled to try the issues raised by a plea of not guilty or after the court as the finder of fact begins to hear evidence and the court determines that the juvenile is incompetent to proceed or orders the juvenile referred for a competency examination, the court may declare a mistrial. If the court declares a mistrial under these circumstances, the juvenile shall not be deemed to have been placed in jeopardy with regard to the charges at issue. The juvenile may be tried on, and sentenced if adjudicated for, the same charges after he or she has been found to be restored to competency.

(4) (a) If the court orders a competency evaluation, the court shall order that the competency evaluation be conducted in the least-restrictive environment, taking into account the public safety and the best interests of the juvenile.

(b) A competency evaluation shall be conducted by a licensed psychiatrist or licensed psychologist who is experienced in the clinical evaluation of juveniles and trained in forensic competency assessments, or a psychiatrist or psychologist who is in forensic training and under the supervision of a licensed forensic psychiatrist or licensed psychologist with expertise in forensic psychology.

(c) The competency evaluation shall, at a minimum, include an opinion regarding whether the juvenile is competent to proceed as defined in section 16-8.5-101 (4), C.R.S. If the evaluation concludes the juvenile is incompetent to proceed, the evaluation shall include a recommendation as to whether the juvenile may be restored to competency and identify appropriate services to restore the juvenile to competency.

(d) The evaluator conducting the competency evaluation shall file the evaluation with the court within:

(I) Thirty days after issuance of the order for the competency evaluation, unless good cause is shown for a delay, if the juvenile is held in a secure detention facility;

(II) Forty-five days after issuance of the order for the competency evaluation, unless good cause is shown for a delay, if the juvenile is not held in a secure detention facility.

Source: L. 2005: Entire part added, p. 1051, § 1, effective July 1. **L. 2008:** (4)(c) amended, p. 1859, § 16, effective July 1. **L. 2009:** (4)(c) amended, (SB 09-292), ch. 369, p. 1950, § 38, effective August 5.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (4)(c), see section 1 of chapter 389, Session Laws of Colorado 2008.

19-2-1303. Procedure after determination of competency or incompetency. (1) If the court finally determines pursuant to section 19-2-1302 that the juvenile is competent to proceed, the court shall order that the suspended proceeding continue or, if a mistrial has been declared, shall reset the case for trial at the earliest possible date.

(2) If the court finally determines pursuant to section 19-2-1302 that the juvenile is incompetent to proceed, but may be restored to competency, the court shall stay the proceedings and order that the juvenile receive services designed to restore the juvenile to competency, based upon recommendations in the competency evaluation unless the court makes specific findings that the recommended services in the competency evaluation are not justified. The court shall order that the restoration services ordered are provided in the least restrictive environment, taking into account the public safety and the best interests of the juvenile, and that the provision of the services and the juvenile's participation in those services occurs in a timely manner. The court shall review the provision of and the juvenile's participation in the services and the juvenile's progress toward competency at least every ninety days until competency is restored, unless the juvenile is in custody, in which event the court shall review the case every thirty days to ensure the prompt provision of services in the least restrictive environment. The court shall not maintain jurisdiction longer than the maximum possible sentence for the original offense, unless the court makes specific findings of good cause to retain jurisdiction. However, the

juvenile court's jurisdiction shall not extend beyond the juvenile's twenty-first birthday. Pursuant to section 27-60-105, the office of behavioral health is the entity responsible for the oversight of restoration education and coordination of services necessary to competency restoration.

(3) (a) If the court finally determines that the juvenile is incompetent to proceed and cannot be restored to competency, the court shall determine whether a management plan for the juvenile is necessary, taking into account the public safety and the best interests of the juvenile. If the court determines a management plan is necessary, the court shall develop the management plan after ordering that the juvenile be placed in the least-restrictive environment, taking into account the public safety and best interests of the juvenile. If the court determines a management plan is unnecessary, the court may continue any treatment or plan already in place for the juvenile. The management plan shall, at a minimum, address treatment for the juvenile, identify the party or parties responsible for the juvenile, and specify appropriate behavior management tools, if they are not otherwise part of the juvenile's treatment.

(b) The management plan may include:

(I) Placement options included in article 10 or 10.5 of title 27, C.R.S.;

(II) A treatment plan developed by a licensed mental health professional;

(III) An informed supervision model;

(IV) Institution of a guardianship petition; or

(V) Any other remedy deemed appropriate by the court.

(c) If the charges are not dismissed earlier by the district attorney, the charges against a juvenile found to be incompetent and unrestorable shall be dismissed no later than the maximum possible sentence for the original offense after the date of the court's finding of incompetent and unrestorable, unless the court makes specific findings of good cause to retain jurisdiction. However, in no case shall the juvenile court's jurisdiction extend beyond the juvenile's twenty-first birthday.

(4) A determination under subsection (2) of this section that a juvenile is incompetent to proceed shall not preclude the court from considering the release of the juvenile on bail upon compliance with the standards and procedures for such release prescribed by statute. At any hearing to determine eligibility for release on bail, the court may consider any effect the juvenile's incompetency may have on the juvenile's ability to insure his or her presence for trial.

Source: L. 2005: Entire part added, p. 1052, § 1, effective July 1. **L. 2017:** (2) amended, (SB 17-012), ch. 404, p. 2109, § 2, effective August 9.

19-2-1304. Restoration to competency. (1) The court may order a restoration hearing, as defined in section 16-8.5-101 (13), C.R.S., at any time on its own motion, on motion of the prosecuting attorney, or on motion of the juvenile. The court shall order a hearing if a mental health professional who has been treating the juvenile files a report certifying that the juvenile is mentally competent to proceed.

(2) At the hearing, if the question is contested, the burden of submitting evidence and the burden of proof by a preponderance of the evidence shall be upon the party asserting that the juvenile is competent.

(3) At the hearing, the court shall determine whether the juvenile is restored to competency.

Source: L. 2005: Entire part added, p. 1053, § 1, effective July 1. **L. 2008:** (1) amended, p. 1859, § 17, effective July 1. **L. 2009:** (1) amended, (SB 09-292), ch. 369, p. 1950, § 39, effective August 5.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (1), see section 1 of chapter 389, Session Laws of Colorado 2008.

19-2-1305. Procedure after hearing concerning restoration to competency. (1) If a juvenile is found to be restored to competency after a hearing, as provided in section 19-2-1304, or by the court during a review, as provided in section 19-2-1303 (2), the court shall resume or recommence the trial or sentencing proceeding or order the sentence carried out. The court may credit any time the juvenile spent in confinement or detention while incompetent against any term of commitment imposed after restoration to competency.

(2) If the court determines that the juvenile remains mentally incompetent to proceed and the delinquency petition is not dismissed, the court may continue or modify any orders entered at the time of the original determination of incompetency or enter any new order necessary to facilitate the juvenile's restoration to mental competency.

(3) Evidence obtained during a competency evaluation or during treatment related to the juvenile's competency or incompetency and the determination as to the juvenile's competency or incompetency are not admissible on the issues raised by a plea of not guilty.

Source: L. 2005: Entire part added, p. 1054, § 1, effective July 1.

ARTICLE 3

Dependency and Neglect

Editor's note: This title was repealed and reenacted in 1987. For historical information concerning the repeal and reenactment, see the editor's note following the title heading.

Law reviews: For comment, "The Indian Child Welfare Act of 1978: Protecting Essential Tribal Interests", see 60 U. Colo. L. Rev. 131 (1989); for article, "Representing Foster Parents in Dependency and Neglect Proceedings", see 22 Colo. Law. 1697 (1993); for article, "Dependency and Neglect Law: New Legislation and Case Law", see 35 Colo. Law. 79 (Sept. 2006); for article, "Colorado's Family-Integrated Problem-Solving Courts" see 42 Colo. Law. 75 (Nov. 2013).

PART 1

DEFINITIONS

19-3-100.5. Legislative declarations - reasonable efforts - movement of children and sibling groups. (1) The general assembly hereby finds and declares that the stability and preservation of the families of this state and the safety and protection of children are matters of statewide concern. The general assembly finds that the federal "Adoption Assistance and Child

Welfare Act of 1980", federal Public Law 96-272, requires that each state make a commitment to make "reasonable efforts" to prevent the placement of abused and neglected children out of the home and to reunify the family whenever appropriate.

(2) The general assembly further finds that the federal "Adoption and Safe Families Act of 1997", federal Public Law 105-89, clarifies what constitutes "reasonable efforts" by decreeing that when deciding whether to make such efforts and in the process of making such efforts, the health and safety of the child is the paramount concern. This federal law further encourages expediting permanency planning for children in out-of-home placement by removing barriers to permanency and streamlining entitlement services. The law specifies that one of the goals of all placement decisions, whether leaving the child in the home or placing the child outside the home, is safety for the child.

(3) The general assembly further finds that the implementation of the federal "Adoption Assistance and Child Welfare Act of 1980", federal Public Law 96-272, is not the exclusive responsibility of the state department of social services or of local departments of social services. Elected officials at the state and local levels must ensure that resources and services are available through state and local social services agencies and through the involvement of the resources of public and private sources. Judges, attorneys, and guardians ad litem must be encouraged to take independent responsibility to ensure that "reasonable efforts" to prevent out-of-home placements have been made only when appropriate, that permanency occurs for children in foster care, and that safe child placements occur in each case.

(4) (a) The general assembly also hereby finds that:

(I) The American Academy of Pediatrics has found that emotional and cognitive disruptions in the early lives of children have the potential to impair brain development. Paramount in the lives of children in foster care is their need for continuity with their primary attachment figures and a sense of permanence that is enhanced when the child's placement is stable.

(II) The American Academy of Pediatrics has found that attachment to a primary caregiver is essential to the development of emotional security and social conscience; and

(III) According to the American Academy of Pediatrics, optimal child development occurs when a spectrum of needs is consistently met over an extended period. Separation of a child from his or her primary caregiver occurring between six months and three years of age is more likely to result in subsequent emotional disturbances for the child than if the separation occurs when the child is older. Repeated moves from home to home compound the adverse consequences of separation. Further, the younger the child and the more extended the period of uncertainty or separation, the more detrimental the separation will be to the child's well-being. Any intervention that separates a child from the child's primary caregiver or person who provides psychological support to the child should be cautiously considered and treated as a matter of urgency and profound importance.

(b) The general assembly further finds that older children in foster care are at a high risk of having long-term mental health issues, dropping out of school, developing alcohol and drug dependence, experiencing promiscuity, and interacting with the criminal justice system. Multiple moves for older children lead to disruption in schooling and meaningful relationships and attachments, including relationships with peers and family of origin. As a result these children have few, if any, long-term connections when they leave foster care, resulting in little support for their growth into independent adults.

(c) The general assembly therefore declares that multiple moves for children in the dependency and neglect system should be discouraged in favor of permanent planning upon which these children can rely for their healthy mental, physical, and emotional development.

(5) Therefore, in order to carry out the requirements addressed in this section, to ensure stability in placements, to preserve families, and to decrease the need for out-of-home placement, the general assembly shall define "reasonable efforts" and identify the services and processes that must be in place to ensure that "reasonable efforts" have been made. The general assembly shall provide that "reasonable efforts" are deemed to be met when a county or city and county provides services in accordance with section 19-3-208.

Source: L. 93: Entire section added, p. 2012, § 1, effective July 1. **L. 94:** Entire section amended, p. 1053, § 2, effective May 4. **L. 98:** Entire section amended, p. 1416, § 1, effective July 1. **L. 2015:** Entire section amended, (HB 15-1337), ch. 328, p. 1340, § 1, effective June 5.

19-3-101. Definitions. (Repealed)

Source: L. 87: Entire title R&RE, p. 759, § 1, effective October 1. **L. 93:** Entire section amended, p. 2013, § 2, effective July 1; (1) amended, p. 582, § 19, effective July 1. **L. 94:** (1) amended, p. 1084, § 3, effective May 4. **L. 96:** Entire section repealed, p. 85, § 11, effective March 20.

Cross references: For current applicable definitions, see § 19-1-103.

19-3-102. Neglected or dependent child. (1) A child is neglected or dependent if:

(a) A parent, guardian, or legal custodian has abandoned the child or has subjected him or her to mistreatment or abuse or a parent, guardian, or legal custodian has suffered or allowed another to mistreat or abuse the child without taking lawful means to stop such mistreatment or abuse and prevent it from recurring;

(b) The child lacks proper parental care through the actions or omissions of the parent, guardian, or legal custodian;

(c) The child's environment is injurious to his or her welfare;

(d) A parent, guardian, or legal custodian fails or refuses to provide the child with proper or necessary subsistence, education, medical care, or any other care necessary for his or her health, guidance, or well-being;

(e) The child is homeless, without proper care, or not domiciled with his or her parent, guardian, or legal custodian through no fault of such parent, guardian, or legal custodian;

(f) The child has run away from home or is otherwise beyond the control of his or her parent, guardian, or legal custodian;

(g) The child tests positive at birth for either a schedule I controlled substance, as defined in section 18-18-203, C.R.S., or a schedule II controlled substance, as defined in section 18-18-204, C.R.S., unless the child tests positive for a schedule II controlled substance as a result of the mother's lawful intake of such substance as prescribed.

(2) A child is neglected or dependent if:

(a) A parent, guardian, or legal custodian has subjected another child or children to an identifiable pattern of habitual abuse; and

(b) Such parent, guardian, or legal custodian has been the respondent in another proceeding under this article in which a court has adjudicated another child to be neglected or dependent based upon allegations of sexual or physical abuse, or a court of competent jurisdiction has determined that such parent's, guardian's, or legal custodian's abuse or neglect has caused the death of another child; and

(c) The pattern of habitual abuse described in paragraph (a) of this subsection (2) and the type of abuse described in the allegations specified in paragraph (b) of this subsection (2) pose a current threat to the child.

Source: L. 87: Entire title R&RE, p. 760, § 1, effective October 1. **L. 97:** Entire section amended, p. 516, § 2, effective July 1; entire section amended, p. 1433, § 8, effective July 1. **L. 2005:** (1)(g) added, p. 587, § 2, effective July 1.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-103 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments to this section by Senate Bill 97-218 and Senate Bill 97-71 were harmonized.

19-3-103. Child not neglected - when. (1) No child who in lieu of medical treatment is under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing shall, for that reason alone, be considered to have been neglected or dependent within the purview of this article. However, the religious rights of a parent, guardian, or legal custodian shall not limit the access of a child to medical care in a life-threatening situation or when the condition will result in serious disability. In order to make a determination as to whether the child is in a life-threatening situation or that the child's condition will result in serious disability, the court may, as provided under section 19-1-104 (3), order a medical evaluation of the child. If the court determines, on the basis of any relevant evidence before the court, including the medical evaluation ordered pursuant to this section, that the child is in a life-threatening situation or that the child's condition will result in serious disability, the court may, as provided under section 19-1-104 (3), order that medical treatment be provided for the child. A child whose parent, guardian, or legal custodian inhibits or interferes with the provision of medical treatment in accordance with a court order shall be considered to have been neglected or dependent for the purposes of this article and injured or endangered for the purposes of section 18-6-401, C.R.S.

(2) A method of religious healing shall be presumed to be a recognized method of religious healing if:

(a) (I) Fees and expenses incurred in connection with such treatment are permitted to be deducted from taxable income as medical expenses pursuant to regulations or rules promulgated by the United States internal revenue service; and

(II) Fees and expenses incurred in connection with such treatment are generally recognized as reimbursable health care expenses under medical policies of insurance issued by insurers licensed by this state; or

(b) Such treatment provides a rate of success in maintaining health and treating disease or injury that is equivalent to that of medical treatment.

Source: L. 87: Entire title R&RE, p. 760, § 1, effective October 1. **L. 89:** Entire section amended, p. 924, § 1, effective June 7. **L. 92:** Entire section amended, p. 174, § 2, effective April 16. **L. 93:** (1) amended, p. 1637, § 23, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-114 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-104. Hearings - procedure. Except for proceedings held pursuant to section 19-3-703, any hearing conducted pursuant to this article in a county designated pursuant to section 19-1-123 regarding a child who is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2) shall not be delayed or continued unless good cause is shown and unless the court finds that the best interests of the child will be served by granting a delay or continuance. Whenever any such delay or continuance is granted, the court shall set forth the specific reasons necessitating the delay or continuance and shall schedule the matter within thirty days after the date of granting the delay or continuance. If appropriate, in any hearing conducted pursuant to this article in a county designated pursuant to section 19-1-123 regarding a child who is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2), the court shall include all other children residing in the same household whose placement is subject to determination pursuant to this article.

Source: L. 94: Entire section added, p. 2053, § 4, effective July 1.

PART 2

GENERAL PROVISIONS

19-3-201. Venue. (1) (a) Except as provided in paragraph (b) of this subsection (1), all proceedings brought under this article shall be commenced in the county in which the child resides or is present.

(b) A county department, guardian ad litem, or other person filing a petition for reinstatement of the parent-child legal relationship as set forth in section 19-3-612 must file the petition for the reinstatement of the parent-child legal relationship in the county or city and county that has legal custody of the child.

(1.5) For purposes of determining proper venue, a child who is placed in the legal custody of a county department shall be deemed for the entire period of placement to reside in the county in which the child's legal parent or guardian resides or is located, even if the child is physically residing in a foster care or residential facility located in another county. In such circumstance, if a child is placed out of the home, the court shall not transfer venue pursuant to subsection (2) of this section during the period of out-of-home placement to any county other than the county in which the child's legal parent or guardian resides or is located.

(2) When proceedings are commenced under this article in a county other than that of the child's residence, the court in which proceedings were initiated may, on its own motion or on the motion of any interested party, transfer the case to the court in the county where the child's legal parent or guardian resides or is located unless any of the following circumstances exist:

(a) The transfer would be detrimental to the best interests of the child;

(b) Adjudication has taken place and the case has not been continued pursuant to section 19-3-505 (5);

(c) The legal parent or guardian has a history of frequent moves unless there is evidence of stability in the most recent move indicating an intent to remain in the new residence for six or more months, such as the legal parent or guardian has signed a lease whose term is six or more months;

(d) The case is likely to be closed within three to six months;

(e) The transfer will disrupt continuity or provisions of services; or

(f) The case is an expedited permanency planning case, unless the requirements of subsection (3) of this section have been met. Pursuant to subsection (3) of this section, the presumption that a transfer of the proceedings is not in the child's best interest has been rebutted by a preponderance of the evidence.

(2.5) The county attorney of a county that files a motion to change venue pursuant to this section shall immediately provide notice of the motion to the proposed receiving county. Upon receipt of a motion to change venue, the court shall set a hearing to rule on the motion. The requesting county attorney shall provide fourteen days written notice of the hearing to the office of the county attorney in the proposed receiving county, who shall have a right to file responsive pleadings and appear at the hearing.

(3) 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), it shall be presumed that any transfer of proceedings pursuant to subsection (2) of this section without good cause shown that results in a delay in the judicial proceedings would be detrimental to the child's best interests. Such presumption may be rebutted by a preponderance of the evidence.

(4) (a) An order granting a change of venue and transferring jurisdiction to the court in the county in which the child resides shall be effective fifteen days after the transferring court signs the order. Within thirty days after signing the order, the transferring court shall forward the court file, including originals or certified copies of all documents and reports, to the receiving court.

(b) The order granting a change of venue and transferring jurisdiction shall include:

(I) Notice to the receiving court of whether a respondent parent's counsel and the guardian ad litem appointed for the child will remain on the case. If a respondent parent's counsel or the guardian ad litem for the child will not remain on the case, the order shall inform the receiving court that the receiving court shall make a new appointment of counsel or guardian ad litem.

(II) Notice that the transferring court shall vacate any existing hearing date after the effective date of the order.

(5) When venue is transferred, as set forth in subsection (2) of this section, the receiving court shall proceed with the case as if the petition had been originally filed or adjudication had been originally made in that court. The receiving court shall hold an initial hearing in the case within thirty days after the effective date of the order granting a change of venue and transferring jurisdiction to the receiving court.

(6) A motion for change of venue shall be made in writing and shall include a certification by the moving party that the moving party has complied with all statutory

requirements. The motion for change of venue shall be mailed to all parties and attorneys of record in the case and to the county attorney in the receiving county.

Source: L. 87: Entire title R&RE, p. 760, § 1, effective October 1. **L. 94:** (2) amended, p. 2053, § 5, effective July 1. **L. 2010:** Entire section amended, (HB 10-1359), ch. 223, p. 968, § 1, effective September 1. **L. 2014:** (1) amended, (SB 14-062), ch. 77, p. 315, § 2, effective August 6. **L. 2016:** (2) amended and (1.5) and (2.5) added, (HB 16-1316), ch. 127, p. 362, § 1, effective August 10.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-105 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-201.5. Change of venue - county department and county attorney responsibilities - rules. (1) Each county department shall designate a change of venue coordinator to facilitate the transfer of jurisdiction of a case between county departments.

(2) Within fifteen days after a court signs an order pursuant to section 19-3-201 granting a change of venue and transferring jurisdiction, the transferring county department shall:

(a) Provide written case information to the designated change of venue coordinator in the receiving county, which information shall include, but need not be limited to, permanency goals, target dates relating to the case, evaluations, a current family services plan, court reports, dates of placement moves, the progress of the child in placement, all Title IV-E eligibility determinations pursuant to the federal "Social Security Act", as amended, and recommendations for continuing progress in the case;

(b) Update all documentation in the case file, including the record in the state automated system;

(c) Provide information concerning, to the extent known, the physical location of the child's parents, guardians, legal custodians, and relatives; and

(d) (I) Schedule a family engagement meeting involving all parties, county department caseworkers and supervisors, and community providers; or

(II) Conduct a case staffing between county caseworkers and supervisors in the transferring and receiving county departments; or

(III) Submit a written case transfer summary.

(3) Within fifteen days after a court signs an order pursuant to section 19-3-201 granting a change of venue and transferring jurisdiction, the transferring county attorney's office shall forward a complete copy of the case file, excluding any confidential attorney-client communications, to the county attorney's office in the receiving county.

(4) The state department shall promulgate, in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., any rules necessary for the effective transfer of case responsibilities between county departments resulting from a change of venue pursuant to section 19-3-201.

Source: L. 2010: Entire section added, (HB 10-1359), ch. 223, p. 969, § 2, effective September 1.

Cross references: For part E of Title IV of the federal "Social Security Act", see 42 U.S.C. sec. 670 et seq.

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.

(2) The petitioner, any respondent, or the guardian ad litem may demand a trial by jury of six persons at the adjudicatory hearing under section 19-3-505 or the court, on its own motion, may order such a jury to try any case at the adjudicatory hearing under section 19-3-505.

Source: L. 87: Entire title R&RE, p. 761, § 1, effective October 1. **L. 2003:** (1) amended, p. 1226, § 3, effective August 6. **L. 2014:** (1) amended, (SB 14-203), ch. 281, p. 1141, § 2, effective August 6. **L. 2015:** (1) amended, (HB 15-1149), ch. 116, p. 352, § 4, effective April 24.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-203. Guardian ad litem. (1) Upon the filing of a petition under section 19-3-502 that alleges abuse or neglect of a minor child, the court shall appoint a guardian ad litem, who shall be an attorney-at-law licensed to practice in Colorado. Nothing in this section shall limit the power of the court to appoint a guardian ad litem prior to the filing of a petition for good cause.

(2) The guardian ad litem shall be provided with all reports relevant to a case submitted to or made by any agency or person pursuant to this article, including reports of examination of the child or persons responsible for the neglect or dependency of the child. The county department shall share with the guardian ad litem the reports of fingerprint-based criminal history record checks from the Colorado bureau of investigation and from the federal bureau of investigation if the court orders the county department to share that information with the guardian ad litem. The court and social workers assigned to the case shall keep the guardian ad litem apprised of significant developments in the case, particularly prior to further neglect or dependency court appearances.

(3) The guardian ad litem shall be charged in general with the representation of the child's interests. To that end, the guardian ad litem shall make such further investigations as the guardian ad litem deems necessary to ascertain the facts and shall talk with or observe the child involved, examine and cross-examine witnesses in both the adjudicatory and dispositional hearings, introduce and examine the guardian ad litem's own witnesses, make recommendations to the court concerning the child's welfare, appeal matters to the court of appeals or the supreme court, and participate further in the proceedings to the degree necessary to adequately represent the child. In addition, the guardian ad litem, if in the best interest of the child, shall seek to assure that reasonable efforts are being made to prevent unnecessary placement of the child out of the home and to facilitate reunification of the child with the child's family or, if reunification is not possible, to find another safe and permanent living arrangement for the child. In determining whether said reasonable efforts are made with respect to a child, and in making such reasonable efforts, the child's health and safety shall be the paramount concern.

Source: L. 87: Entire title R&RE, p. 761, § 1, effective October 1. **L. 92:** (1) amended, p. 224, § 9, effective July 1. **L. 93:** (3) amended, p. 2013, § 3, effective July 1. **L. 98:** (3) amended, p. 1417, § 3, effective July 1. **L. 2001:** (3) amended, p. 846, § 7, effective June 1. **L. 2015:** (1) and (2) amended, (SB 15-087), ch. 263, p. 1012, § 8, effective June 2.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-105 and 19-10-113 as said sections existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2001 act amending subsection (3), see section 1 of chapter 241, Session Laws of Colorado 2001.

19-3-204. Temporary protective custody. (Repealed)

Source: L. 87: Entire title R&RE, p. 761, § 1, effective October 1. **L. 90:** Entire section repealed, p. 1037, § 6, effective April 3.

19-3-205. Continuing jurisdiction. (1) Except as otherwise provided in this article, the jurisdiction of the court over any child adjudicated as neglected or dependent shall continue until he becomes twenty-one years of age unless earlier terminated by court order.

(2) (a) Commencing January 1, 2012, the court shall consider the individual circumstances of each youth in out-of-home placement who is at least seventeen years of age but who has not yet reached eighteen years of age to determine if the youth is ready to become independent upon reaching eighteen years of age or whether the youth should remain under the care and supervision of the county until the youth reaches twenty-one years of age unless earlier terminated by court order. The court shall determine if the youth is engaged in one of the following activities:

(I) Completing secondary education or is enrolled in a program leading to an equivalent credential;

(II) Enrolled in an institution that provides postsecondary or career and technical education;

(III) Participating in a program or activity designed to promote or remove barriers to employment; or

(IV) Employed for at least eighty hours per month.

(b) If a youth's medical condition makes him or her incapable of engaging in any of the activities described in subparagraphs (I) to (IV) of paragraph (a) of this subsection (2), the applicable county department shall maintain information about the youth's condition in the youth's case plan.

Source: L. 87: Entire title R&RE, p. 762, § 1, effective October 1. **L. 2011:** Entire section amended, (HB 11-1079), ch. 83, p. 226, § 8, effective August 10. **L. 2017:** (2)(a)(II) amended, (SB 17-294), ch. 264, p. 1394, § 41, effective May 25.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-118 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) The provisions of subsection (2) in House Bill 11-1079 have been relettered and renumbered on revision for ease of location.

19-3-206. Representation of petitioner. In all proceedings brought under this article, the petitioner shall be represented by a county attorney, special county attorney, or city attorney of a city and county.

Source: L. 87: Entire title R&RE, p. 762, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-207. Inadmissibility of certain evidence. (1) Upon the request of the county attorney, special county attorney, or the city attorney of a city and county, the court shall set a hearing to determine the admissibility in a subsequent criminal proceeding arising from the same episode of information derived directly from testimony obtained pursuant to compulsory process in a proceeding under this article. The district attorney of the judicial district in which the matter is being heard shall be given five days' written notice of the hearing by the clerk of the court. Such hearing shall be held in camera, and the district attorney shall have the right to appear at the hearing and to object to the entry of the order holding such information inadmissible. The court shall not enter such an order if the district attorney presents prima facie evidence that the inadmissibility of such information would substantially impair his or her ability to prosecute the criminal case. The provisions of this subsection (1) shall not be construed to prevent any law enforcement officer from independently producing or obtaining the same or similar facts, information, or evidence for use in any criminal prosecution.

(2) No professional shall be examined in any criminal case without the consent of the respondent as to statements made pursuant to compliance with court treatment orders, including

protective orders, entered under this article; except that such privilege shall not apply to any discussion of any future misconduct or of any other past misconduct unrelated to the allegations involved in the treatment plan. The admissibility of testimony as set forth in this subsection (2) shall not be subject to the hearing and notice provisions of subsection (1) of this section.

(2.5) Notwithstanding any other provision of law to the contrary, a juvenile's statements to a professional made in the course of treatment ordered by the court pursuant to this article shall not, without the juvenile's consent, be admitted into evidence in any criminal or juvenile delinquency case brought against the juvenile; except that the privilege shall not apply to statements regarding future misconduct.

(3) No admission made by a respondent in open court or by written pleading filed with the court to a petition in dependency or neglect may be used against him or her in any criminal prosecution, except for purposes of impeachment or rebuttal.

Source: L. 87: Entire title R&RE, p. 762, § 1, effective October 1. **L. 90:** (2) amended, p. 1037, § 4, effective April 3. **L. 97:** Entire section amended, p. 518, § 5, effective July 1. **L. 2004:** (2.5) added, p. 274, § 1, effective April 5.

19-3-208. Services - county required to provide - rules. (1) Each county or city and county shall provide a set of services, as defined in subsection (2) of this section, to children who are in out-of-home placement or meet the social services out-of-home placement criteria and to their families in the state of Colorado eligible for such services as determined necessary by an assessment and a case plan. A county or city and county may enter into an agreement with any other county, city and county, or group of counties to share in the provision of these services. Each county, city and county, or group of counties may enter into contracts with private entities for the provision of these services. Each county or city and county shall have a process in place whereby services can readily be accessed by children and families determined to be in need of such services described in subsection (2) of this section. For the purposes of this subsection (1), the requirements of providing services or a process shall be made available based upon the state's capacity to increase federal funding or any other moneys appropriated for these services.

(2) (a) "Services" shall be designed to accomplish the following goals:

(I) Promote the immediate health, safety, and well-being of children eligible for these services based upon the case assessment and individual case plan;

(II) Reduce the risk of future maltreatment of children who have previously been abused or neglected and protect the siblings of such children and other children who are members of the same household who may be subjected to maltreatment;

(III) Avoid the unnecessary placement of children into foster care resulting from child abuse and neglect, voluntary decisions by families, or the commission of status offenses;

(IV) Facilitate, if appropriate, the speedy reunification of parents with any of their children who have been placed in out-of-home placement;

(V) Ensure that the placement of a child is neither delayed nor denied due to consideration of the race, color, or national origin of the child or any other person unless such consideration is permitted pursuant to federal law; and

(VI) Promote the best interests of the child.

(b) The following services shall be available and provided, as determined necessary and appropriate by individual case plans, commencing on or after July 1, 1993:

(I) Screening, assessments, and individual case plans;

(II) Home-based family and crisis counseling;

(III) Information and referral services to available public and private assistance resources;

(IV) Visitation services for parents with children in out-of-home placement; and

(V) Placement services including foster care and emergency shelter.

(c) (Deleted by amendment, L. 94, p. 1054, § 4, effective May 4, 1994.)

(d) The following services shall be made available and provided based upon the state's capacity to increase federal funding or any other moneys appropriated for these services and as determined necessary and appropriate by individual case plans:

(I) Transportation to these services when other appropriate transportation is not available;

(II) Child care as needed according to a case plan, when other child care is not available;

(III) In-home supportive homemaker services;

(IV) Diagnostic, mental health, and health care services;

(V) Drug and alcohol treatment services;

(VI) After care services to prevent a return to out-of-home placement;

(VII) Family support services while a child is in out-of-home placement including home-based services, family counseling, and placement alternative services;

(VIII) Financial services in order to prevent placement; and

(IX) Family preservation services, which are brief, comprehensive, and intensive services provided to prevent the out-of-home placement of children or to promote the safe return of children to the home.

(e) The department of human services may promulgate such rules and regulations as are necessary to implement the provision of services pursuant to this article.

(f) It is the intent of the general assembly to use existing general fund moneys which have serviced the programs described in this subsection (2) to access federal funds.

Source: L. 93: Entire section added, p. 2014, § 4, effective July 1. **L. 94:** (1), (2)(c), and IP(2)(d) amended, p. 1054, § 4, effective May 4; (2)(a) amended, p. 672, § 1, effective July 1; (2)(e) amended, p. 2682, § 197, effective July 1. **L. 2008:** (2)(a)(I) amended, p. 812, § 1, effective May 14. **L. 2010:** (2)(a)(V) amended, (HB 10-1106), ch. 278, p. 1274, § 5, effective May 26.

19-3-208.5. Pilot program - legislative declaration - child welfare - mental health services - rules - repeal. (1) The general assembly hereby finds and declares that:

(a) Child abuse and neglect is a serious and reprehensible problem in our society and state;

(b) A child who has been abused or neglected is at a significantly increased risk of suffering from mental health or behavioral issues;

(c) If a child who has been abused or neglected does not receive treatment for mental health or behavioral issues, those issues may significantly limit that child's quality of life and future productivity;

(d) A child who has been abused or neglected and who is not provided with treatment for mental health or behavioral issues has a significantly increased risk of involvement in substance

abuse, crime, and teen pregnancy and is more likely to have lower performance results on standardized tests, to repeat a grade, or to experience depression or suicidal behavior;

(e) The social and medical issues that may arise in the future for a child who has been abused or neglected and who has not received treatment for mental health or behavioral issues will be more likely to result in a substantial increase in costs to the state for juvenile and correctional facilities, alcohol and drug abuse programs, and loss of productivity;

(f) Providing mental health screenings, evaluations, and mental health services is necessary to creating the best opportunity for a child who is the victim of child abuse or neglect to have a bright future and lead a productive life;

(g) Including mental health screenings, evaluations, and mental health services for siblings of children who are the subject of a substantiated case of abuse or neglect may increase the likelihood of more effective and positive outcomes for everyone involved; and

(h) Establishing a pilot program concerning child welfare and mental health services will provide the opportunity to evaluate the effectiveness of providing mental health screenings and evaluations and mental health services for children from four through ten years of age who are the subject of a substantiated case of abuse or neglect and for siblings to whom they are related.

(2) There is hereby created the child welfare and mental health services pilot program, referred to in this section as the "pilot program", in the state department of human services. The purpose of the pilot program is to provide mental health screenings and evaluations and mental health services for any child who is from four through ten years of age and who is the subject of a case of abuse or neglect that has been substantiated by a county department of social services and to evaluate the effectiveness of providing such services. The pilot program shall provide mental health screenings and evaluations and mental health services regardless of whether the child remains at home with his or her parents, is placed in foster or kinship care, or is under court supervision. The pilot program shall also provide mental health screenings and evaluations and mental health services to siblings of the abused or neglected child.

(3) Notwithstanding the provisions of subsection (2), any child who is receiving services through the pilot program shall continue to be eligible to receive services through the pilot program after his or her tenth birthday.

(4) On or before July 1, 2015, the state department of human services shall issue a request for proposals for the selection of a contractor for the development of the pilot program pursuant to this section. The state department of human services shall establish criteria for the selection of the pilot program contractor, including the expertise of the contractor related to the requirements of the pilot program, the capabilities and resources of the contractor necessary to perform the work, and the quality of the application. On or before April 1, 2016, the state department of human services shall promulgate rules necessary to implement the provisions of this section. The rules shall include, but need not be limited to, criteria based upon scientifically rigorous methods for evaluating the effectiveness of the pilot program.

(5) Beginning on or before July 1, 2016, and ending June 30, 2019, the pilot program shall be implemented in a minimum of three Colorado counties or regions selected by the executive director of the state department of human services based upon applications submitted by a department of human or social services for one or more counties, in conjunction with local community mental health centers, and criteria established by the state department, including a commitment of resources by or through the county, the quality of the county's application, and the historical practices and collaborative initiatives of the county.

(6) The pilot program shall provide the following services and programs:

(a) Age-appropriate mental health screenings for children and their siblings who meet the criteria described in subsection (2) of this section;

(b) A mental health evaluation if the mental health screening described in paragraph (a) of this subsection (6) determines the child or his or her sibling needs such an evaluation;

(c) Mental health services, including evidence-based practices or available practices, in community mental health center settings for children and their siblings based upon the results of the mental health evaluation performed pursuant to paragraph (b) of this subsection (6) and included in the case management plan;

(d) Referrals to other agencies and programs as appropriate for children and their siblings based upon the results of the mental health evaluation performed pursuant to paragraph (b) of this subsection (6);

(e) Integrated child welfare and mental health programs for children and their siblings eligible for services through the pilot program; and

(f) Training programs to provide training and consultation on evidence-based and available practices and the provision of integrated child welfare and community mental health center programs.

(7) If a child is eligible to receive pilot program services pursuant to subsection (3) of this section and he or she is also eligible to receive public assistance funding for those services through the "Colorado Medical Assistance Act", article 4 of title 25.5, C.R.S., or the "Children's Basic Health Plan Act", article 8 of title 25.5, C.R.S., the pilot program services shall be funded with the public assistance moneys first, with any balance to be funded out of moneys available through the pilot program.

(8) The state department of human services shall conduct an evaluation of the pilot program based upon the criteria established pursuant to subsection (4) of this section, as well as the costs of the pilot program, and submit a report based on its evaluation to the health and human services committees of the house of representatives and the senate, or any successor committees, on or before January 30, 2019.

(9) This section is repealed, effective July 1, 2019.

Source: L. 2008: Entire section added, p. 812, § 2, effective May 14. **L. 2009:** (4), (5), (8), and (9) amended, (SB 09-207), ch. 8, p. 60, § 1, effective March 2.

19-3-209. Individual case plan - required. An individual case plan, developed with the input or participation of the family, is required to be in place for all abused and neglected children and the families of such children in each case which is opened for the provision of services beyond the investigation of the report of child abuse or neglect, regardless of whether the child or children involved are placed out of the home or under court supervision.

Source: L. 93: Entire section added, p. 2014, § 4, effective July 1.

19-3-210. Foster parents' bill of rights study - task force created - principles to be examined - report. (Repealed)

Source: L. 93: Entire section added, p. 1246, § 1, effective June 6. **L. 94:** (1) and (4) amended, p. 2682, § 198, effective July 1. **L. 96:** Entire section repealed, p. 1249, § 124, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act repealing this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

19-3-211. Conflict resolution process - rules - definitions. (1) (a) The state department, in conjunction with the attorney general, shall adopt rules concerning the statewide implementation of a conflict resolution process in each county and city and county pursuant to the provisions of this section. The purpose of such conflict resolution process is to provide a forum for grievances concerning the conduct of county department personnel in performing their duties pursuant to this article.

(b) A citizen review panel shall be created in each county and city and county. The members of such citizen review panel shall be appointed by the governing body without influence from the state department or the county department, be representative of the community, have demonstrable personal or professional knowledge and experience with children, and not be employees or agents of the state department or any county department. At least one member of the citizen review panel in each county and city and county shall be the parent of a minor child at the time of his or her appointment to serve on such panel.

(c) The conflict resolution process shall provide for the resolution of grievances as follows:

(I) Transmittal of all grievances to the county director for internal resolution by the county department within ten working days after receipt of the grievance;

(II) Closure of the grievance and issuance of a written final decision if the county department has resolved the grievance to the complainant's satisfaction;

(III) Referral of the grievance to the citizen review panel upon the request of the complainant if the county department has not resolved the grievance to the complainant's satisfaction;

(IV) Review by the citizen review panel of the grievance and the county department's proposed resolution of the grievance within thirty days after receipt of the referral;

(V) Written notification by the citizen review panel to the complainant and the county director of its recommendation concerning the grievance and the basis for its recommendation;

(VI) Closure of the grievance and issuance of a written final decision by the county director if the county department agrees with the recommendation of the citizen review panel;

(VII) Referral of a grievance to the governing body for review if the county department or the complainant disagrees with the recommendation of the citizen review panel.

(d) The governing body shall submit a written decision containing its recommendation and the basis for its recommendation to the county director and any county department employee who is the subject of a grievance, and the county director shall issue a written final decision that shall include the county director's plan for implementation of the final decision.

(e) Any recommendations of the citizen review panel and of the governing body shall be limited to actions within the authority of the county director including, but not limited to, recommendations for case reassignment, personnel training, and disciplinary action concerning a county department employee. If disciplinary action is initiated against a county department

employee as a result of recommendations, the employee shall be entitled to the rights, including procedural rights to appeal, that the employee has through the merit system or other applicable personnel system under which the employee is employed.

(f) A citizen review panel and any governing body shall have access to child abuse or neglect reports and any information from the complete case file that the governing body believes is pertinent to the grievance, which shall be reviewed solely for the purpose of resolving grievances pursuant to the provisions of this section; except that access to identifying information concerning any person who reported child abuse or neglect shall not be provided and no participant in the conflict resolution process shall divulge or make public any confidential information contained in a report of child abuse or neglect or in other case file records to which he or she has been provided access.

(g) The county department shall prepare a final report to the citizen review panel within thirty days after the issuance of any final decision in the conflict resolution process that shall include the disposition of each grievance referred to the citizen review panel in a manner not inconsistent with applicable state and county personnel rules.

(h) The complainant or county department employee who is the subject of the grievance shall receive copies of the following:

(I) The written decision of the governing body required pursuant to paragraph (d) of this subsection (1);

(II) The final written decision of the county director required pursuant to paragraph (d) of this subsection (1);

(III) The final report of the county department required pursuant to paragraph (g) of this subsection (1).

(2) The state department shall create a system for monitoring compliance with this section that shall include annual reports prepared by each county and city and county as to the grievances received and their disposition. Such annual reports shall be made available to the citizen review panels and the state department and shall be available for public review.

(3) (a) At the request of the complainant, the county department, or the subject of the grievance, each citizen review panel, as part of its review, may take informal testimony submitted voluntarily and without fee by experts or other individuals, including county department personnel.

(b) Each citizen review panel may request and receive information from any other county or city and county that may be pertinent to the grievance.

(4) Each county department shall implement the conflict resolution process. The state department shall promulgate rules governing the implementation of the process in the following areas:

(a) Procedures for making relevant information concerning the conflict resolution process public;

(b) Time frames for the citizen review panel's and the governing body's written notification of recommendations; and

(c) Procedures for processing grievances, for determining if a grievance is within the scope of the conflict resolution process, and for receiving testimony and other information from the complainant, the county department, and the subject of the grievance.

(5) (a) Nothing in this section shall be construed to direct or authorize any participant in the conflict resolution process to use the process to interfere with any civil or criminal

investigation or judicial proceeding, to seek relief from any court action, or to seek a remedy that is within the authority of a court having jurisdiction over a pending proceeding.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (5), a county department shall not be precluded from presenting any relevant evidence in a pending civil or criminal investigation or proceeding that the county department has obtained in the course of fulfilling its duties in the conflict resolution process pursuant to the provisions of this section.

Source: L. 94: Entire section added, p. 2081, § 1, effective June 3. **L. 96:** (6) repealed, p. 85, § 11, effective March 20; (2)(h) repealed, p. 1247, § 118, effective August 7. **L. 97:** Entire section R&RE, p. 1434, § 9, effective July 1. **L. 2004:** (1)(a) and IP(4) amended, p. 194, § 8, effective August 4.

19-3-212. Notice of rights and remedies for families. (1) The state department shall prepare, with the assistance of the attorney general, on a standardized written form, a detailed informational notice of rights and remedies for families subject to the provisions of this article.

(2) The notice prepared pursuant to subsection (1) of this section shall be supplied to all social service and law enforcement agencies in the state and shall be delivered to all parents and families from whom children are removed under court order or by law enforcement personnel, along with a copy of the court order directing removal of the child or children from the home. In addition to the notification on the court order, the informational notice shall contain a statement as to the cause of the removal of the child or children. The notice shall also contain disclosure of the availability of the conflict resolution process to persons who are the subject of any child abuse or neglect report and to the parents, Indian custodians, guardian, or legal custodian of a child who is the subject of any child abuse or neglect report. The standardized written notice form prepared pursuant to subsection (1) of this section shall also include a notification of rights of the parents, Indian custodians, guardians, or legal custodians of Indian children under the federal "Indian Child Welfare Act", 25 U.S.C. sec. 1901, et seq.

(3) The notice prepared pursuant to subsection (1) of this section shall be available for public inspection at a review and comment hearing prior to its adoption.

Source: L. 94: Entire section added, p. 2081, § 1, effective June 3. **L. 97:** (2) amended, p. 1437, § 10, effective July 1. **L. 2002:** (1) and (2) amended, p. 786, § 5, effective May 30.

Cross references: For the legislative declaration contained in the 2002 act amending subsections (1) and (2), see section 1 of chapter 217, Session Laws of Colorado 2002.

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:

(a) Prior to the change of placement of a child, the county department shall, to the extent possible, notify the guardian ad litem, any CASA volunteer, and other parties. If the guardian ad litem or other party disagrees with the change of placement, he or she may seek an emergency

hearing concerning the appropriate placement for a child. In an emergency, the county department may proceed to make the change of placement prior to any requested hearing.

(b) Except in exceptional circumstances, no child shall remain in an emergency, short-term, or shelter facility for more than sixty days, nor shall a child be moved from one such facility to another, unless all reasonable efforts to return the child to the child's home or to place the child in a more permanent setting have been exhausted.

(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.

(II) Consideration of the placement of children together as a sibling group in foster care shall not be construed as requiring the removal of a child from his or her home and placement into foster care if that is not in the best interests of the child.

(III) In any proceeding under this article involving a sibling group, the judge shall review the family services plan document regarding placement of siblings.

(d) Prior to the change of placement of a child, all parties shall attempt to promote educational stability for the child by taking into account the child's existing educational situation and, to the extent possible and in accordance with the child's best interests, selecting a change of placement that enables the child to remain in the existing educational situation or to transfer to a new educational situation that is comparable to the existing situation.

(2) If a child runs away from an out-of-home placement facility, the person in charge of the placement facility, foster parent, relative, or other placement provider shall notify the county department as soon as possible after discovering that the child has run away. The county department shall notify the court and other parties within ten days after the county department has received notice and take appropriate steps to locate the child.

Source: L. 97: Entire section added, p. 1438, § 11, effective July 1. **L. 2000:** (1) amended, p. 475, § 3, effective July 1. **L. 2003:** (1)(c)(I) amended, p. 2622, § 1, effective June 5. **L. 2008:** (1)(d) added, p. 471, § 3, effective April 17.

Cross references: For the legislative declaration contained in the 2008 act enacting subsection (1)(d), see section 1 of chapter 147, Session Laws of Colorado 2008.

19-3-214. Placement reporting. (1) Each county department shall maintain and update on a monthly basis a report of the number of children who have been removed from their homes and placed in the temporary custody of the county department for the preceding month. The report shall indicate whether a child who has been placed out of the home has been placed with relatives.

(2) Notwithstanding section 24-1-136 (11)(a)(I), the state department shall submit an annual report to the joint budget committee of the general assembly no later than December 1 of each year that compiles the monthly reports of the number of children who have been placed out

of the home in each county or city and county for the preceding year as required pursuant to subsection (1) of this section.

Source: L. 97: Entire section added, p. 1438, § 11, effective July 1. **L. 2017:** (2) amended, (SB 17-234), ch. 154, p. 521, § 4, effective August 9.

19-3-215. Foster care - capacity may be exceeded for sibling groups. The state board of human services shall promulgate rules that allow foster care homes to exceed capacity for the number of children and for square footage requirements in order to accommodate the joint placement of sibling groups in a single foster care home.

Source: L. 2000: Entire section added, p. 478, § 9, effective July 1.

PART 3

CHILD ABUSE OR NEGLECT

19-3-301. Short title. This part 3 shall be known and may be cited as the "Child Protection Act of 1987".

Source: L. 87: Entire title R&RE, p. 762, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-10-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-302. Legislative declaration. The general assembly declares that the complete reporting of child abuse is a matter of public concern and that, in enacting this part 3, it is the intent of the general assembly to protect the best interests of children of this state and to offer protective services in order to prevent any further harm to a child suffering from abuse. It is also the intent of the general assembly that if a county or group of counties decides to establish a child protection team, that the child protection teams publicly discuss public agencies' responses to child abuse and neglect reports so that the public and the general assembly are better informed concerning the operation and administration of this part 3.

Source: L. 87: Entire title R&RE, p. 762, § 1, effective October 1. **L. 2017:** Entire section amended, (SB 17-016), ch. 107, p. 389, § 1, effective August 9.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-10-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-303. Definitions. (Repealed)

Source: L. 87: Entire title R&RE, p. 763, § 1, effective October 1. **L. 91:** (2.5) and (10) amended and (4.5), (4.7), and (9.5) added, p. 222, § 3, effective May 24. **L. 92:** (9.5) amended, p. 2175, § 29, effective June 2. **L. 93:** (2) amended, p. 1250, § 2, effective June 6. **L. 94:** (1)(a)(IV) added, p. 1055, § 5, effective May 4; (9) amended, p. 2683, § 199, effective July 1. **L. 96:** Entire section repealed, p. 85, § 11, effective March 20.

Cross references: For current applicable definitions, see § 19-1-103.

19-3-304. Persons required to report child abuse or neglect. (1) (a) Except as otherwise provided by section 19-3-307, section 25-1-122 (4)(d), C.R.S., and paragraph (b) of this subsection (1), any person specified in subsection (2) of this section who has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions that would reasonably result in abuse or neglect shall immediately upon receiving such information report or cause a report to be made of such fact to the county department, the local law enforcement agency, or through the child abuse reporting hotline system as set forth in section 26-5-111, C.R.S.

(b) The reporting requirement described in paragraph (a) of this subsection (1) shall not apply if the person who is otherwise required to report does not:

(I) Learn of the suspected abuse or neglect until after the alleged victim of the suspected abuse or neglect is eighteen years of age or older; and

(II) Have reasonable cause to know or suspect that the perpetrator of the suspected abuse or neglect:

(A) Has subjected any other child currently under eighteen years of age to abuse or neglect or to circumstances or conditions that would likely result in abuse or neglect; or

(B) Is currently in a position of trust, as defined in section 18-3-401 (3.5), C.R.S., with regard to any child currently under eighteen years of age.

(2) Persons required to report such abuse or neglect or circumstances or conditions include any:

(a) Physician or surgeon, including a physician in training;

(b) Child health associate;

(c) Medical examiner or coroner;

(d) Dentist;

(e) Osteopath;

(f) Optometrist;

(g) Chiropractor;

(h) Podiatrist;

(i) Registered nurse or licensed practical nurse;

(j) Hospital personnel engaged in the admission, care, or treatment of patients;

(k) Christian science practitioner;

(l) Public or private school official or employee;

(m) Social worker or worker in any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.;

(n) Mental health professional;

(o) Dental hygienist;

(p) Psychologist;

(q) Physical therapist;

(r) Veterinarian;

(s) Peace officer as described in section 16-2.5-101, C.R.S.;

(t) Pharmacist;

(u) Commercial film and photographic print processor as provided in subsection (2.5) of this section;

(v) Firefighter as defined in section 18-3-201 (1.5), C.R.S.;

(w) Victim's advocate, as defined in section 13-90-107 (1)(k)(II), C.R.S.;

(x) Licensed professional counselors;

(y) Licensed marriage and family therapists;

(z) Registered psychotherapists;

(aa) (I) Clergy member.

(II) The provisions of this paragraph (aa) shall not apply to a person who acquires reasonable cause to know or suspect that a child has been subjected to abuse or neglect during a communication about which the person may not be examined as a witness pursuant to section 13-90-107 (1)(c), C.R.S., unless the person also acquires such reasonable cause from a source other than such a communication.

(III) For purposes of this paragraph (aa), unless the context otherwise requires, "clergy member" means a priest, rabbi, duly ordained, commissioned, or licensed minister of a church, member of a religious order, or recognized leader of any religious body.

(bb) Registered dietitian who holds a certificate through the commission on dietetic registration and who is otherwise prohibited by 7 CFR 246.26 from making a report absent a state law requiring the release of this information;

(cc) Worker in the state department of human services;

(dd) Juvenile parole and probation officers;

(ee) Child and family investigators, as described in section 14-10-116.5, C.R.S.;

(ff) Officers and agents of the state bureau of animal protection, and animal control officers;

(gg) The child protection ombudsman as created in article 3.3 of this title;

(hh) Educator providing services through a federal special supplemental nutrition program for women, infants, and children, as provided for in 42 U.S.C. sec. 1786;

(ii) Director, coach, assistant coach, or athletic program personnel employed by a private sports organization or program. For purposes of this paragraph (ii), "employed" means that an individual is compensated beyond reimbursement for his or her expenses related to the private sports organization or program.

(jj) Person who is registered as a psychologist candidate pursuant to section 12-43-304 (7), marriage and family therapist candidate pursuant to section 12-43-504 (5), or licensed professional counselor candidate pursuant to section 12-43-603 (5), or who is described in section 12-43-215;

(kk) Emergency medical service providers, as defined in sections 25-3.5-103 (8) and 25-3.5-103 (12) and certified pursuant to part 2 of article 3.5 of title 25;

(ll) **[*Editor's note: Paragraph (ll) is effective December 31, 2017.*]** Officials or employees of county departments of health, human services, or social services; and

(mm) Naturopathic doctor registered under article 37.3 of title 12.

(2.5) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative, or slide depicting a child engaged in an act of sexual conduct shall report such fact to a local law enforcement agency immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative, or slide attached within thirty-six hours of receiving the information concerning the incident.

(3) In addition to those persons specifically required by this section to report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in abuse or neglect, any other person may report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in child abuse or neglect to the local law enforcement agency, the county department, or through the child abuse reporting hotline system as set forth in section 26-5-111, C.R.S.

(3.5) No person, including a person specified in subsection (1) of this section, shall knowingly make a false report of abuse or neglect to a county department, a local law enforcement agency, or through the child abuse reporting hotline system as set forth in section 26-5-111, C.R.S.

(4) Any person who willfully violates the provisions of subsection (1) of this section or who violates the provisions of subsection (3.5) of this section:

(a) Commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.;

(b) Shall be liable for damages proximately caused thereby.

Source: L. 87: Entire title R&RE, p. 764, § 1, effective October 1. **L. 90:** (2)(m) amended, P. 1394, § 2, effective May 24; (3.5) added and IP(4) amended, p. 1023, § 1, effective July 1. **L. 93:** (1) amended, p. 1609, § 1, effective June 6; (2) amended, p. 1735, § 29, effective July 1. **L. 95:** (2)(w) added, p. 949, § 5, effective July 1. **L. 96:** (2.5) amended, p. 83, § 8, effective March 20; (2)(m) amended, p. 265, § 16, effective July 1. **L. 97:** (2)(v) amended, p. 1013, § 19, effective August 6. **L. 2001:** (2)(x), (2)(y), and (2)(z) added, p. 160, § 1, effective July 1. **L. 2002:** (1) amended, p. 568, § 2, effective May 24; (2)(aa) added, p. 1145, § 1, effective June 3; (1) amended, p. 1592, § 30, effective July 1; (4)(a) amended, p. 1527, § 231, effective October 1. **L. 2003:** (2)(m) amended and (2)(cc) added, p. 660, § 1, effective March 20; (2)(bb) added, p. 666, § 1, effective March 20; (2)(s) amended, p. 1616, § 18, effective August 6. **L. 2005:** (2)(dd), (2)(ee), and (2)(ff) added, p. 357, § 1, effective April 22; (2)(ee) amended, p. 963, § 9, effective July 1. **L. 2010:** (2)(gg) added, (SB 10-171), ch. 225, p. 982, § 4, effective May 14; (1) amended, (SB 10-066), ch. 418, p. 2060, § 1, effective June 10; (2)(h) amended, (HB 10-1224), ch. 420, p. 2161, § 25, effective July 1. **L. 2011:** IP(2) and (2)(z) amended, (SB 11-187), ch. 285, p. 1328, § 71, effective July 1; (2)(hh) added, (SB 11-034), ch. 125, p. 390, § 1, effective January 1, 2012. **L. 2013:** (2)(hh) amended and (2)(ii) added, (SB 13-012), ch. 51, p. 173, § 2, effective March 22; (1)(a), (3), and (3.5) amended, (HB 13-1271), ch. 219, p. 1021, § 2, effective May 14; (2)(jj) added, (HB 13-1104), ch. 77, p. 249, § 6, effective August 7; (2)(kk) added, (SB 13-220), ch. 220, p. 1023, § 1, effective July 1, 2014. **L. 2014:** (2)(v) amended, (HB 14-1214), ch. 336, p. 1499, § 11, effective August 6. **L. 2016:** (1)(a) amended, (SB 16-146), ch. 230, p. 918, § 13, effective July 1. **L. 2017:** (2)(jj) and (2)(kk) amended and (2)(mm) added, (SB

17-106), ch. 302, p. 1650, § 8, effective August 9; (2)(jj) and (2)(kk) amended and (2)(ll) added, (HB 17-1185), ch. 194, p. 710, § 2, effective December 31.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-10-104 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Subsection (2)(cc) was originally numbered as (2)(bb) in House Bill 03-1037 but has been renumbered on revision for ease of location.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (4)(a), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration contained in the 2005 act amending subsection (2)(ee), see section 1 of chapter 244, Session Laws of Colorado 2005. For the legislative declaration in the 2013 act amending subsection (2)(hh) and adding subsection (2)(ii), see section 1 of chapter 51, Session Laws of Colorado 2013.

19-3-304.5. Emergency possession of certain abandoned children. (1) If a parent voluntarily delivers a child to a firefighter, as defined in section 18-3-201 (1.5), C.R.S., or a hospital staff member who engages in the admission, care, or treatment of patients, when the firefighter is at a fire station or the hospital staff member is at a hospital, the firefighter or hospital staff member shall, without a court order, take temporary physical custody of the child if:

(a) The child is seventy-two hours old or younger; and

(b) The parent did not express an intent to return for the child.

(2) If a firefighter or hospital staff member takes temporary physical custody of a child pursuant to subsection (1) of this section, the firefighter or hospital staff member shall:

(a) Perform any act necessary, in accordance with generally accepted standards of professional practice, to protect, preserve, or aid the physical health or safety of the child during the temporary physical custody; and

(b) Notify a law enforcement officer and the county department of the abandonment within twenty-four hours after the abandonment.

(3) A firefighter or hospital staff member shall incur no civil or criminal liability for any good faith acts or omissions performed pursuant to this section.

(4) Upon receipt of notice pursuant to subsection (2) of this section, a law enforcement officer shall take the abandoned child into temporary custody pursuant to section 19-3-401.

(4.5) Any document prepared by a firefighter, member of a hospital staff, or law enforcement officer pursuant to this section shall be a dependency and neglect record and shall be subject to the confidentiality provisions of section 19-1-307.

(5) Each county department of social services shall maintain and update on a monthly basis a report of the number of children who have been abandoned pursuant to this section. Each county department of social services shall submit such information to the state department of human services.

(6) Notwithstanding section 24-1-136 (11)(a)(I), the state department of human services shall submit an annual report to the general assembly, beginning January 1, 2001, that compiles

the monthly reports, required pursuant to subsection (5) of this section, of the number of children abandoned pursuant to this section.

(7) The general assembly hereby finds, determines, and declares that a county department of social services shall place an abandoned child with a potential adoptive parent as soon as possible. The general assembly further declares that, as soon as lawfully possible, a county department of social services shall proceed with a motion to terminate the parental rights of a parent who abandons a child.

(8) A parent who utilizes the provisions of this section shall not, for that reason alone, be found to be responsible in a confirmed report of abuse or neglect.

Source: L. 2000: Entire section added, p. 2004, § 2, effective June 3. **L. 2002:** (4.5) added, p. 168, § 1, effective April 1. **L. 2003:** (2)(b) amended and (8) added, p. 769, § 1, effective March 25. **L. 2006:** (8) amended, p. 1493, § 24, effective June 1. **L. 2014:** IP(1) amended, (HB 14-1214), ch. 336, p. 1499, § 12, effective August 6. **L. 2017:** (6) amended, (SB 17-234), ch. 154, p. 521, § 5, effective August 9.

19-3-305. Required report of postmortem investigation. (1) Any person who is required by section 19-3-304 to report known or suspected child abuse or neglect who has reasonable cause to suspect that a child died as a result of child abuse or neglect shall report such fact immediately to a local law enforcement agency and to the appropriate medical examiner. The local law enforcement agency and the medical examiner shall accept such report for investigation and shall report their findings to the local law enforcement agency, the district attorney, and the county department.

(2) The county department shall forward a copy of such report to the state department of human services.

Source: L. 87: Entire title R&RE, p. 765, § 1, effective October 1. **L. 2003:** (2) amended, p. 1405, § 9, effective January 1, 2004.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-10-105 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2003 act amending subsection (2), see section 1 of chapter 196, Session Laws of Colorado 2003.

19-3-306. Evidence of abuse - color photographs and X rays. (1) Any child health associate, person licensed to practice medicine in this state, registered nurse or licensed practical nurse, hospital personnel engaged in the admission, examination, care, or treatment of patients, medical examiner, coroner, social worker, psychologist, or local law enforcement officer who has before him a child he reasonably believes has been abused or neglected may take or cause to be taken color photographs of the areas of trauma visible on the child. If medically indicated, such person may take or cause to be taken X rays of the child.

(2) Copies or duplicate originals of any color photographs which show evidence of child abuse shall be immediately forwarded to the county department or to the local law enforcement

agency. Original photographs shall be made available upon the request of such department or agency. X rays which show evidence of child abuse or copies of the X-ray report, or both, shall be made available upon request to the county department or the local law enforcement agency. Any person who forwards original photographs or X rays pursuant to this section shall maintain copies or duplicate originals thereof.

Source: L. 87: Entire title R&RE, p. 766, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-10-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-307. Reporting procedures. (1) Reports of known or suspected child abuse or neglect made pursuant to this article shall be made immediately to the county department, the local law enforcement agency, or through the child abuse reporting hotline system as set forth in section 26-5-111, C.R.S., and shall be followed promptly by a written report prepared by those persons required to report. The county department shall submit a report of confirmed child abuse or neglect within sixty days of receipt of the report to the state department in a manner prescribed by the state department.

(2) Reports of known or suspected child abuse or neglect made pursuant to this article 3 must include the following information whenever possible:

(a) The name, address, age, sex, and race of the child;

(b) The name and address of the person responsible for the suspected abuse or neglect;

(c) The nature and extent of the child's injuries, including any evidence of previous cases of known or suspected abuse or neglect of the child or the child's siblings;

(d) The names and addresses of the persons responsible for the suspected abuse or neglect, if known;

(e) The family composition;

(f) The source of the report and the name, address, and occupation of the person making the report;

(g) Any action taken by the reporting source;

(h) Any other information that the person making the report believes may be helpful in furthering the purposes of this part 3;

(i) The military affiliation of the individual who has custody or control of the child who is the subject of the investigation of child abuse or neglect, if such individual is a member of the armed forces or a spouse, or a significant other or family member residing in the home of the member of the armed forces. This information shall be shared with the appropriate military installation authorities pursuant to the requirements set forth in sections 19-1-303 (2.6) and 19-1-307 (2)(w).

(2.5) Notwithstanding the requirements set forth in subsection (2) of this section, any officer or employee of a county, district, or municipal public health agency or state department of public health and environment who makes a report pursuant to section 25-1-122 (4)(d) or 25-4-405, C.R.S., shall include only the information described in said section.

(3) (a) A copy of the report of known or suspected child abuse or neglect shall be transmitted immediately by the county department to the district attorney's office and to the local law enforcement agency.

(b) When the county department reasonably believes a criminal act of abuse or neglect of a child in foster care has occurred, the county department shall transmit immediately a copy of the written report prepared by the county department in accordance with subsection (1) of this section to the district attorney's office and to the local law enforcement agency.

(4) A written report from persons or officials required by this part 3 to report known or suspected child abuse or neglect shall be admissible as evidence in any proceeding relating to child abuse, subject to the limitations of section 19-1-307.

Source: L. 87: Entire title R&RE, p. 766, § 1, effective October 1. **L. 90:** (4) amended, p. 1012, § 6, effective July 1. **L. 93:** (2.5) added, p. 1609, § 2, effective June 6. **L. 94:** (2.5) amended, p. 2737, § 364, effective July 1. **L. 98:** (4) amended, p. 822, § 27, effective August 5. **L. 2001:** (3) amended, p. 758, § 9, effective June 1. **L. 2003:** (1) amended, p. 1406, § 10, effective January 1, 2004. **L. 2010:** (2.5) amended, (HB 10-1422), ch. 419, p. 2075, § 36, effective August 11. **L. 2013:** (1) amended, (HB 13-1271), ch. 219, p. 1022, § 3, effective May 14. **L. 2016:** (2.5) amended, (SB 16-146), ch. 230, p. 919, § 14, effective July 1. **L. 2017:** IP(2) amended and (2)(i) added, (SB 17-028), ch. 332, p. 1784, § 4, effective August 9.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-10-108 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2003 act amending subsection (1), see section 1 of chapter 196, Session Laws of Colorado 2003.

19-3-308. Action upon report of intrafamilial, institutional, or third-party abuse - investigations - child protection team - rules - report. (1) (a) The county department shall respond immediately upon receipt of any report of a known or suspected incident of intrafamilial abuse or neglect to assess the abuse involved and the appropriate response to the report. The assessment shall be in accordance with rules adopted by the state board of social services to determine the risk of harm to such child and the appropriate response to such risks. Appropriate responses shall include, but are not limited to, screening reports that do not require further investigation, providing appropriate intervention services, pursuing reports that require further investigation, and conducting immediate investigations. The immediate concern of any assessment or investigation shall be the protection of the child, and, where possible, the preservation of the family unit.

(b) Repealed.

(c) It shall be an appropriate response to a report of a known or suspected incident of intrafamilial abuse or neglect for a county department to require a parent or a child placement agency assisting a parent to verify that a petition for relinquishment has been filed or is imminent and to deem that a report does not require additional investigation pending finalization of the relinquishment in the following circumstance:

(I) When the report of a known or suspected incident of intrafamilial abuse or neglect involves a case in which the child tests positive at birth for either a schedule I or a schedule II controlled substance; and

(II) The parents of the child have filed or a child placement agency assisting the parents has filed a petition for relinquishment or anticipates filing a petition for relinquishment pursuant to the expedited relinquishment process described in section 19-5-103.5.

(1.5) (a) Upon referral to the county department, the county department shall assess the possibility of abuse or neglect.

(b) If, during the investigation and assessment process, the county department determines that the family's issues may be attributable to the child's mental health status, rather than dependency or neglect issues, and that mental health treatment services pursuant to section 27-67-104, C.R.S., may be more appropriate, the county department shall contact the mental health agency, as that term is defined in section 27-67-103 (6), C.R.S. Within ten days after the commencement of the investigation, the county department shall meet with a representative from the mental health agency and the family. The county department, in conjunction with the mental health agency, shall jointly determine whether mental health services should be provided pursuant to section 27-67-104, C.R.S., or whether the provision of services through the county department is more appropriate.

(c) On and after April 15, 2010, if a county department of human or social services that is participating in the differential response program pursuant to section 19-3-308.3 determines from an assessment performed pursuant to paragraph (a) of this subsection (1.5) that the known or suspected incident of intrafamilial abuse or neglect that was the basis for the assessment is of low or moderate risk, the county department, in lieu of performing an investigation pursuant to this section, may proceed in accordance with the provisions of section 19-3-308.3.

(2) The investigation, to the extent that it is reasonably possible, shall include:

(a) The credibility of the source or the report;

(b) The nature, extent, and cause of the abuse or neglect;

(c) The identity of the person responsible for such abuse or neglect;

(d) The names and conditions of any other children living in the same place;

(e) The environment and the relationship of any children therein to the person responsible for the suspected abuse or neglect;

(f) All other data deemed pertinent.

(3) (a) The investigation shall include an interview with or observance of the child who is the subject of a report of abuse or neglect. The investigation may include a visit to the child's place of residence or place of custody or wherever the child may be located, as indicated by the report. In addition, in connection with any investigation, the alleged perpetrator shall be advised as to the allegation of abuse and neglect and the circumstances surrounding such allegation and shall be afforded an opportunity to respond.

(b) If admission to the child's place of residence cannot be obtained, the juvenile court or the district court with juvenile jurisdiction, upon good cause shown, shall order the responsible person or persons to allow the interview, examination, and investigation. Should the responsible person or persons refuse to allow the interview, examination, and investigation, the juvenile court or the district court with juvenile jurisdiction shall hold an immediate proceeding to show cause why the responsible person or persons shall not be held in contempt of court and committed to jail until such time as the child is produced for the interview, examination, and

investigation or until information is produced that establishes that said person or persons cannot aid in providing information about the child. Such person or persons may be held without bond. During the course of any such hearing, the responsible person or persons, or any necessary witness, may be granted use immunity by the district attorney against the use of any statements made during such hearing in a subsequent or pending criminal action.

(4) (a) The county department, except as provided in subsections (5) and (5.3) of this section, shall be the agency responsible for the coordination of all investigations of all reports of known or suspected incidents of intrafamilial abuse or neglect. The county department shall arrange for such investigations to be conducted by persons trained to conduct either the complete investigation or such parts thereof as may be assigned. The county department shall conduct the investigation in conjunction with the local law enforcement agency, to the extent a joint investigation is possible and deemed appropriate, and any other appropriate agency. The county department may arrange for the initial investigation to be conducted by another agency with personnel having appropriate training and skill. The county department shall provide for persons to be continuously available to respond to such reports. Contiguous counties may cooperate to fulfill the requirements of this subsection (4). The county department or other agency authorized to conduct the investigation pursuant to this subsection (4), for the purpose of such investigation, shall have access to the records and reports of child abuse or neglect maintained by the state department for information under the name of the child or the suspected perpetrator.

(b) Upon the receipt of a report, if the county department reasonably believes that an incident of intrafamilial abuse or neglect has occurred, it shall immediately offer social services to the child who is the subject of the report and his family and may file a petition in the juvenile court or the district court with juvenile jurisdiction on behalf of such child. If, before the investigation is completed, the opinion of the investigators is that assistance of the local law enforcement agency is necessary for the protection of the child or other children under the same care, the local law enforcement agency shall be notified. If immediate removal is necessary to protect the child or other children under the same care from further abuse, the child or children may be placed in protective custody in accordance with sections 19-3-401 (1)(a) and 19-3-405.

(c) Upon the receipt of a report, if the county department assessment concludes that a child has been a victim of intrafamilial, institutional, or third-party abuse or neglect in which he or she has been subjected to human trafficking of a minor for sexual servitude, as described in section 18-3-504, C.R.S., or commercial sexual exploitation of a child, it shall, when necessary and appropriate, immediately offer social services to the child who is the subject of the report and to his or her family, and it may file a petition in the juvenile court or the district court with juvenile jurisdiction on behalf of such child. If, at any time after the commencement of an investigation, the county department has reasonable cause to suspect that the child or any other child under the same care is a victim of human trafficking, the county department shall notify the local law enforcement agency as soon as it is reasonably practicable to do so. If immediate removal is necessary to protect the child or other children under the same care from further abuse, the child or children may be placed in protective custody in accordance with sections 19-3-401 (1)(a) and 19-3-405. In instances of third-party abuse or neglect as it relates to human trafficking, a county department of social services may, but is not required to, interview the person alleged to be responsible for the abuse or neglect or prepare an investigative report pursuant to paragraph (a) of subsection (5.3) of this section. If a county department elects to interview the third-party individual, it shall first confer with its local law enforcement agency.

(4.5) (a) The state department shall adopt rules setting forth procedures for the investigation of reports of institutional abuse. Such rules may provide for investigations to be conducted by an agency that contracts with the state and has staff trained to conduct investigations, the county departments, or any other entity the state department deems appropriate. The procedures may include the use of a review team responsible to make recommendations to the state department concerning the procedures for investigating institutional abuse.

(a.5) (I) The state department shall adopt rules that specify that, prior to notice of an investigation being sent to the parents or legal guardians of children cared for at a child care center, as that term is defined in section 26-6-102 (5), C.R.S., or a family child care home, as that term is defined in section 26-6-102 (13), C.R.S., which children were not involved in the incident being investigated, the state department or the county department shall ensure that:

(A) The incident of alleged child abuse or neglect that prompted the investigation is at the level of a medium, severe, or fatal incident of abuse or neglect, as defined by rule of the state board, or involves sexual abuse;

(B) The state department or county department has made a determination as to whether notice to the parents or legal guardians of the uninvolved children is essential to the investigation of the specific allegation or is necessary for the safety of children cared for at the facility; and

(C) The state department or county department has stated in writing the basis for the determination and a state department or county department supervisor has provided written approval of the determination, which basis and approval may be in electronic form.

(II) The rules adopted pursuant to subparagraph (I) of this paragraph (a.5) shall require the notice of investigation to be sent to the parents or legal guardians within seventy-two hours after the determination described in sub-subparagraph (B) of subparagraph (I) of this paragraph (a.5) is made.

(b) If, as a result of an investigation conducted pursuant to rules adopted in accordance with this subsection (4.5), institutional abuse is found to have occurred, the entity that conducted such investigation may:

(I) If the institutional abuse is the result of a single act or occurrence at the facility, request that the owner, operator, or administrator of the facility formulate a plan of remedial action. Such request shall be made within a period established by the state department. Within thirty days of the agency's request, the owner, operator, or administrator of the facility shall notify the agency, in writing, of a plan for remedial action. Within ninety days of the request, the owner, operator, or administrator shall complete the plan for remedial action.

(II) If the institutional abuse is one of several similar incidents that have occurred at the facility, request that the owner, operator, or administrator of the facility make administrative, personnel, or structural changes at the facility. Such request shall be made within a period established by the state department. Within thirty days of such request, the owner, operator, or administrator of the facility shall notify the agency of the progress in complying with the request. The agency and the owner, operator, or administrator shall establish the period in which the requested changes shall be completed.

(III) If an owner, operator, or administrator of a facility does not formulate or implement a plan for remedial action in accordance with subparagraph (I) of this paragraph (b) or make requested changes in accordance with subparagraph (II) of this paragraph (b), recommend to the

entity that licenses, oversees, certifies, or authorizes the operation of the facility that appropriate sanctions or actions be imposed against the facility.

(c) A teacher, employee, volunteer, or staff person of an institution who is alleged to have committed an act of child abuse shall be temporarily suspended from his position at the institution with pay, or reassigned to other duties which would remove the risk of harm to the child victim or other children under such person's custody or control, if there is reasonable cause to believe that the life or health of the victim or other children at the institution is in imminent danger due to continued contact between the alleged perpetrator and a child at the institution. A public employee suspended pursuant to this paragraph (c) shall be accorded and may exercise due process rights, including notice of the proposed suspension and an opportunity to be heard, and any other due process rights provided under the laws of this state governing public employment and under any applicable individual or group contractual agreement. A private employee suspended pursuant to this subsection (4.5) shall be accorded and may exercise due process rights provided for under the laws of this state governing private employment and under any applicable individual or group employee contractual agreement.

(d) Nothing in this subsection (4.5) shall be construed to abrogate or limit any other enforcement action provided by law.

(5) If a local law enforcement agency receives a report of a known or suspected incident of intrafamilial abuse or neglect, it shall forthwith attempt to contact the county department in order to refer the case for investigation. If the local law enforcement agency is unable to contact the county department, it shall forthwith make a complete investigation and may institute appropriate legal proceedings on behalf of the subject child or other children under the same care. As a part of an investigation pursuant to this subsection (5), the local law enforcement agency shall have access to the records and reports of child abuse or neglect maintained by the state department for information under the name of the child or the suspected perpetrator. The local law enforcement agency, upon the receipt of a report and upon completion of any investigation it may undertake, shall forthwith forward a summary of the investigatory data plus all relevant documents to the county department.

(5.3) (a) Local law enforcement agencies shall have the responsibility for the coordination and investigation of all reports of third-party abuse or neglect by persons ten years of age or older. Upon receipt of a report, if the local law enforcement agency reasonably believes that the protection and safety of a child is at risk due to an act or omission on the part of persons responsible for the child's care, such agency shall notify the county department of social services for an assessment regarding neglect or dependency. In addition, the local law enforcement agency shall refer to the county department of social services any report of third-party abuse or neglect in which the person allegedly responsible for such abuse or neglect is under age ten. Upon the completion of an investigation, the local law enforcement agency shall forward a copy of its investigative report to the county department of social services. The county department shall review the law enforcement investigative report and shall determine whether the report contains information that constitutes a case of confirmed child abuse and requires it to be submitted to the state department, which report, upon such determination, shall be submitted to the state department in the manner prescribed by the state department within sixty days after the receipt of the report by the county department.

(b) If, before an investigation is completed, the local law enforcement agency determines that social services are necessary for the child and, if applicable, the child's family or that

assistance from the county department of social services is otherwise required, the agency may request said services or assistance from the county department. The county department shall immediately respond to a law enforcement agency's request for services or assistance in a manner deemed appropriate by the county department.

(c) When the investigation involves a suspected perpetrator who was acting in his official capacity as an employee of a school district, the local law enforcement agency shall coordinate such investigation with any concurrent abuse investigation being conducted by the department of education or the school district to the extent such coordination is possible and deemed appropriate.

(5.5) Upon the receipt of a report, if the county department reasonably believes that an incident of abuse or neglect has occurred, it shall immediately notify the local law enforcement agency responsible for investigation of violations of criminal child abuse laws. The local law enforcement agency may conduct an investigation to determine if a violation of any criminal child abuse law has occurred. It is the general assembly's intent that, in each county of the state, law enforcement agencies and the respective county departments of social services shall develop and implement cooperative agreements to coordinate duties of both agencies in connection with the investigation of all child abuse or neglect cases and that the focus of such agreements shall be to ensure the best protection for the child. The said agreements shall provide for special requests by one agency for assistance from the other agency and for joint investigations by both agencies.

(5.7) Upon initial investigation of a report alleging abuse or neglect in which the suspected perpetrator was acting in his official capacity as an employee of a school district, if the county department or the local law enforcement agency reasonably believes that an incident of abuse or neglect has occurred, it shall immediately notify the superintendent of the school district who shall consider such report to be confidential information; except that the superintendent shall notify the department of education of such investigation.

(6) (a) It is the intent of the general assembly to encourage the creation of one or more child protection teams in each county or contiguous group of counties. The creation of a child protection team in any given county is left to the discretion of the county director or the directors of a contiguous group of counties. If a county director or the directors of a contiguous group of counties decides to form a child protection team, the child protection team may be consolidated with other local advisory boards pursuant to section 24-1.7-103. If a child protection team is formed pursuant to this section in a county or contiguous group of counties, the director or directors of the county department or departments of human or social services may, at their discretion, implement the provisions of this section.

(b) If a child protection team is established pursuant to subsection (6)(a) of this section, it may review an assessment or the investigatory reports of a case, including the diagnostic, prognostic, and treatment services being offered to the family in connection with the reported abuse.

(c) At each meeting, each member of a child protection team established pursuant to subsection (6)(a) of this section may be provided with the investigatory reports on each assessment or case being considered.

(d) and (e) (Deleted by amendment, L. 91, p. 223, § 4, effective May 24, 1991.)

(f) Immediately after any executive session at which a child abuse or neglect case is discussed, a child protection team established pursuant to subsection (6)(a) of this section shall

publicly review the responses of public and private agencies to each reported incident of child abuse or neglect, publicly state whether the responses were timely, adequate, and in compliance with the provisions of this part 3, and publicly report nonidentifying information relating to any inadequate responses, specifically indicating the public and private agencies involved.

(g) After this mandatory public discussion of agency responses, a child protection team established pursuant to subsection (6)(a) of this section shall go into executive session upon the vote of a majority of the child protection team members to consider identifying details of the case being discussed; discuss confidential reports, including but not limited to the reports of physicians, including psychiatrists; or, when the members of the child protection team desire, act as an advisory body concerning the details of treatment or evaluation programs. The child protection team shall state publicly, before going into executive session, its reasons for doing so. Any recommendation based on information presented in the executive session shall be discussed and formulated at the immediately succeeding public session of the child protection team, without publicly revealing identifying details of the case.

(h) At the next regularly scheduled meeting of a child protection team established pursuant to subsection (6)(a) of this section, or at the earliest possible time, the child protection team shall publicly report whether there were any lapses and inadequacies in the child protection system and if they have been corrected.

(i) A child protection team established pursuant to subsection (6)(a) of this section may make a report of its recommendations to the county department with suggestions for further action or stating that the child protection team has no recommendations or suggestions. Contiguous counties may cooperate in meeting the requirements of this subsection (6).

(7) If a county or group of contiguous counties decides to establish a child protection team pursuant to subsection (6)(a) of this section, each member of the child protection team is appointed by the agency he or she represents, and each child protection team member serves at the pleasure of his or her appointing agency; except that the county director may appoint the representatives of the lay community, including the representatives of any ethnic, racial, or linguistic minority, as well as persons with disabilities, and may actively recruit all interested individuals and consider their applications for appointment as lay-community representatives on the team.

(8) The county director or his or her designee is the local coordinator of the child protection team, if one is established pursuant to subsection (6)(a) of this section.

(9) Repealed.

(10) In the event that the local department initiates a petition in the juvenile court or the district court with juvenile jurisdiction on behalf of the child who is the subject of a report, the department shall notify, in writing, the guardian ad litem appointed by the court under section 19-3-312 to represent the child's interest. Such notice shall include:

(a) The reason for initiating the petition;

(b) Suggestions as to the optimum disposition of this particular case; and

(c) Suggested therapeutic treatment and social services available within the community for the subject child and the responsible person.

(11) Upon a finding that a report contains information that constitutes a case of confirmed child abuse or neglect that requires it to be submitted to the state department, the person who is found to be responsible for the abuse or neglect of a child in the confirmed report

shall be given timely notice of this finding and of the right to appeal pursuant to rules established by the state board pursuant to section 19-3-313.5 (3).

(12) The state department shall include a summary and description of work of child protection teams that were implemented pursuant to this section in its annual presentation to the legislative committees during the committees' hearings held prior to the 2017 regular session under the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2.

Source: L. 87: Entire title R&RE, p. 767, § 1, effective October 1. **L. 88:** (5.5) added, p. 744, § 13, effective July 1. **L. 90:** (4)(a) amended and (5.7) added, p. 1023, § 2, effective July 1. **L. 91:** (1), (3)(a), (4), (5), (5.5), (6), (9), and (10) amended and (4.5) and (5.3) added, p. 223, § 4, effective May 24; (4)(b) amended, p. 1912, § 22, effective June 1. **L. 93:** (1)(b) amended, p. 1169, § 1, effective June 3; (1)(a) amended, p. 1169, § 1, effective January 1, 1994. **L. 96:** (4)(a) amended, p. 84, § 9, effective March 20. **L. 97:** (2) amended, p. 1438, § 12, effective July 1; (6)(a) amended, p. 1191, § 15, effective July 1. **L. 99:** (1.5) added, p. 1076, § 2, effective May 29. **L. 2001:** (5.3)(a) amended, p. 854, § 2, effective July 1. **L. 2003:** (4)(a), (5), and (5.3)(a) amended and (11) added, p. 1406, § 11, effective January 1, 2004. **L. 2004:** (4.5)(a.5) added, p. 1758, § 1, effective June 4; (1)(b) repealed, p. 194, § 9, effective August 4. **L. 2005:** (1)(c) added, p. 588, § 3, effective July 1. **L. 2010:** (1.5)(c) added, (HB 10-1226), ch. 129, p. 425, § 2, effective April 15; (1.5)(b) amended, (SB 10-175), ch. 188, p. 791, § 42, effective April 29. **L. 2015:** (1.5)(c) amended, (HB 15-1358), ch. 193, p. 641, § 2, effective May 14. **L. 2016:** IP(4.5)(a.5)(I) amended, (SB 16-189), ch. 210, p. 760, § 31, effective June 6; (4)(c) added, (HB 16-1224), ch. 101, p. 290, § 2, effective January 1, 2017. **L. 2017:** (6), (7), and (8) amended, (9) repealed, and (12) added, (SB 17-016), ch. 107, p. 389, § 2, effective August 9.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-10-109 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments to subsection (4) in House Bill 91-1002 and Senate Bill 91-243 were harmonized.

Cross references: For the legislative declaration contained in the 2003 act amending subsections (4)(a), (5), and (5.3)(a) and enacting subsection (11) see section 1 of chapter 196, Session Laws of Colorado 2003. For the legislative declaration in the 2010 act adding subsection (1.5)(c), see section 1 of chapter 129, Session Laws of Colorado 2010.

19-3-308.3. Differential response program for child abuse or neglect cases of low or moderate risk - rules - evaluation. (1) (a) There is created the differential response program, referred to in this section as the "program". The program will allow county departments of human or social services that choose to participate to address known or suspected incidents of intrafamilial abuse or neglect that have been assessed as low or moderate risk, pursuant to rule of the state board. The executive director of the state department shall approve any county department of human or social services that chooses to participate in the program, referred to in this section as a "participating county department".

(b) The state department is authorized to solicit, accept, and expend gifts, grants, and donations for the implementation and administration of the program.

(2) Participation in the program by families who are referred to the program is voluntary.

(3) For each family referred to the program, neither the state department nor a county department of human or social services is required to make a finding concerning the alleged intrafamilial abuse or neglect in the family.

(4) The state department and the participating county departments shall administer the program in accordance with rules promulgated by the state board pursuant to subsection (6) of this section.

(5) To the extent permitted by law and by any rules promulgated by the state board pursuant to subsection (6) of this section, the participating county departments, in administering the program, shall cooperate with local community service organizations in addressing known or suspected incidents of intrafamilial abuse or neglect.

(6) The state board shall promulgate rules to define and implement differential response and for the administration of the program.

(7) to (9) (Deleted by amendment, L. 2015.)

Source: L. 2010: Entire section added, (HB 10-1226), ch. 129, p. 425, § 3, effective April 15. **L. 2012:** (1)(a), (6), and (7) amended, (SB 12-011), ch. 55, p. 202, § 1, effective March 24. **L. 2015:** Entire section amended, (HB 15-1358), ch. 193, p. 640, § 1, effective May 14.

Cross references: For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 129, Session Laws of Colorado 2010.

19-3-308.5. Recorded interviews of child. (1) Any interview of a child conducted pursuant to section 19-3-308, concerning a report of child abuse, may be audiotaped or videotaped. However, interviews concerning reports of sexual child abuse are strongly encouraged to be videotaped. Any audiotaped or videotaped interview shall be conducted by a competent interviewer at a child advocacy center, as that term is defined in section 19-1-103 (19.5), that has a memorandum of understanding with the agency responsible for the investigation or by a competent interviewer for the agency responsible for the investigation in accordance with such section; except that an interview shall not be videotaped when doing so is impracticable under the circumstances or will result in trauma to the child, as determined by the investigating agency. No more than one videotaped interview shall be required unless the interviewer or the investigating agency determines that additional interviews are necessary to complete an investigation. Additional interviews shall be conducted, to the extent possible, by the same interviewer. Such recordings shall be preserved as evidence in the manner and for a period provided by law for maintaining such evidence. In addition, access to such recordings shall be subject to the rules of discovery under the Colorado rules of criminal and civil procedure.

(2) The provisions of this section shall not apply to a videotaped deposition taken in accordance with and governed by section 18-3-413, C.R.S., or section 13-25-132, C.R.S., and rule 15 (d) of the Colorado rules of criminal procedure. In addition, this section shall not apply to interviews of the child conducted after a dependency and neglect action or a criminal action has been filed with the court.

(3) Any agency subject to the provisions of this section shall provide equipment necessary to videotape or audiotape the interviews or shall enter into a memorandum of understanding with a child advocacy center authorizing the use of such equipment. The investigating agency shall train persons responsible for conducting videotaped interviews in accordance with this section; except that the agency shall not be responsible for training interviewers employed by a child advocacy center. The agency shall adopt standards for persons conducting such interviews.

(4) An agency that enters into a memorandum of understanding with a child advocacy center that employs interviewers shall assure that such interviewers meet the training standards for persons conducting interviews adopted by the agency pursuant to subsection (3) of this section. In addition, an agency that enters into a memorandum of understanding with a child advocacy center that provides technical assistance for forensic interviews, forensic medical examinations, or evidence collection or preservation may require that the child advocacy center meets the national performance standards for children's advocacy centers as established by the national accrediting body. These standards include, but are not limited to, standards for forensic interviews to be conducted in a manner which is of a neutral, fact-finding nature and coordinated to avoid duplicative interviewing.

Source: L. 91: Entire section added, p. 229, § 5, effective May 24. **L. 93:** Entire section amended, p. 1169, § 2, effective January 1, 1994. **L. 2004:** (1)(a) and (1)(e) amended and (1)(f) added, p. 806, § 1, effective May 21; (1)(e)(II) repealed, p. 194, § 10, effective August 4. **L. 2016:** Entire section amended, (SB 16-189), ch. 210, p. 760, § 32, effective June 6.

Editor's note: Amendments to subsection (1)(e) by House Bill 04-1061 and Senate Bill 04-067 were harmonized.

19-3-309. Immunity from liability - persons reporting. Any person, other than the perpetrator, complicitor, coconspirator, or accessory, participating in good faith in the making of a report, in the facilitation of the investigation of such a report, or in a judicial proceeding held pursuant to this title, the taking of photographs or X rays, or the placing in temporary protective custody of a child pursuant to section 19-3-405 or otherwise performing his duties or acting pursuant to this part 3 shall be immune from any liability, civil or criminal, or termination of employment that otherwise might result by reason of such acts of participation, unless a court of competent jurisdiction determines that such person's behavior was willful, wanton, and malicious. For the purpose of any proceedings, civil or criminal, the good faith of any such person reporting child abuse, any such person taking photographs or X rays, and any such person who has legal authority to place a child in protective custody shall be presumed.

Source: L. 87: Entire title R&RE, p. 770, § 1, effective October 1. **L. 89:** Entire section amended, p. 916, § 7, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-10-110 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-309.5. Preconfirmation safety plan agreement - first-time minor incidents of child abuse or neglect - rules. (1) The county department and any person who is believed to be responsible for the abuse or neglect of a child as a result of an investigation of a report of child abuse or neglect pursuant to section 19-3-308 may agree to defer the filing of a confirmed report of child abuse or neglect with the state department as required by section 19-3-307 and enter into a safety plan agreement when the following circumstances exist:

(a) The person who is believed to be responsible for the child abuse or neglect has had no previous allegation of child abuse or neglect investigated;

(b) The child abuse or neglect that the person is believed to be responsible for is at the level of a minor incident of abuse or neglect, as defined by rule of the state board;

(c) The person who is believed to be responsible for the minor incident of child abuse or neglect and the county department decide on a mutually agreeable method for resolving the issues related to the report; and

(d) The requirements set forth in the safety plan agreement for resolving the issues related to the report can be completed within sixty days after the report of child abuse or neglect is made to the county department or the local law enforcement agency.

(2) (a) If a person who is believed to be responsible for the child abuse or neglect completes the mutually agreed upon safety plan agreement entered into pursuant to subsection (1) of this section, then the county department shall release him or her from the terms of the agreement and shall not file a confirmed report of child abuse or neglect related to the incident with the state department.

(b) If a person who is believed to be responsible for the child abuse or neglect does not complete the mutually agreed upon safety plan agreement entered into pursuant to subsection (1) of this section, as determined by the county department, then the county department shall file a confirmed report of child abuse or neglect with the state department.

(c) Nothing in this section shall be construed to eliminate a county department's obligation to report to the state department that there was an investigation of a report of abuse or neglect of a child and to further report the county department's assessment of risk, the county department's decision regarding a referral of the matter to child welfare services, and any county department decision to defer the filing of a confirmed report of child abuse or neglect pursuant to this section.

(3) Participation in a safety plan agreement by any county department and by any person who is believed to be responsible for child abuse or neglect shall be at the discretion of the person believed to be responsible for the child abuse or neglect. Nothing in this section shall be construed to confer a right upon a person who is believed to be responsible for the abuse or neglect of a child to enter into a safety plan agreement or to require a county department to enter into a safety plan agreement with a person who is believed to be responsible for the abuse or neglect of a child.

(4) Nothing in this section shall be construed to obligate a county department to expend moneys to provide services to persons for the purpose of entering into a safety plan agreement pursuant to this section.

(5) For purposes of this section, "safety plan agreement" means an agreement between the county department and the person who is believed to be responsible for the abuse or neglect of a child, developed pursuant to this section after a safety assessment is completed by the

county department that identifies conditions that will endanger the child, in order to fully address all obvious safety concerns identified in the safety assessment.

(6) The state board shall promulgate rules to implement this section.

(7) An agreement to enter into a safety plan agreement pursuant to this section shall not negate a person's right to appeal a later finding of child abuse or neglect.

Source: L. 2004: Entire section added, p. 580, § 1, effective July 1.

19-3-310. Child abuse and child neglect diversion program. (1) The district attorney, upon recommendation of the county department or any person, may withhold filing a case against any person accused or suspected of child abuse or neglect and refer that person to a nonjudicial source of treatment or assistance, upon conditions set forth by the county department and the district attorney. If a person is so diverted from the criminal justice system, the district attorney shall not file charges in connection with the case if the person participates to the satisfaction of the county department and the district attorney in the diversion program offered.

(2) The initial diversion shall be for a period not to exceed two years. This diversion period may be extended for one additional one-year period by the district attorney if necessary. Decisions regarding extending diversion time periods shall be made following review of the person diverted by the district attorney and the county department.

(3) If the person diverted successfully completes the diversion program to the satisfaction of the county department and the district attorney, he shall be released from the terms and conditions of the program, and no criminal filing for the case shall be made against him.

(4) Participation by a person accused or suspected of child abuse in any diversion program shall be voluntary.

Source: L. 87: Entire title R&RE, p. 771, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-10-111 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-310.5. Mediation - pilot program. (Repealed)

Source: L. 94: Entire section added, p. 1742, § 1, effective July 1. **L. 95:** (5) amended, p. 516, § 10, effective July 1. **L. 98:** (10) repealed, p. 732, § 23, effective May 18.

Editor's note: Subsection (11) provided for the repeal of this section, effective July 1, 1999. (See L. 94, p. 1742.)

19-3-311. Evidence not privileged. (1) The incident of privileged communication between patient and physician, between patient and registered professional nurse, or between any person licensed pursuant to article 43 of title 12, C.R.S., or certified or licensed school psychologist and client, which is the basis for a report pursuant to section 19-3-304, shall not be a ground for excluding evidence in any judicial proceeding resulting from a report pursuant to

this part 3. In addition, privileged communication shall not apply to any discussion of any future misconduct or of any other past misconduct which could be the basis for any other report under section 19-3-304.

(2) The privileged communication between husband and wife shall not be a ground for excluding evidence in any judicial proceeding resulting from a report pursuant to this part 3.

Source: L. 87: Entire title R&RE, p. 771, § 1, effective October 1. **L. 89:** Entire section amended, p. 699, § 6, effective June 7. **L. 90:** Entire section amended, p. 1024, § 3, effective July 1. **L. 2008:** (1) amended, p. 1893, § 65, effective August 5.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-10-112 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-312. Court proceedings. (1) The county department or local law enforcement agency receiving a report under section 19-3-304 or 19-3-305, in addition to taking such immediate steps pursuant to sections 19-3-401 and 19-3-308 (4) as may be required to protect a child, shall inform, within seventy-two hours, the appropriate juvenile court or district court with juvenile jurisdiction that the child appears to be within the court's jurisdiction. Upon receipt of such information, the court shall make an immediate investigation to determine whether protection of the child from further abuse is required and, upon such determination, may authorize the filing of a petition, as provided for in section 19-3-501 (2).

(2) In any proceeding initiated pursuant to this section, the court shall name as respondents all persons alleged by the petition to have caused or permitted the abuse or neglect alleged in the petition. In every such case, the responsible person shall be named as respondent. Summonses shall be issued for all named respondents in accordance with section 19-3-503.

(3) Repealed.

(4) If a report under section 19-3-304 or 19-3-305 is based solely on an allegation of emotional abuse as defined in section 19-1-103 (1)(a), if requested by any party to the proceeding or upon its own motion, the court shall order a report to be prepared by an independent mental health care provider. The independent mental health care provider shall interview the child and the alleged perpetrator of the abuse. The costs of the report shall be split equally between the county and the party requesting the report, unless the court finds that paying such costs would cause a hardship to the party.

(5) If a petition is filed alleging that a child is neglected or dependent based upon section 19-3-102 (2), the county department shall engage in concurrent planning to expedite the permanency planning process for the child who is the subject of such petition.

Source: L. 87: Entire title R&RE, p. 771, § 1, effective October 1. **L. 97:** (4) and (5) added, p. 1439, § 13, effective July 1. **L. 2014:** (3) repealed, (SB 14-203), ch. 281, p. 1142, § 3, effective August 6.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-10-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-313. Central registry. (Repealed)

Source: L. 87: Entire title R&RE, p. 771, § 1, effective October 1. **L. 91:** (3) to (7) amended and (14) added, p. 230, § 6, effective May 24. **L. 96:** (14) amended, p. 1586, § 12, effective July 1; (4), (5), and (7) amended and (5.5) added, p. 1287, § 2, effective January 1, 1997; (6)(b), (7)(b)(III), and (14) amended, p. 1173, § 9, effective January 1, 1997. **L. 99:** (5.5)(a) and (5.5)(b)(I) amended and (5.5)(b)(III) added, p. 1026, § 11, effective May 29; (5.5)(a) and (5.5)(b)(I) amended and (5.5)(b)(III) added, p. 1207, § 11, effective June 2. **L. 2000:** (1), (2)(e), (5), (5.5)(c), (7)(c)(I)(A), (7)(c)(I)(B), and (7)(c)(II) amended and (2)(f) and (7)(d) added, pp. 1720, 1721, §§ 1, 2, 3, effective June 1. **L. 2001:** (7)(b)(I), (7)(c), and (7)(d) amended and (7)(e) added, p. 854, § 3, effective July 1. **L. 2002:** (10) amended, p. 1527, § 232, effective October 1. **L. 2003:** (8) amended, p. 1622, § 37, effective August 6; entire section repealed, p. 1398, § 2, effective January 1, 2004.

Cross references: For the legislative declaration contained in the 2003 act repealing this section, see section 1 of chapter 196, Session Laws of Colorado 2003.

19-3-313.5. State department duties - reports of child abuse or neglect - training of county departments - rules - notice and appeal process - confidentiality. (1) **Legislative declaration.** As a result of the report of the state auditor evaluating the performance of the state central registry of child protection released in November of 2001 and the subsequent repeal of the state central registry of child protection, the general assembly hereby finds and declares that it is in the best interests of the children and the citizens of the state of Colorado for the state department to modify the processing of records and reports of child abuse or neglect. These modifications are intended to ensure that the state department is able to provide reliable, accurate, and timely information concerning records and reports of child abuse or neglect. In addition, these modifications are intended to ensure compliance with federal law regarding the prompt expungement of any records or reports that are used for purposes of employment checks or other background checks in cases determined to be unsubstantiated or false, while allowing the state department to maintain such records and reports in case files for the purpose of assisting in determinations of future risk and safety assessments. Finally, these modifications are intended to ensure that the state department's procedural systems related to records and reports of child abuse or neglect provide adequate protection to the children and the citizens of the state of Colorado.

(2) **Training of county departments.** On or before January 1, 2004, the state department shall modify the training provided to county departments to achieve consistency and standardization in the performance of the following duties:

(a) Investigating reports of child abuse or neglect;

(b) Reporting confirmed incidents of child abuse or neglect to the state department;

(c) Preparing documents related to records and reports of child abuse or neglect;

(d) Entering data into computer systems maintaining information related to records and reports of child abuse or neglect; and

(e) Maintaining confidentiality in accordance with federal and state law.

(3) **Notice and appeals process - rules.** On or before January 1, 2004, the state board, in consideration of input and recommendations from the county departments, shall promulgate

rules to establish a process at the state level by which a person who is found to be responsible in a confirmed report of child abuse or neglect filed with the state department pursuant to section 19-3-307 may appeal the finding of a confirmed report of child abuse or neglect to the state department. At a minimum, the rules established pursuant to this subsection (3) shall address the following matters, consistent with federal law:

(a) The provision of adequate and timely written notice by the county departments of social services or, for an investigation pursuant to section 19-3-308 (4.5), by the agency that contracts with the state, using a form created by the state department, to a person found to be responsible in a confirmed report of child abuse or neglect of the person's right to appeal the finding of a confirmed report of child abuse or neglect to the state department;

(b) The timeline and method for appealing the finding of a confirmed report of child abuse or neglect;

(c) Designation of the entity, which entity shall be one other than a county department of social services, with the authority to accept and respond to an appeal by a person found to be responsible in a confirmed report of child abuse or neglect at each stage of the appellate process;

(d) The legal standards involved in the appellate process and a designation of the party who bears the burden of establishing that each standard is met;

(e) The confidentiality requirements of the appeals process; and

(f) Provisions requiring, and procedures in place that facilitate, the prompt expungement of and prevent the release of any information contained in any records and reports that are accessible to the general public or are used for purposes of employment or background checks in cases determined to be unsubstantiated or false; except that, the state department and the county departments of social services may maintain information concerning unsubstantiated reports in casework files to assist in future risk and safety assessments.

(4) **Confidentiality - rules.** On or before January 1, 2004, the state board shall promulgate rules to establish guidelines for the release of information contained in records and reports of child abuse or neglect for screening purposes to assure compliance with sections 19-1-303 and 19-1-307 and any other state or federal law relating to confidentiality of records and reports of child abuse or neglect. Rules promulgated by the state board shall address the following:

(a) How a request for information is to be processed;

(b) Who may be granted access to information;

(c) What information in the records and reports is to be made available to the person or entity granted access;

(d) The purposes for which information contained in the records and reports may be made available to the person or entity granted access; and

(e) The consequences of improper release of information related to records and reports of child abuse or neglect.

Source: L. 2003: Entire section added, p. 1398, § 3, effective January 1, 2004.

Cross references: For the legislative declaration contained in the 2003 act enacting this section, see section 1 of chapter 196, Session Laws of Colorado 2003.

19-3-314. Confidentiality of records. (Repealed)

Source: L. 87: Entire title R&RE, p. 773, § 1, effective October 1. **L. 90:** (2)(j) and (2)(k)(I) amended, p. 1392, § 8, effective May 4; entire section repealed, p. 1012, § 8, effective July 1.

Editor's note: Subsections (2)(j) and (2)(k)(I) were amended in House Bill 90-1075. Those amendments were superseded by the repeal of the entire section in Senate Bill 90-61. Identical provisions were located in section 19-1-120 (2)(j) and (2)(k) until it was repealed in 1994. These provisions are now located in section 19-1-307 (2)(j) and (2)(k).

19-3-315. Federal funds. The department of human services is authorized to accept federal funds such as child abuse and neglect state grants which are available for the implementation of programs which would further the purposes of this part 3.

Source: L. 87: Entire title R&RE, p. 775, § 1, effective October 1. **L. 94:** Entire section amended, p. 2683, § 200, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-10-117 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-316. Protection orders and emergency protection orders. (Repealed)

Source: L. 88: Entire section added, p. 744, § 14, effective July 1. **L. 94:** (1)(a), (2)(b), (2)(f), and (3) amended and (5) added, p. 2015, § 10, effective January 1, 1995. **L. 2002:** (1)(d) amended, p. 1144, § 2, effective July 1. **L. 2003:** (1)(a) and (5) amended, p. 1015, § 25, effective July 1. **L. 2004:** Entire section repealed, p. 554, § 5, effective July 1.

19-3-317. Screening tool - human trafficking. On and after January 1, 2017, pursuant to the federal "Preventing Sex Trafficking and Strengthening Families Act", Pub.L. 113-183, the department and each county department, as defined in section 19-1-103 (32)(a), shall implement a uniform screening tool that includes questions that are intended to identify children who are victims of human trafficking of a minor for sexual servitude, as described in section 18-3-504, C.R.S., or commercial sexual exploitation of a child, or who are at risk of being such victims.

Source: L. 2016: Entire section added, (HB 16-1224), ch. 101, p. 291, § 3, effective January 1, 2017.

19-3-318. Study of child welfare caseworker resiliency programs - creation - membership - report - repeal. (1) (a) A task force to identify and develop models of child welfare caseworker resiliency programs that may be implemented in various counties throughout the state is created and referred to in this section as the "task force". The task force shall base its work and findings on national models of resiliency programs and report its findings and recommendations pursuant to subsection (5) of this section.

(b) For purposes of this section, a "resiliency program" is a type of program that provides supports for child welfare caseworkers who are experiencing secondary trauma. The

supports may include, but are not limited to, peer-to-peer programs, mentoring, and mental health services.

(2) (a) The purpose of the task force is to bring together members of statewide working groups, child welfare caseworkers, and parallel professionals who have identified successful resiliency program models. The task force shall use such models to provide insight and guidance to Colorado counties that are interested in implementing a resiliency program. Through the compilation of data and study of national resiliency models, Colorado county departments of human or social services may choose if, and how, they would like to incorporate the models, data, and resources to best fit unique county needs.

(b) The task force shall create a database of statewide resources that will be available to any interested county. Participating counties may utilize data compiled by the task force to identify resources that are available to them and how they can utilize such resources to implement a resiliency program that best fits the unique county needs of its child welfare workforce.

(c) Intended outcomes of the task force include demonstrating Colorado's commitment to its child welfare workforce and exploring Colorado's opportunities to apply for federal or private grants to support the implementation of county-level resiliency programs.

(3) The task force must not exceed sixteen members. The appointing authorities shall make their initial appointments to the task force on or before July 1, 2017. Each member of the task force who is appointed pursuant to this subsection (3) serves at the pleasure of the authority who appointed that member. The task force consists of the following members:

(a) The executive director of the state department of human services, or his or her designee;

(b) The chairperson of Metropolitan state university of Denver's department of social work, or his or her designee;

(c) Two persons representing large county departments of human or social services, as identified by a statewide coalition of county departments of human or social services, who are appointed by the director of each such county department;

(d) Two persons representing mid-sized county departments of human or social services, as identified by a statewide coalition of county departments of human or social services, who are appointed by the director of each such county department;

(e) Two persons representing small or rural counties, as identified by a statewide coalition of county departments of human or social services, who are appointed by the director of each such county department;

(f) Three members who are current child welfare caseworkers, who are appointed by a statewide association of human services directors;

(g) The director of a Colorado children's advocacy center, or his or her designee, who has experience in interviewing children who have been abused or neglected;

(h) An individual with experience in law enforcement who has participated in a resiliency program within a law enforcement agency, who is appointed by the president of a statewide organization of police officers;

(i) An individual representing a statewide association of professional social work who has experience as a child welfare caseworker;

(j) An individual who is trained through the office for victims of crime training and technical assistance center as a facilitator in building resiliency in child welfare organizations, who is appointed by the executive director of the center for trauma and resilience; and

(k) An individual who represents the state's child welfare training academy created in section 26-5-109, who is appointed by the director of the academy.

(4) The chairperson of Metropolitan state university of Denver, or his or her designee, shall convene the first meeting of the task force on or before August 1, 2017. The members of the task force serve without compensation or reimbursement for expenses.

(5) On or before December 31, 2017, and in accordance with the provisions of section 24-1-136 (9), the task force shall submit a written report to the joint budget committee and the joint health and human services committee. The report must include:

(a) A summary of work completed by the task force;

(b) Any best practices or guidelines for counties identified by the task force; and

(c) Any recommendations for future legislation to support county-level resiliency programs.

(6) This section is repealed, effective September 1, 2018.

Source: L. 2017: Entire section added, (HB 17-1283), ch. 227, p. 881, § 2, effective May 22.

Cross references: For the legislative declaration in HB 17-1283, see section 1 of chapter 227, Session Laws of Colorado 2017.

PART 4

TEMPORARY CUSTODY AND SHELTER

19-3-401. Taking children into custody. (1) A child may be taken into temporary custody by a law enforcement officer without order of the court:

(a) When the child is abandoned, lost, or seriously endangered in such child's surroundings or seriously endangers others and immediate removal appears to be necessary for such child's protection or the protection of others;

(b) When there are reasonable grounds to believe that such child has run away or escaped from such child's parents, guardian, or legal custodian and the child's parents, guardian, or legal custodian has not made a report to a law enforcement agency that the child has run away from home; or

(c) When an arrest warrant has been issued for such child's parent or guardian on the basis of an alleged violation of section 18-3-304, C.R.S. No child taken into temporary custody pursuant to this paragraph (c) shall be placed in detention or jail.

(1.3) A child shall be taken into temporary custody by a law enforcement officer without order of the court when there are reasonable grounds to believe the child has run away from the child's parents, guardian, or legal custodian and the child's parents, guardian, or legal custodian has made a report to a law enforcement agency that the child has run away from home.

(1.5) An emergency exists and a child is seriously endangered as described in paragraph (a) of subsection (1) of this section whenever the safety or well-being of a child is immediately

at issue and there is no other reasonable way to protect the child without removing the child from the child's home. If such an emergency exists, a child shall be removed from such child's home and placed in protective custody regardless of whether reasonable efforts to preserve the family have been made.

(2) The taking of a child into temporary custody under this section shall not be deemed an arrest, nor shall it constitute a police record.

(3) (a) Notwithstanding the provisions of subsections (1) and (1.5) of this section and except as otherwise provided in paragraphs (b) and (c) of this subsection (3), a newborn child, as defined in section 19-1-103 (78.5), who is not in a hospital setting shall not be taken into temporary protective custody for a period of longer than twenty-four hours without an order of the court made pursuant to section 19-3-405 (1), which order includes findings that an emergency situation exists and that the newborn child is seriously endangered as described in paragraph (a) of subsection (1) of this section.

(b) A newborn child, as defined in section 19-1-103 (78.5), who is in a hospital setting shall not be taken into temporary protective custody without an order of the court made pursuant to section 19-3-405 (1), which order includes findings that an emergency situation exists and that the newborn child is seriously endangered as described in paragraph (a) of subsection (1) of this section. A newborn child may be detained in a hospital by a law enforcement officer upon the recommendation of a county department of social services or by a physician, registered nurse, licensed practical nurse, or physician assistant while an order of the court pursuant to section 19-3-405 (1) is being pursued, but the newborn child must be released if a court order pursuant to section 19-3-405 (1) is denied.

(c) The court orders required by subsections (3)(a) and (3)(b) of this section are not required in the following circumstances:

(I) When a newborn child is identified by a physician, registered nurse, licensed practical nurse, or physician assistant engaged in the admission, care, or treatment of patients as being affected by substance abuse or demonstrating withdrawal symptoms resulting from prenatal drug exposure;

(II) When the newborn child's only identifiable birth parent has been determined by a physician, registered nurse, or qualified mental health professional to meet the criteria specified in section 27-65-105 for custody, treatment, and evaluation of a mental health disorder or grave disability;

(III) When both of the newborn child's birth parents have been determined by a physician, registered nurse, or qualified mental health professional to meet the criteria specified in section 27-65-105 for custody, treatment, and evaluation of a mental health disorder or grave disability; or

(IV) When the newborn child is subject to an environment exposing the newborn child to a laboratory for manufacturing controlled substances as defined in section 18-18-102 (5), C.R.S.

(d) At the time a law enforcement officer takes a newborn child into temporary protective custody, the law enforcement officer shall provide the notices required by sections 19-3-402 and 19-3-212 directly to the newborn child's identifiable birth parent or parents in both verbal and written form. Such notices may be provided to the child's identifiable birth parent or parents in a language that the birth parent or parents understand, and the law enforcement officer

may designate another person to assist him or her in providing such written and verbal notices to fulfill this requirement, if necessary.

(e) If a newborn child is taken into temporary protective custody pursuant to this subsection (3), the county department may contact the child's identifiable birth parent or parents to obtain the names of any relatives or other persons in the parent's or parents' community who may be appropriate, capable, and willing to care for the newborn child prior to the hearing required by section 19-3-403. In addition, if the identifiable parent or parents are not citizens of the United States, the county department may request the parent's or parents' consent to notify the parent's or parents' government of origin of the situation and, if consent is given, may contact the parent's or parents' government of origin.

Source: L. 87: Entire title R&RE, p. 775, § 1, effective October 1. **L. 93:** Entire section amended, p. 1016, § 5, effective July 1. **L. 2004:** (3) added, p. 429, § 2, effective July 1. **L. 2006:** (1)(b) amended and (1.3) added, p. 337, § 1, effective April 5. **L. 2010:** (3)(c)(II) and (3)(c)(III) amended, (SB 10-175), ch. 188, p. 791, § 43, effective April 29. **L. 2016:** (3)(b) and (3)(c)(I) amended, (SB 16-158), ch. 204, p. 727, § 16, effective August 10. **L. 2017:** IP(3)(c), (3)(c)(II), and (3)(c)(III) amended, (SB 17-242), ch. 263, p. 1314, § 161, effective May 25.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-2-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2004 act enacting subsection (3), see section 1 of chapter 140, Session Laws of Colorado 2004. For the legislative declaration in SB 16-158, see section 1 of chapter 204, Session Laws of Colorado 2016. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-3-402. Duty of officer - notification - release or detention. (1) When a child is taken into temporary custody, the officer shall notify a parent, guardian, or legal custodian without unnecessary delay and inform him that, if the child is placed out of the child's home, all parties have a right to a prompt hearing to determine whether the child is to remain out of the child's home for a further period of time. Such notification may be made to a person with whom the child is residing if a parent, guardian, or legal custodian cannot be located. If the officer taking the child into custody is unable to make such notification, it may be made by any other law enforcement officer, probation officer, detention center counselor, shelter care provider, or common jailor in whose physical custody the child is placed.

(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 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.

(3) (a) Except as provided in paragraph (b) of this subsection (3), a child shall not be detained by law enforcement officials any longer than is reasonably necessary to obtain his name, age, residence, and other necessary information and to contact his parents, guardian, or legal custodian.

(b) If he is not released as provided in subsection (2) of this section, he shall be taken directly to the court or to the place of detention, or a temporary holding facility, or a shelter designated by the court without unnecessary delay.

(4) The officer or other person who takes a child to a detention or shelter facility or a temporary holding facility shall notify the court and any agency or persons so designated by the court at the earliest opportunity that the child has been taken into custody and where he has been taken. He shall also promptly file a brief written report with the court and any agency or person so designated by the court stating the facts which led to the child being taken into custody and the reason why the child was not released.

Source: L. 87: Entire title R&RE, p. 776, § 1, effective October 1. **L. 89:** (1), (3)(b), and (4) amended, p. 928, § 4, effective April 23. **L. 90:** (1) and (2) amended, p. 1034, § 1, effective April 3. **L. 91:** (2) amended, p. 264, § 7, effective May 31. **L. 2003:** (2) amended, p. 2622, § 2, effective June 5.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-2-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-403. Temporary custody - hearing - time limits - restriction - rules. (1) A child who must be taken from his home but who does not require physical restriction may be given temporary care with the grandparent of the child, upon the grandparent's request, if in the best interests of the child, in a shelter facility designated by the court or with the county department of social services and shall not be placed in detention. If no appropriate shelter facility exists, the child may be placed in a staff-secure temporary holding facility authorized by the court.

(2) When a child is placed in a shelter facility or a temporary holding facility not operated by the department of human services designated by the court, the law enforcement official taking the child into custody shall promptly so notify the court. He shall also notify a parent or legal guardian or, if a parent or legal guardian cannot be located within the county, the person with whom the child has been residing and inform him of the right to a prompt hearing to determine whether the child is to be detained further. The court shall hold such hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays. A child requiring physical

restraint may be placed in a juvenile detention facility operated by or under contract with the department of human services for a period of not more than twenty-four hours, including Saturdays, Sundays, and legal holidays.

(3) Repealed.

(3.5) When temporary custody is placed with the county department of social services pursuant to this section or section 19-3-405 or when an emergency protection order is entered pursuant to section 19-3-405, the court shall hold a hearing within seventy-two hours after placement, excluding Saturdays, Sundays, and court holidays, to determine further custody of the child or whether the emergency protection order should continue. Such a hearing need not be held if a hearing has previously been held pursuant to subsection (2) of this section.

(3.6) (a) (I) The office of the state court administrator shall prepare a form affidavit and advisement. The form affidavit and advisement shall be available at each judicial district to each parent attending a temporary custody hearing. The form affidavit and advisement shall:

(A) Advise the parent that he or she is required to provide the requested information fully and completely under penalties of perjury and contempt of court;

(B) Require the parent to list the names, addresses, and telephone numbers of, and any comments concerning the appropriateness of the child's potential placement with, every grandparent, aunt, uncle, brother, sister, half-sibling, and first cousin of the child;

(C) Provide a section in which the parent may list the names, addresses, telephone numbers of, and any comments concerning the appropriateness of the child's potential placement with, other relatives and kin who have a significant relationship with the child;

(D) Advise the parent that failure to identify these relatives in a timely manner may result in the child being placed permanently outside of the home of the child's relatives, if the child cannot be safely returned to the home of the child's parents;

(E) Advise the parent that the child may risk life-long damage to his or her emotional well-being if the child becomes attached to one caregiver and is later removed from the caregiver's home;

(F) Require the parent to acknowledge that he or she understands the advisements contained in the form; and

(G) Require the parent to sign and date the form.

(II) 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.

(III) The court shall advise the parents of the child that the child may be placed with a relative if, in the court's opinion, such placement is appropriate and in the child's best interests. The court shall order the parents to complete the form affidavit and advisement described in subparagraph (I) of this paragraph (a) no later than seven business days after the date of the hearing or prior to the next hearing on the matter, whichever occurs first. The original completed form shall be filed with the court, and a copy delivered to the county department of human or social services no later than five business days after the date of the hearing. Each parent, the guardian ad litem, and counsel for each parent, if any, shall also receive copies of the completed form. The court may advise each parent of the penalties associated with perjury and contempt of court, if necessary. Each parent may suggest an adult relative or relatives whom he or she believes to be the most appropriate caretaker or caretakers for the child. If appropriate, the child

or children shall be consulted regarding suggested relative caretakers. The court shall order each parent to notify every relative who may be an appropriate relative caretaker for the child that failure to come forward in a timely manner may result in the child being placed permanently outside of the home of the child's relatives, if the child is not able to return to the child's home. In addition, the court shall advise each parent that failure to identify these relatives in a timely manner may result in the child being placed permanently outside of the home of the child's relatives.

(IV) The court shall order a county department of human or social services to exercise due diligence to contact all grandparents and other adult relatives within thirty days following the removal of the child and to inform them about placement possibilities for the child, unless the court determines there is good cause not to contact or good cause to delay contacting the child's relatives, including but not limited to family or domestic violence. A county department of human or social services shall provide notice to the relatives that the child has been removed from his or her home; options under federal, state, and local law to participate in the child's care or placement; options that may be lost by failing to respond; and requirements to become a foster parent, and services and supports available to the child placed in a foster home. The county department of human or social services shall advise each appropriate identified relative that the possibility for placement of the child in his or her home may terminate at a future date; request each such relative who is interested in becoming a placement option for the child to come forward at the earliest possible time to seek placement of the child in his or her home and to cooperate with the county department of human or social services to expedite procedures pertaining to the placement of the child in his or her home, if the child cannot be safely returned to the home of the child's parents. The department of human services shall promulgate rules for the implementation of this subparagraph (IV) and subparagraph (III) of this paragraph (a).

(V) The court may consider and give preference to giving temporary custody to a child's relative who is appropriate, capable, willing, and available for care if it is 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. The court may authorize the county department of social services with custody of a child to place the child with a relative without the necessity for a hearing if a county department locates an appropriate, capable, and willing relative who is available to care for the child and the guardian ad litem of the child concurs that the placement is in the best interests of the child. If the county department of social services places a child with a relative without a hearing pursuant to the provisions of this subparagraph (V), the county department shall fully inform the court of the details concerning the child's placement on the record at the next hearing. 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.

(3.7) A child who is alleged to be a runaway from a state other than Colorado may be held in a shelter care or other appropriate facility for up to seven days, during which time arrangements shall be made for returning the child to the state of his residence.

(4) (a) If it appears that any child being held in a shelter facility may have an intellectual and developmental disability, as provided in article 10.5 of title 27, the court shall refer the child to the nearest community-centered board for an eligibility determination. If it appears that any child being held in a shelter facility pursuant to the provisions of this article 3 may have a mental health disorder, as provided in sections 27-65-105 and 27-65-106, the intake personnel or other appropriate personnel shall contact a mental health professional to do a mental health disorder prescreening on the child. The court shall be notified of the contact and may take appropriate action. If a mental health disorder prescreening is requested, it shall be conducted in an appropriate place accessible to the child and the mental health professional. A request for a mental health disorder prescreening must not extend the time within which a hearing is to be held pursuant to this section. If a hearing has been set but has not yet occurred, the mental health disorder prescreening shall be conducted prior to the hearing; except that the prescreening must not extend the time within which a hearing is to be held pursuant to this section.

(b) If a child has been ordered detained pending an adjudication, disposition, or other court hearing and the child subsequently appears to have a mental health disorder, as provided in section 27-65-105 or 27-65-106, the intake personnel or other appropriate personnel shall contact the court with a recommendation for a mental health disorder prescreening. A mental health disorder prescreening shall be conducted at any appropriate place accessible to the child and the mental health professional within twenty-four hours of the request, excluding Saturdays, Sundays, and legal holidays.

(c) If the mental health professional finds, as a result of the prescreening, that the child may have a mental health disorder, the mental health professional shall recommend to the court that the child be evaluated pursuant to section 27-65-105 or 27-65-106, and the court shall proceed as provided in section 19-3-506.

(d) Nothing in this subsection (4) precludes the use of emergency procedures pursuant to section 27-65-105.

(5) The court may, at any time, order the release of any child being held pursuant to section 19-3-401 from shelter care or a temporary holding facility not operated by the department of human services without holding a hearing, either without restriction or upon written promise of the parent, guardian, or legal custodian to bring the child to the court at a time set or to be set by the court.

(6) (a) After making a reasonable effort to obtain the consent of the parent, guardian, or other legal custodian, the court may authorize or consent to medical, surgical, or dental treatment or care for a child placed in shelter care or a temporary holding facility not operated by the department of human services.

(b) When the court finds that emergency medical, surgical, or dental treatment is required for a child placed in shelter care or a temporary holding facility not operated by the department of human services, it may authorize such treatment or care if the parents, guardian, or legal custodian are not immediately available.

(7) The court may also issue temporary orders for legal custody as provided in section 19-1-115.

(8) Any law enforcement officer, employee of the division in the department of human services responsible for youth services, or other person acting under the direction of the court who in good faith transports any child, releases any child from custody pursuant to a written policy of a court, releases any child from custody pursuant to any written criteria established pursuant to this title, or detains any child pursuant to court order or written policy or criteria established pursuant to this title shall be immune from civil or criminal liability that might otherwise result by reason of such act. For purposes of any proceedings, civil or criminal, the good faith of any such person shall be presumed.

Source: L. 87: Entire title R&RE, p. 776, § 1, effective October 1. **L. 89:** (1), (2), (3)(a), (5), and (6) amended, p. 928, § 5, effective April 23. **L. 90:** (2), (4)(a), (5), and (6) amended, (3) repealed, and (3.5) to (3.7) added, pp. 1035, 1037, §§ 2, 6, effective April 3; (8) added, p. 1019, § 6, effective April 20; (3.5) amended, p. 1033, § 24, effective July 1. **L. 91:** (1) and (3.6) amended, p. 264, § 8, effective May 31. **L. 93:** (3.6) amended, p. 2016, § 6, effective July 1. **L. 94:** (2), (5), (6), and (8) amended, p. 2683, § 201, effective July 1. **L. 97:** (3.5) amended, p. 518, § 6, effective July 1. **L. 2000:** (3.6) amended, p. 1123, § 1, effective August 2. **L. 2001:** (3.6) amended, p. 846, § 8, effective June 1. **L. 2003:** (3.6) amended, p. 2623, § 3, effective June 5. **L. 2005:** (3.6) amended, p. 676, § 2, effective July 1. **L. 2006:** (4) amended, p. 1401, § 57, effective August 7. **L. 2009:** (3.6)(a)(III) and (3.6)(a)(IV) amended, (SB 09-245), ch. 436, p. 2423, § 1, effective June 4. **L. 2010:** (4) amended, (SB 10-175), ch. 188, p. 791, § 44, effective April 29. **L. 2017:** (4) amended, (SB 17-242), ch. 263, p. 1314, § 162, effective May 25.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-2-103 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2001 act amending subsection (3.6), see section 1 of chapter 241, Session Laws of Colorado 2001. For the legislative declaration contained in the 2005 act amending subsection (3.6), see section 1 of chapter 194, Session Laws of Colorado 2005. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-3-404. Temporary shelter - child's home. The court may find that it is not necessary to remove a child from his home to a temporary shelter facility and may provide temporary shelter in the child's home by authorizing a representative of the county or district department of social services, which has emergency caretaker services available, to remain in the child's home with the child until a parent, legal guardian, or relative of the child enters the home and expresses willingness and has the apparent ability, as determined by the department, to resume charge of the child, but in no event shall such period of time exceed seventy-two hours. In the case of a relative, the relative is to assume charge of the child until a parent or legal guardian enters the home and expresses willingness and has the apparent ability, as determined by the department, to resume charge of the child. The director of the county or district

department of social services shall designate in writing the representatives of the county or district departments authorized to perform such duties.

Source: L. 87: Entire title R&RE, p. 778, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-2-103.5 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-405. Temporary protective custody. (1) In addition to other powers granted to the court for the protection of children, the court may issue verbal or written temporary protective custody orders or emergency protection orders, or both. Each judicial district shall be responsible for making available a person appointed by the judge of the juvenile court, who may be the judge, a magistrate, or any other officer of the court, to be available by telephone at all times to act with the authorization and authority of the court to issue such orders.

(2) (a) Temporary protective custody orders may be requested by the county department of social services, a law enforcement officer, an administrator of a hospital in which a child reasonably believed to have been neglected or abused is being treated, or any physician who has before him or her a child he or she reasonably believes has been abused or neglected, whether or not additional medical treatment is required, if such person or department believes that the circumstances or conditions of the child are such that continuing the child's place of residence or in the care and custody of the person responsible for the child's care and custody would present a danger to that child's life or health in the reasonably foreseeable future.

(b) Emergency protection orders may be requested by the county department of social services, a law enforcement officer, an administrator of a hospital in which a child reasonably believed to have been neglected or abused is being treated, or any physician who has before him or her a child the physician reasonably believes has been abused or neglected, whether or not additional medical treatment is required, if such person or department believes that the child is able to remain safely in the child's place of residence or in the care and custody of the person responsible for the child's care and custody only if certain emergency protection orders are entered. An emergency protection order may include but is not limited to:

(I) Restraining a person from threatening, molesting, or injuring the child;

(II) Restraining a person from interfering with the supervision of the child; or

(III) Restraining a person from having contact with the child or the child's residence.

(3) The county department of social services shall be notified of such action immediately by the court-appointed official in order that child protection proceedings may be initiated.

(4) In any case, such temporary protective custody or emergency protection shall not exceed seventy-two hours, excluding Saturdays, Sundays, and court holidays.

Source: L. 90: Entire section added, p. 1036, § 3, effective April 3. **L. 91:** (1) amended, p. 363, § 34, effective April 9. **L. 97:** Entire section amended, p. 519, § 7, effective July 1.

19-3-406. Fingerprint-based criminal history record check - providers of emergency placement for children - use of criminal justice records - definitions - rules. (1) (a) Any time a child is taken into temporary custody by a law enforcement officer and any time

the court places temporary custody of a child with a county department pursuant to the provisions of this part 4, and a relative or other available person is identified as a potential emergency placement for the child, the county department or a local law enforcement agency shall immediately conduct an initial criminal history record check of the relative or other available person prior to the county department or the law enforcement officer placing the child in the emergency placement. A county department may perform initial criminal history record checks through its staff or may collaborate with local law enforcement agencies to perform the initial criminal history record checks. When a county department has temporary custody of a child pursuant to the provisions of this part 4 and contacts the local law enforcement agency for an initial criminal history record check of a person who is identified as a potential emergency placement for the child pursuant to the provisions of this section, the local law enforcement agency shall immediately provide the county department with a verbal response regarding the person's criminal history and shall not provide the county department with documentation of the person's criminal history, consistent with the provisions of Public Law 92-544, and regulations promulgated thereunder, as amended.

(b) The child may not be placed with the relative or other available person if the initial criminal history record check conducted pursuant to paragraph (a) of this subsection (1) reflects a criminal history described in subsection (4) of this section.

(c) The child may be placed with the relative or other available person if the initial criminal history record check does not reflect a criminal history described in subsection (4) of this section; except that the relative or other person who is not disqualified based upon the results of the initial criminal history record check conducted pursuant to subsection (1)(a) of this section shall report to local law enforcement, to the county department when the county department has a fingerprint machine, or to another designated third party approved by the Colorado bureau of investigation to obtain a set of fingerprints for a fingerprint-based criminal history record check as described in subsections (2) and (3) of this section and all of the other required background checks described in subsection (4.5) of this section. If an approved third party takes the person's fingerprints, the fingerprints may be electronically captured using Colorado bureau of investigation-approved livescan equipment. Third-party vendors shall not keep the relative's or other person's information for more than thirty days unless requested to do so by the relative or other person.

(2) A relative or other available person who is not disqualified as an emergency placement for a child pursuant to subsection (1)(b) of this section and who authorizes a child to be placed with him or her on an emergency basis pursuant to the provisions of this part 4 shall submit a complete set of his or her fingerprints to the county department no later than five days after the child is placed in the person's home or no later than fifteen calendar days when exigent circumstances exist. If the relative or other available person fails to submit a complete set of his or her fingerprints to the county department, the county department or the law enforcement officer, as appropriate, shall immediately remove the child from the physical custody of the person. The county department shall confirm within fifteen days after the child has been placed with the relative or other available person that the relative or other available person identified by the county department submitted a complete set of his or her fingerprints within the time period specified by this subsection (2).

(3) When a person submits a complete set of his or her fingerprints to the county department, the county department shall immediately forward the fingerprints to the Colorado

bureau of investigation for the purpose of obtaining a fingerprint-based criminal history record check. Upon receipt of fingerprints and payment for the costs, the Colorado bureau of investigation shall conduct a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. The results of the state and national fingerprint-based criminal history record checks conducted pursuant to this section shall be forwarded immediately to the agency authorized to receive the information. If the fingerprint-based criminal history record check indicates that the person has a criminal history described in subsection (4) of this section, the county department or the local law enforcement officer, whichever is appropriate, shall immediately remove the child from the emergency placement and shall not place a child with the person who has the criminal history without court involvement and an order of the court affirming placement of the child with the person.

(4) A county department or a local law enforcement agency shall not make an emergency placement or continue the emergency placement of a child with a person who has been convicted of one or more of the following offenses:

(a) Child abuse, as described in section 18-6-401, C.R.S.;

(b) A crime of violence, as defined in section 18-1.3-406, C.R.S.;

(c) An offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(d) A felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(e) A felony involving physical assault or a drug-related offense, committed within the preceding five years;

(f) Violation of a protection order, as described in section 18-6-803.5, C.R.S.;

(g) A crime involving homicide; or

(h) An offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in paragraphs (a) to (g) of this subsection (4).

(4.5) (a) If a relative or other person was not disqualified as an emergency placement based upon the fingerprint-based criminal history record check and the child was placed in an emergency placement with such person, the county department shall perform the following additional background checks of the relative or other person:

(I) A check of the ICON system at the state judicial department pursuant to section 26-6-106.3, C.R.S., to determine the status or disposition of any criminal charges;

(II) A check of the state department's automated database for information to inform decisions about placement to determine if the person has been identified as having a finding of child abuse or neglect and whether such finding presents an unsafe placement for the child; and

(III) A check against the state's sex offender registry and against the national sex offender public registry operated by the United States department of justice that checks names and addresses against the known names and addresses in the registries and the interactive database system for Colorado to determine if a person is a registered sex offender.

(b) If information is found as a result of the additional background checks of the relative or other person that indicate that continued placement with that relative or other person would no longer be safe for the child, the county department shall remove the child from that placement.

(c) The county department shall also request that a local law enforcement agency perform a state and national fingerprint-based criminal history record check of any person

residing in the home to determine if the person has a criminal history as described in subsection (4) of this section and also perform the additional background checks described in subparagraphs (I) and (II) of paragraph (a) of this subsection (4.5). The local law enforcement agency shall provide the county department with the results of the state and national fingerprint-based criminal history record check within forty-eight hours. If the fingerprint-based criminal history record check indicates that a person residing in the home has a criminal history described in subsection (4) of this section or the information from the other background checks raises issues about the safety of the child in the home, the county department shall evaluate the continued placement of the child in the home and develop a plan to address the issues within fourteen days. A county department shall remedy the situation as quickly as possible and no later than two weeks after the placement. The state board shall promulgate rules to address child safety and what must be considered in the evaluation.

(5) The state board shall promulgate rules to implement the provisions of this section, consistent with the provisions contained in part 3 of article 72 of title 24, C.R.S.

(6) For purposes of this section, "initial criminal history record check" means a name-based state and federal criminal history record check performed by a local law enforcement agency utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(7) Notwithstanding the provisions of this section, if the county department verifies and documents that all of the criminal history record checks and other background checks described in subsection (4.5) of this section have been completed in the preceding three months for a relative, other person, or a person residing in the home, the county department does not need to repeat the fingerprint-based criminal history record check of that relative, other person, or a person residing in the home; except that the county department shall repeat the other background checks described in subsection (4.5) of this section and contact local law enforcement to determine if there were any new charges for offenses filed against that relative, other person, or a person residing in the home during the preceding three months since the last fingerprint-based criminal history record check.

(8) (a) The Colorado bureau of investigation shall flag the fingerprints of and notify the applicable county department of any new arrests of an individual whose fingerprints the county department submits to a local law enforcement agency that the county department also intends to be subsequently used for foster care certification.

(b) The county department shall notify the Colorado bureau of investigation within five calendar days after submitting the request for a fingerprint-based criminal history record check when the county department intends to accept an application for foster care certification from that person so that the flagging and automatic notification to the county department of new arrests pursuant to paragraph (a) of this subsection (8) occurs for that person and continues through the duration of the individual's foster care certification. The county department shall use the same fingerprints received under this subsection (8) and any updated fingerprint-based criminal history record check results from the automatic notification as a substitute for meeting the fingerprint requirements for a person who is applying for foster care certification pursuant to section 26-6-106.3, C.R.S.

Source: L. 2005: Entire section added, p. 616, § 1, effective May 27. **L. 2007:** (2) amended, p. 1017, § 6, effective May 22. **L. 2015:** Entire section amended, (SB 15-087), ch.

263, p. 1012, § 9, effective June 2. **L. 2017:** (1)(c), (2), and (3) amended, (SB 17-189), ch. 149, p. 499, § 6, effective August 9.

19-3-407. Noncertified kinship care - requirement for background checks and other checks - definitions. (1) Except as described in subsection (1)(a) of this section, a county department shall request that a local law enforcement agency conduct the following background checks of kin or any adult who resides at the home prior to placing a child in noncertified kinship care, unless such placement is an emergency placement pursuant to section 19-3-406:

(a) A fingerprint-based criminal history record check through the Colorado bureau of investigation, which criminal history record check may be conducted by any third party approved by the bureau, and the federal bureau of investigation to determine if the kin or an adult who resides at the home has been convicted of:

(I) Child abuse, as specified in section 18-6-401, C.R.S.;

(II) A crime of violence, as defined in section 18-1.3-406, C.R.S.;

(III) An offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(IV) A felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(V) A felony involving physical assault, battery, or a drug-related offense within the five years preceding the date of application for a certificate;

(VI) A pattern of misdemeanor convictions, as defined by rule of the state board, within the ten years immediately preceding the date of submission of the application; or

(VII) Any offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in sub-subparagraphs (I) to (VI) of this paragraph (a);

(b) A check of the ICON system at the state judicial department to determine the status or disposition of any pending criminal charges brought against the kin or an adult who resides at the home that were identified by the fingerprint-based criminal history record check through the Colorado bureau of investigation and the federal bureau of investigation;

(c) A check of the state department's automated database for information to determine if the kin or an adult who resides at the home has been identified as having a finding of child abuse or neglect and whether such finding has been determined to present an unsafe placement for a child; and

(d) A check against the state's sex offender registry and against the national sex offender public registry operated by the United States department of justice that checks names and addresses in the registries and the interactive database system for Colorado to determine if the kin or an adult who resides at the home is a registered sex offender.

(2) A county department shall not place a child in noncertified kinship care if the kin or any adult who resides with the kin at the home:

(a) Has been convicted of any of the crimes listed in paragraph (a) of subsection (1) of this section;

(b) Is a registered sex offender in the sex offender registry created pursuant to section 16-22-110, C.R.S., or is a registered sex offender as determined by a check of the national sex offender registry operated by the United States department of justice. The sex offender registry checks must check the kin's or adult resident's known names and addresses in the interactive

database system for Colorado or the national sex offender public registry against all of the registrant's known names and addresses; or

(c) Has been identified as having a finding of child abuse or neglect through a check of the state department's automated database and that finding has been determined to present an unsafe placement for the child.

(3) A county department may make a placement with noncertified kin that would otherwise be disqualified pursuant to subsection (2) of this section or allow continued placement with noncertified kin if an adult residing in the home would otherwise be disqualified pursuant to subsection (2) of this section if such placement occurs according to rules promulgated by the state board or if there is county-initiated court involvement and an order of the court affirming placement of the child with the kin.

(4) For the purposes of this section, "convicted" means a conviction by a jury or by a court and includes a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, or a plea of guilty or nolo contendere; except that this does not apply to a diversion or deferral or plea for a juvenile who participated in diversion, as defined in section 19-1-103 (44), and does not apply to a diversion or deferral or plea for a person who participated in and successfully completed the child abuse and child neglect diversion program as described in section 19-3-310.

(5) The convictions identified in paragraph (a) of subsection (1) of this section and in subsection (2) of this section must be determined according to the records of the Colorado bureau of investigation or the federal bureau of investigation and the ICON system at the state judicial department. The screening request in Colorado shall be made pursuant to section 19-1-307 (2)(k.5), rules promulgated by the state board pursuant to section 19-3-313.5, and 42 U.S.C. 671 (a)(2). A certified copy of the judgment of a court of competent jurisdiction of the conviction, deferred judgment and sentence agreement, deferred prosecution agreement, or deferred adjudication agreement is prima facie evidence of a conviction or agreement.

(6) The state board shall adopt rules relating to background checks of relatives and placement of children in noncertified kinship care, including:

(a) Rules on requirements that all county departments that place children in noncertified kinship care conduct and document that all of the background checks have been initiated and completed in accordance with section 19-3-406 and with this section for any person providing noncertified kinship care and for any adult residing at the home;

(b) Rules on the actions a county department should take if a disqualifying factor is found during any of the background checks specified in this section, including rules on reviewing the placement of children, addressing child safety issues, evaluating the vulnerability and the age of the child, and identify alternative remedies to removal of the child from the placement.

Source: L. 2015: Entire section added, (SB 15-087), ch. 263, p. 1016, § 10, effective June 2. **L. 2017:** IP(1) and IP(1)(a) amended, (SB 17-189), ch. 149, p. 500, § 7, effective August 9.

PART 5

PETITION, ADJUDICATION, DISPOSITION

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

(a) It is beneficial for a child who is removed from his or her home and placed in foster care to be able to continue relationships with his or her brothers and sisters, regardless of age, in order that the siblings may share their strengths and association in their everyday and often common experiences. The general assembly also finds that the initial decisions about temporary placement of a child may affect the ultimate permanent placement of the child or of the children in a sibling group.

(b) When parents and other adult relatives are no longer available to a child, the child's siblings constitute his or her biological family;

(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.

(2) The general assembly also declares that nothing in this article regarding the placement of sibling groups together should be construed as requiring the removal of a child from his or her home and placement into foster care if that is not in the best interests of the child.

Source: L. 2000: Entire section added, p. 474, § 2, effective July 1. **L. 2003:** (1)(c) amended, p. 2624, § 4, effective June 5.

19-3-501. Petition initiation - preliminary investigation - informal adjustment. (1) Whenever it appears to a law enforcement officer or other person that a child is or appears to be within the court's jurisdiction, as provided in this article, the law enforcement officer or other person may refer the matter to the court, which shall have a preliminary investigation made to determine whether the interests of the child or of the community require that further action be taken, which investigation shall be made by the probation department, county department of social services, or any other agency designated by the court. On the basis of the preliminary investigation, the court may:

(a) Decide that no further action is required, either in the interests of the public or of the child;

(b) Authorize a petition to be filed; or

(c) (I) Make whatever informal adjustment is practicable without a petition if:

(A) The child and his parents, guardian, or other legal custodian were informed of their constitutional and legal rights, including being represented by counsel at every stage of the proceedings;

(B) The facts are admitted and establish prima facie jurisdiction; except that such admission shall not be used in evidence if a petition is filed; and

(C) Written consent is obtained from the parents, guardian, or other legal custodian and also from the child, if of sufficient age and understanding.

(II) Efforts to effect informal adjustment may extend no longer than six months.

(2) (a) Upon receipt of a report filed by a law enforcement agency, or any other person required to report pursuant to section 19-3-304 (2) indicating that a child has suffered abuse as defined in section 19-1-103 (1) and that the best interests of the child require that he be protected from risk of further such abuse, the court shall then authorize and may order the filing of a petition.

(b) Upon receipt of a report, as described in paragraph (a) of this subsection (2), from any person other than those specified in said paragraph (a), the court, after such investigation as may be reasonable under the circumstances, may authorize and may order the filing of a petition.

Source: L. 87: Entire title R&RE, p. 778, § 1, effective October 1. **L. 2002:** (2)(a) amended, p. 1035, § 78, effective June 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-502. Petition form and content - limitations on claims in dependency or neglect actions. (1) The petition and all subsequent court documents in any proceedings brought under this article shall be entitled "The People of the State of Colorado, in the Interest of ____, a child (or children) and Concerning _____, Respondent." The petition shall be verified, and the statements in the petition may be made upon information and belief.

(2) The petition shall set forth plainly the facts which bring the child within the court's jurisdiction. The petition shall also state the name, age, and residence of the child and the names and residences of his parents, guardian, custodian, legal custodian, stepparent, or spousal equivalent or of his nearest known relative if no parent, guardian, custodian, legal custodian, stepparent, or spousal equivalent is known.

(2.5) The petition in each case where removal of a child from the home is sought shall either state that reasonable efforts to prevent out-of-home placement were made and shall summarize such efforts or, if no services to prevent out-of-home placement were provided, the petition shall contain an explanation of why such services were not provided or a description of the emergency which precluded the use of services to prevent out-of-home placement of the child. The petition shall be verified.

(2.7) (a) Pursuant to the provisions of section 19-1-126, the petition shall:

(I) Include a statement indicating what continuing inquiries the county department of social services has made in determining whether the child who is the subject of the proceeding is an Indian child;

(II) Identify whether the child is an Indian child; and

(III) Include the identity of the Indian child's tribe, if the child is identified as an Indian child.

(b) If notices were sent to the parent or Indian custodian of the child and to the Indian child's tribe, pursuant to section 19-1-126, the postal receipts shall be attached to the petition and filed with the court or filed within ten days after the filing of the petition, as specified in section 19-1-126 (1)(c).

(3) All petitions filed alleging the dependency or neglect of a child shall include the following statements:

(a) "Termination of the parent-child legal relationship is a possible remedy available if this petition alleging that a child is dependent or neglected is sustained. A separate hearing must be held before such termination is ordered. Termination of the parent-child legal relationship means that the child who is the subject of this petition would be eligible for adoption."

(b) "If the child is placed out of the home for a period of twelve months or longer, the court shall hold a permanency hearing within said twelve months to determine a permanent placement for the child."

(c) "The review of any decree of placement of a child subsequent to the three-month review required by section 19-1-115 (4)(a) may be conducted as an administrative review by the department of human services, as appropriate. If you are a party to the action, you have a right to object to an administrative review, and if you object, the review shall be conducted by the court."

(4) No counterclaim, cross claim, or other claim for damages may be asserted by a respondent in an action alleging the dependency or neglect of a child, but nothing in this subsection (4) shall be construed to prohibit a respondent from asserting a claim for damages in an action independent of an action alleging the dependency or neglect of a child.

(5) Any parent, guardian, or legal custodian alleged to have abused or neglected a child shall be named as a respondent in the petition concerning such child. The county attorney, city attorney of a city and county, or special county attorney may name any other parent, guardian, custodian, legal custodian, stepparent, or spousal equivalent as a respondent in the petition if he determines that it is in the best interests of the child to do so.

(6) A person may be named as a special respondent on the grounds that he resides with, has assumed a parenting role toward, has participated in whole or in part in the neglect or abuse of, or maintains a significant relationship with the child. Personal jurisdiction shall be obtained over a special respondent once he is given notice by a service of summons and a copy of the petition or motion describing the reasons for his joinder. A special respondent shall be afforded an opportunity for a hearing to contest his joinder and the appropriateness of any orders that affect him and shall have the right to be represented by counsel at such hearing. At any other stage of the proceedings, a special respondent may be represented by counsel at his own expense.

(7) In addition to notice to all parties, the court shall ensure that notice is provided of all hearings and reviews held regarding a child to the following persons with whom a child is placed: Foster parents, pre-adoptive parents, or relatives. Such persons shall have the right to be heard at such hearings and reviews. The persons with whom a child is placed shall provide prior notice to the child of all hearings and reviews held regarding the child. The foster parent, pre-adoptive parent, or relative providing care to a child shall not be made a party to the action for purposes of any hearings or reviews solely on the basis of such notice and right to be heard. Notice of hearings and reviews shall not reveal to the respondent parent or other relative the address, last name, or other such identifying information regarding any person providing care to the child.

Source: L. 87: Entire title R&RE, p. 779, § 1, effective October 1. **L. 92:** (3) amended, p. 224, § 10, effective July 1. **L. 93:** (3)(b) amended, p. 389, § 2, effective April 19; (2.5) added, p. 2016, § 7, effective July 1. **L. 94:** (3)(c) amended, p. 2684, § 202, effective July 1. **L. 98:** (7) added, p. 1418, § 4, effective July 1. **L. 99:** (3)(b) amended, p. 911, § 5, effective July 1. **L.**

2002: (2.7) added, p. 786, § 6, effective May 30. **L. 2007:** (7) amended, p. 1017, § 7, effective May 22.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 1999 act amending subsection (3)(b), see section 1 of chapter 233, Session Laws of Colorado 1999. For the legislative declaration contained in the 2002 act enacting subsection (2.7), see section 1 of chapter 217, Session Laws of Colorado 2002.

19-3-503. Summons - issuance - contents - service. (1) After a petition has been filed, the court shall promptly issue a summons reciting briefly the substance of the petition. The summons shall also contain a statement, when appropriate, that the termination of the parent-child legal relationship is a possible remedy under the proceedings and shall set forth the constitutional and legal rights of the child, his parents, guardian, or legal custodian, or any other respondent or special respondent, including the right to have an attorney present at the hearing on the petition.

(2) No summons shall issue to any respondent who appears voluntarily or who waives service, but any such person shall be provided with a copy of the petition and summons upon appearance or request.

(3) The summons shall require the person or persons having the physical custody of the child to appear, and it may order the child to appear before the court at a time and place stated. If the person or persons so summoned are not the parents or guardian of the child, then a summons shall also be issued to the parents or guardian, or both, notifying them of the pendency of the case and of the time and place set for hearing.

(4) The court on its own motion or on the motion of any party may join as a respondent or special 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 own behalf or on behalf of the child.

(5) If it appears that the welfare of the child or of the public requires that the child be taken into custody, the court may, by endorsement upon the summons, direct that the person serving the summons take the child into custody at once.

(6) The court may authorize the payment of necessary travel expenses incurred by persons summoned or otherwise required to appear, which payments shall not exceed the amount allowed to witnesses for travel by the district court.

(7) Summons shall be served personally, pursuant to the Colorado rules of civil procedure. If personal service is used, it shall be sufficient to confer jurisdiction if service is effected not less than two days before the time fixed in the summons for the appearance of the person served; except that personal service shall be effected not less than five days prior to the time set for a hearing concerning a dependent or neglected child.

(8) If the respondent required to be summoned under subsection (3) of this section cannot be found within the state, the fact of the child's presence in the state shall confer

jurisdiction on the court as to any absent respondent if due notice has been given in the following manner:

(a) When the residence of the person to be served outside the state is known, a copy of the summons and petition shall be sent by certified mail with postage prepaid to such person at his place of residence with a return receipt requested. Service of summons shall be deemed complete within five days after return of the requested receipt.

(b) When the person to be served has no residence within Colorado and his place of residence is not known or when he cannot be found within the state after due diligence, service may be by publication pursuant to rule 4(h) of the Colorado rules of civil procedure; except that service may be by a single publication and must be completed not less than five days prior to the time set for a hearing concerning a dependent or neglected child.

Source: L. 87: Entire title R&RE, p. 780, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-103 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-504. Contempt - warrant. (1) Any person summoned or required to appear as provided in section 19-3-503 who has acknowledged service and fails to appear without reasonable cause may be proceeded against for contempt of court.

(2) If after reasonable effort the summons cannot be served or if the welfare of the child requires that he be brought immediately into the custody of the court, a bench warrant may be issued for the respondent or for the child.

Source: L. 87: Entire title R&RE, p. 781, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-104 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-505. Adjudicatory hearing - findings - adjudication. (1) At the adjudicatory hearing, the court shall consider whether the allegations of the petition are supported by a preponderance of the evidence; except that jurisdictional matters of the age and residence of the child shall be deemed admitted by or on behalf of the child unless specifically denied prior to the adjudicatory hearing.

(2) Evidence tending to establish the necessity of separating the child from the parents or guardian may be admitted but shall not be required for the making of an order of adjudication.

(3) Adjudicatory hearings shall be held at the earliest possible time, but in no instance shall such hearing be held later than ninety days after service of the petition, or, 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), in no instance shall such hearing be held later than sixty days after service of the petition unless the court finds that the best interests of the child will be served by granting a delay. If the court determines that a delay is necessary, it

shall set forth the specific reason why such delay is necessary and shall schedule the adjudicatory hearing at the earliest possible time following the delay.

(4) (a) When it appears that the evidence presented at the hearing discloses facts not alleged in the petition, the court may proceed immediately to consider the additional or different matters raised by the evidence if the parties consent.

(b) In such event, the court, on the motion of any interested party or on its own motion, shall order the petition to be amended to conform to the evidence.

(c) If the amendment results in a substantial departure from the original allegations in the petition, the court shall continue the hearing on the motion of any interested party, or the court may grant a continuance on its own motion if it finds it to be in the best interests of the child or any other party to the proceeding.

(d) If it appears from the evidence that the child may have a mental health disorder or an intellectual and developmental disability as these terms are defined in article 10.5 of title 27, subsections (4)(a) to (4)(c) of this section do not apply, and the court shall proceed pursuant to section 19-3-506.

(5) After making a finding as provided by paragraph (a) of subsection (7) of this section but before making an adjudication, the court may continue the hearing from time to time, allowing the child to remain in his own home or in the temporary custody of another person or agency subject to such conditions of conduct and of visitation or supervision by a juvenile probation officer as the court may prescribe, if:

(a) Consent is given by the parties, including the child and his parent, guardian, or other legal custodian after being fully informed by the court of their rights in the proceeding, including their right to have an adjudication made either dismissing or sustaining the petition;

(b) Such continuation shall extend no longer than six months without review by the court. Upon review, the court may continue the case for an additional period not to exceed six months, after which the petition shall either be dismissed or sustained.

(6) When the court finds that the allegations of the petition are not supported by a preponderance of the evidence, the court shall order the petition dismissed and the child discharged from any detention or restriction previously ordered. His or her parents, guardian, or legal custodian shall also be discharged from any restriction or other previous temporary order. The court shall inform the respondent that, pursuant to section 19-3-313.5 (3)(f), the department shall expunge the records and reports for purposes related to employment or background checks.

(7) (a) When the court finds that the allegations of the petition are supported by a preponderance of the evidence, except when the case is continued as provided in the introductory portion to subsection (5) of this section, the court shall sustain the petition and shall make an order of adjudication setting forth whether the child is neglected or dependent. Evidence that child abuse or nonaccidental injury has occurred shall constitute prima facie evidence that such child is neglected or dependent, and such evidence shall be sufficient to support an adjudication under this section.

(b) The court shall then hold the dispositional hearing, but such hearing may be continued on the motion of any interested party or on the motion of the court. Such continuance shall not exceed thirty days unless good cause exists. 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 dispositional hearing shall be held within thirty days after the adjudicatory hearing unless good cause is shown and unless the court finds that the best interests

of the child will be served by granting a 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.

Source: L. 87: Entire title R&RE, p. 781, § 1, effective October 1. **L. 94:** (3) and (7) amended, p. 2053, § 6, effective July 1. **L. 96:** (6) amended, p. 1290, § 3, effective January 1, 1997. **L. 2000:** (6) amended, p. 1723, § 5, effective June 1. **L. 2003:** (6) amended, p. 1407, § 12, effective January 1, 2004. **L. 2006:** (4)(d) amended, p. 1402, § 58, effective August 7. **L. 2017:** (4)(d) amended, (SB 17-242), ch. 263, p. 1315, § 163, effective May 25.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2003 act amending subsection (6), see section 1 of chapter 196, Session Laws of Colorado 2003. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-3-506. Child with a mental health disorder or an intellectual and developmental disability - procedure. (1) (a) If it appears from the evidence presented at an adjudicatory hearing or otherwise that a child may have an intellectual and developmental disability, as defined in article 10.5 of title 27, the court shall refer the child to the community-centered board in the designated service area where the action is pending for an eligibility determination pursuant to article 10.5 of title 27.

(b) If it appears from the evidence presented at an adjudicatory hearing or otherwise that a child may have a mental health disorder, as defined in sections 27-65-105 and 27-65-106, and the child has not had a mental health disorder prescreening pursuant to section 19-3-403 (4), the court shall order a prescreening to determine whether the child requires further evaluation. The prescreening shall be conducted as expeditiously as possible, and a prescreening report must be provided to the court within twenty-four hours of the prescreening, excluding Saturdays, Sundays, and legal holidays.

(c) If the mental health professional finds, based upon a prescreening done pursuant to this section or section 19-3-403 (4), that the child may have a mental health disorder, as defined in section 27-65-102, the court shall review the prescreening report within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, and order the child placed for an evaluation at a facility designated by the executive director of the department of human services for a seventy-two-hour treatment and evaluation pursuant to section 27-65-105 or 27-65-106. On and after January 1, 1986, if the child to be placed is in a detention facility, the designated facility shall admit the child within twenty-four hours after the court orders an evaluation, excluding Saturdays, Sundays, and legal holidays.

(d) Any evaluation conducted pursuant to this subsection (1) must be completed within seventy-two hours, excluding Saturdays, Sundays, and legal holidays. A county jail or a detention facility, as described in article 2 of this title 19, is not considered a suitable facility for evaluation, although a mental health disorder prescreening may be conducted in any appropriate setting.

(e) If the mental health professional finds, based upon the prescreening, that the child does not have a mental health disorder, the court shall review the prescreening report within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, and copies of the report shall be furnished to all parties and their attorneys. Any interested party may request a hearing on the issue of the child's mental health disorder, and the court may order additional prescreenings as deemed appropriate. The court shall not enter an order for a seventy-two-hour treatment and evaluation unless a hearing is held and evidence indicates that the prescreening report is inadequate, incomplete, or incorrect and that competent professional evidence is presented from a mental health professional that indicates that a mental health disorder is present in the child. The court shall make, prior to the hearing, such orders regarding temporary custody of the child as are deemed appropriate.

(2) (a) When an evaluation is ordered by the court pursuant to subsection (1) of this section, the order must specify the person or agency to whom the child shall be released when the evaluation indicates that the child does not have a mental health disorder.

(b) When the court orders an evaluation pursuant to subsection (1) of this section, such order shall not obligate the person doing the prescreening or the agency which such person represents to pay for an evaluation or for any hospitalization provided to the child as a result of an evaluation.

(3) (a) When the evaluation conducted pursuant to subsection (1) of this section states that the child has a mental health disorder, as defined in section 27-65-102, the court shall treat the evaluation report as a certification under section 27-65-107 and shall proceed pursuant to article 65 of title 27, assuming all of the powers granted to a court in such proceedings.

(b) When, subsequent to referral to a community centered board pursuant to subsection (1) of this section, it appears that the child has developmental disabilities, the court may proceed pursuant to article 10.5 of title 27, C.R.S., or may follow any of the recommendations contained in the report from the community centered board.

(c) If the child remains in treatment or receives services ordered pursuant to paragraph (a) or (b) of this subsection (3), the court may suspend the proceedings or dismiss any actions pending under this title.

(d) If a child receiving treatment or services ordered pursuant to paragraph (a) or (b) of this subsection (3) leaves a treatment facility or program without prior approval, the facility or program shall notify the court of the child's absence within twenty-four hours. When such child is taken into custody, the facility or program shall be notified by the court and shall readmit the child within twenty-four hours after receiving such notification, excluding Saturdays, Sundays, and legal holidays.

(4) (a) When the report of the evaluation or eligibility determination conducted pursuant to subsection (1) of this section states that the child does not have a mental health disorder or an intellectual and developmental disability, the child shall be released to the person or agency specified pursuant to subsection (2) of this section within twenty-four hours after the evaluation has been completed, excluding Saturdays, Sundays, and legal holidays. The child must not be detained unless a new detention hearing is held within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, and the court finds at that hearing that secure detention is necessary.

(b) When the evaluation report or eligibility determination states that the child does not have a mental health disorder or an intellectual and developmental disability, the court shall set a time for resuming the hearing on the petition or any other pending matters.

Source: L. 87: Entire title R&RE, p. 783, § 1, effective October 1; (1)(b) and (1)(c) amended, p. 1586, § 58, effective October 1. **L. 92:** (1)(a) amended, p. 1398, § 57, effective July 1. **L. 94:** (1)(c) amended, p. 2684, § 203, effective July 1. **L. 2006:** (1)(b), (1)(c), (1)(e), (2)(a), (3)(a), and (4) amended, p. 1402, § 59, effective August 7. **L. 2010:** (1)(b), (1)(c), and (3)(a) amended, (SB 10-175), ch. 188, p. 792, § 45, effective April 29. **L. 2017:** (1), (2)(a), (3)(a), and (4) amended, (SB 17-242), ch. 263, p. 1315, § 164, effective May 25.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-107 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-3-507. Dispositional hearing. (1) (a) After making an order of adjudication, the court shall hear evidence on the question of the proper disposition best serving the interests of the child and the public. Such evidence shall include, but not necessarily be limited to, the social study and other reports as provided in section 19-1-107.

(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.

(2) If the court has reason to believe that the child may have an intellectual and developmental disability, the court shall refer the child to the community-centered board in the designated service area where the action is pending for an eligibility determination pursuant to article 10.5 of title 27. If the court has reason to believe that the child may have a behavioral or mental health disorder, the court shall order a behavioral or mental health disorder prescreening to be conducted in any appropriate place.

(3) (a) Except as provided in section 19-3-508 (1), the court may continue the dispositional hearing, either on its own motion or on the motion of any interested party, for a reasonable period to receive reports or other evidence.

(b) If the hearing is continued, the court shall make an appropriate order for detention of the child or for such child's release in the custody of such child's parents, guardian, or other responsible person or agency under such conditions of supervision as the court may impose during the continuance.

(c) In scheduling investigations and hearings, the court shall give priority to proceedings concerning a child who is in detention or who has otherwise been removed from such child's home before an order of disposition has been made.

(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 19-1-115 (8)(f).

(5) (a) Parents, grandparents, relatives, or foster parents who have the child in their care for more than three months who have information or knowledge concerning the care and protection of the child may intervene as a matter of right following adjudication with or without counsel.

(b) A county department of social services that placed a child in foster care shall provide the foster parent of the child and any pre-adoptive parent or relative providing care for the child with notice of any administrative review of the child's case.

(c) Upon the written request of the foster parent, pre-adoptive parent, or relative, notice of a court hearing for the child's case shall be provided in written form and may be provided through the caseworker at the usual periodic meetings with the person providing care for the child. The notice shall include, at a minimum:

(I) The child's court case number;

(II) The date and time of the next court hearing; and

(III) The name of the magistrate or judge and the court division to which the case has been assigned.

Source: L. 87: Entire title R&RE, p. 784, § 1, effective October 1. **L. 92:** (2) amended, p. 1398, § 58, effective July 1. **L. 93:** Entire section amended, p. 389, § 3, effective April 19; (1) amended, p. 2017, § 8, effective July 1. **L. 94:** (1)(b) and (4) amended, p. 2684, § 204, effective July 1. **L. 97:** (5) added, p. 1439, § 14, effective July 1. **L. 99:** (4) amended, p. 911, § 6, effective

July 1. **L. 2000:** (1)(b) and (4) amended, p. 476, § 4, effective July 1. **L. 2003:** (1)(b) and (4) amended, p. 2624, § 5, effective June 5. **L. 2004:** (5) amended, p. 972, § 1, effective August 4. **L. 2006:** (2) amended, p. 1404, § 60, effective August 7. **L. 2008:** (4) amended, p. 1894, § 66, effective August 5. **L. 2017:** (2) amended, (SB 17-242), ch. 263, p. 1317, § 165, effective May 25.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-3-109 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments to this section in House Bill 93-1058 and Senate Bill 93-28 were harmonized.

Cross references: For the legislative declaration contained in the 1999 act amending subsection (4), see section 1 of chapter 233, Session Laws of Colorado 1999. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

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 must not be held on the same date as the adjudication, and the time limits set forth above for dispositional hearings do 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 a hearing in accordance with the provisions of subsection (3)(a) of this section and part 6 of this article 3. When the decree does not terminate the parent-child legal relationship, the court shall approve an appropriate treatment plan that must include but not be limited to one or more of the following provisions of subsections (1)(a) to (1)(d) of this section:

(a) The court may place the child in the legal custody of one or both parents or the guardian, with or without protective supervision, under such conditions as the court deems necessary and appropriate. 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) and is placed with a parent or guardian who is a named respondent in a petition filed pursuant to section 19-3-502, the treatment plan shall include a requirement that the family obtain services specific to the family's needs if available in the community where the family resides and based on the social study and reports provided pursuant to section 19-1-107 (2.5).

(b) The court may place the child in the legal custody of a relative, including the child's grandparent, or other suitable person, with or without protective supervision, under such conditions as the court deems necessary and appropriate. If a child is not placed with a parent pursuant to paragraph (a) of this subsection (1), preference may be given by the court for placement with a grandparent pursuant to this paragraph (b) if in the best interests of the child.

(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.

(d) (I) The court may order that the child be examined or treated by a physician, surgeon, psychiatrist, or psychologist or that he or she receive other special care and may place the child in a hospital or other suitable facility for such purposes; except that the child may not be placed in a mental health facility operated by the department of human services until the child has received a behavioral or mental health disorder prescreening resulting in a recommendation that the child be placed in a facility for evaluation pursuant to section 27-65-105 or 27-65-106, or a hearing has been held by the court after notice to all parties, including the department of human services. An order for a seventy-two-hour treatment and evaluation must not be entered unless a hearing is held and evidence indicates that the prescreening report is inadequate, incomplete, or incorrect and that competent professional evidence is presented by a mental health professional that indicates that a behavioral or mental health disorder is present in the child. The court shall make, prior to the hearing, such orders regarding temporary custody of the child as are deemed appropriate.

(II) Placement in any facility operated by the department of human services shall continue for such time as ordered by the court or until the professional person in charge of the child's treatment concludes that the treatment or placement is no longer appropriate. If placement or treatment is no longer deemed appropriate, the court shall be notified and a hearing held for further disposition of the child within five days, excluding Saturdays, Sundays, and legal holidays. The court shall make, prior to the hearing, such orders regarding temporary custody of the child as are deemed appropriate.

(e) (I) Except where the proposed disposition is termination of the parent-child legal relationship, the court shall approve an appropriate treatment plan involving the child named and each respondent named and served in the action. However, the court may find that an appropriate treatment plan cannot be devised as to a particular respondent because the child has been abandoned as set forth in section 19-3-604 (1)(a) and the parents cannot be located, or because the child has been adjudicated as neglected or dependent based upon section 19-3-102 (2), or due to the unfitness of the parents as set forth in section 19-3-604 (1)(b). When the court finds that an appropriate treatment plan cannot be devised, the court shall conduct a permanency hearing as set forth in section 19-3-702 (1), unless a motion for termination of parental rights has been filed within thirty days after the court's finding.

(II) Repealed.

(2) Before a disposition other than that provided in paragraph (a) of subsection (1) of this section is made, it shall be established by a preponderance of the evidence that a separation of the child from the parents or guardian is in the best interests of the child.

(3) (a) The court may enter a decree terminating the parent-child legal relationship of one or both parents pursuant to part 6 of this article. Pursuant to section 19-3-602 (1), 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 hear a motion for termination within one hundred twenty days after such motion is filed, 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 a delay in accordance with the requirements of section 19-3-104.

(b) Upon the entry of a decree terminating the parent-child legal relationship of both parents, of the sole surviving parent, or of the only known parent, the court may:

(I) Vest the county department of social services or a child placement agency with the legal custody and guardianship of the person of a child for the purposes of placing the child for adoption; or

(II) Make any other disposition provided in paragraph (b), (c), or (d) of subsection (1) of this section that the court finds appropriate.

(b.5) In making a disposition pursuant to paragraph (b) of this subsection (3), the court may give preference to making a disposition as provided in paragraph (b) of subsection (1) of this section, if in the best interests of the child.

(c) Upon the entry of a decree terminating the parent-child legal relationship of one parent, the court may:

(I) Leave the child in the legal custody of the other parent and discharge the proceedings; or

(II) Make any other disposition provided in subsection (1) of this section that the court finds appropriate.

(4) (Deleted by amendment, L. 97, p. 520, § 8, effective July 1, 1997.)

(5) (a) In placing the legal custody or guardianship of the person of a child with an individual or a private agency, the court shall give primary consideration to the welfare of the child but shall take into consideration the religious preferences of the child or of his parents whenever practicable.

(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.

(6) The court may grant a new hearing as provided in the Colorado rules of juvenile procedure.

(7) Efforts to place a child for adoption or with a legal guardian or custodian, including identifying appropriate in-state and out-of-state permanent placement options, may be made concurrently with reasonable efforts to preserve and reunify the family.

(8) When entering a decree placing the child in the legal custody of a relative or placing the child in the legal custody of a county department for placement in a foster care home, the court shall ensure that the child's placement at the time of the hearing is in the best interests of the child and shall inquire about documentation that the county department or a licensed child placement agency has adequately screened the foster care provider or the family member who is seeking to care for the child and any adult residing in that home and that all of the criminal history record checks and other background checks have been completed as required pursuant to section 26-6-106.3, C.R.S., or 19-3-407.

Source: L. 87: Entire title R&RE, p. 785, § 1, effective October 1. **L. 91:** (1)(b), (3), and (5)(b) amended, p. 265, § 9, effective May 31. **L. 94:** IP(1), (1)(a), IP(4), and (4)(a) amended, p. 2054, § 7, effective July 1; (1)(d) amended, p. 2685, § 205, effective July 1. **L. 96:** (1)(e)(II) repealed, p. 85, § 11, effective March 20; IP(1) and (1)(c) amended, p. 265, § 17, effective July 1; (5)(b) amended, p. 1246, § 116, effective August 7. **L. 97:** IP(1), (1)(e)(I), and (4) amended, p. 520, § 8, effective July 1; (1)(e)(I) and (5)(b) amended, pp. 1439, 1441, §§ 15, 18, effective July 1. **L. 98:** (1)(e)(I) amended and (7) added, p. 1418, § 5, effective July 1. **L. 99:** (1)(e)(I) amended, p. 912, § 7, effective July 1. **L. 2001:** (2) amended, p. 847, § 9, effective June 1. **L. 2003:** (1)(c) and (5)(b) amended, p. 2625, § 6, effective June 5; IP(1) and (3)(a) amended, p. 1225, § 1, effective August 6. **L. 2007:** (7) amended, p. 1018, § 8, effective May 22. **L. 2010:** (1)(d)(I) amended, (SB 10-175), ch. 188, p. 793, § 46, effective April 29. **L. 2015:** (8) added, (SB 15-087), ch. 263, p. 1019, § 11, effective June 2. **L. 2017:** IP(1) and (1)(d)(I) amended, (SB 17-242), ch. 263, p. 1317, § 166, effective May 25.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-3-111 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments to subsection (1)(e)(I) by Senate Bill 97-218 and Senate Bill 97-71 were harmonized.

(3) Although subsection (7) refers to the term "custodian", reference to the term "custody", and related terms, have been changed in other places in the Colorado Revised Statutes to correspond with the use of the term "parental responsibilities" as described in § 14-10-124, C.R.S.

Cross references: For the legislative declaration contained in the 1996 act amending subsection (5)(b), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 1999 act amending subsection (1)(e)(I), see section 1 of chapter 233, Session Laws of Colorado 1999. For the legislative declaration contained in the 2001 act amending subsection (2), see section 1 of chapter 241, Session Laws of Colorado 2001. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

PART 6

TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP

Law reviews: For article, "Difficult Issues in Adoption - Part 1", see 24 Colo. Law. 851 (1994); for article, "Difficult Issues in Adoption - Part 2", see 24 Colo. Law. 1083 (1994).

19-3-601. Short title. This part 6 shall be known and may be cited as the "Parent-Child Legal Relationship Termination Act of 1987".

Source: L. 87: Entire title R&RE, p. 787, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-11-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-602. Motion for termination - separate hearing - right to counsel - no jury trial. (1) Termination of a parent-child legal relationship shall be considered only after the filing of a written motion alleging the factual grounds for termination, and termination of a parent-child legal relationship shall be considered at a separate hearing following an adjudication of a child as dependent or neglected. Such motion shall be filed at least thirty days before such hearing. 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 hear the motion for termination within one hundred twenty days after such motion is filed, 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 a delay in accordance with the requirements of section 19-3-104.

(1.5) (a) Pursuant to the provisions of section 19-1-126, the motion for termination shall:

(I) Include a statement indicating what continuing inquiries the county department of social services has made in determining whether the child who is the subject of the termination proceeding is an Indian child;

(I.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;

(II) Identify whether the child is an Indian child; and

(III) Include the identity of the Indian child's tribe, if the child is identified as an Indian child.

(b) If notices were sent to the parent or Indian custodian of the child and to the Indian child's tribe, pursuant to section 19-1-126, the postal receipts, or copies thereof, shall be attached to the motion for termination and filed with the court or filed within ten days after the filing of the motion for termination, as specified in section 19-1-126 (1)(c).

(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 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).

(3) A guardian ad litem, who shall be an attorney and who shall be the child's previously appointed guardian ad litem whenever possible, shall be appointed to represent the child's best interests in any hearing determining the involuntary termination of the parent-child legal relationship. Additionally, said attorney shall be experienced, whenever possible, in juvenile law. Such representation shall continue until an appropriate permanent placement of the child is effected or until the court's jurisdiction is terminated. If a respondent parent is a minor, a guardian ad litem shall be appointed and shall serve in addition to any counsel requested by the parent.

(4) There shall be no right to a jury trial at proceedings held to consider the termination of a parent-child legal relationship.

Source: L. 87: Entire title R&RE, p. 788, § 1, effective October 1. **L. 2002:** (1.5) added, p. 787, § 7, effective May 30. **L. 2003:** (1) amended, p. 1226, § 2, effective August 6. **L. 2005:** (1.5)(a)(I.5) added and (2) amended pp. 94, 93, §§ 3, 2, effective March 31.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-11-103 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2002 act enacting subsection (1.5), see section 1 of chapter 217, Session Laws of Colorado 2002.

19-3-603. Notice - abandonment. Before a termination of the parent-child legal relationship based on abandonment can be ordered, the petitioner shall file, only if the location of a parent remains unknown, an affidavit stating what efforts have been made to locate the parent or parents of the child subject to the motion for termination. Such affidavit shall be filed not later than ten days prior to the hearing.

Source: L. 87: Entire title R&RE, p. 788, § 1, effective October 1. **L. 97:** Entire section amended, p. 521, § 9, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-11-104 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-604. Criteria for termination. (1) The court may order a termination of the parent-child legal relationship upon the finding by clear and convincing evidence of any one of the following:

(a) That the child has been adjudicated dependent or neglected and has been abandoned by the child's parent or parents as follows:

(I) That the parent or parents have surrendered physical custody of the child for a period of six months or more and have not manifested during such period the firm intention to resume physical custody of the child or to make permanent legal arrangements for the care of the child except in cases when voluntary placement is renewable under section 19-1-115 (8)(a);

(II) That the identity of the parent of the child is unknown and has been unknown for three months or more and that reasonable efforts to identify and locate the parent in accordance with section 19-3-603 have failed;

(b) That the child is adjudicated dependent or neglected and the court finds that no appropriate treatment plan can be devised to address the unfitness of the parent or parents. In making such a determination, the court shall find one of the following as the basis for unfitness:

(I) An emotional illness, a behavioral or mental health disorder, or an intellectual and developmental disability of the parent of such duration or nature as to render the parent unlikely within a reasonable time to care for the ongoing physical, mental, and emotional needs and conditions of the child;

(II) A single incident resulting in serious bodily injury or disfigurement of the child;

(III) Long-term confinement of the parent of such duration that the parent is not eligible for parole for at least six years after the date the child was adjudicated dependent or neglected or, 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 long-term confinement of the parent of such duration that the parent is not eligible for parole for at least thirty-six months after the date the child was adjudicated dependent or neglected and the court has found by clear and convincing evidence that no appropriate treatment plan can be devised to address the unfitness of the parent or parents;

(IV) Serious bodily injury or death of a sibling due to proven parental abuse or neglect;

(V) An identifiable pattern of habitual abuse to which the child or another child has been subjected and, as a result of which, a court has adjudicated another child as neglected or dependent based upon allegations of sexual or physical abuse, or a court of competent jurisdiction has determined that such abuse has caused the death of another child;

(VI) An identifiable pattern of sexual abuse of the child; or

(VII) The torture of or extreme cruelty to the child, a sibling of the child, or another child of either parent;

(c) That the child is adjudicated dependent or neglected and all of the following exist:

(I) That an appropriate treatment plan approved by the court has not been reasonably complied with by the parent or parents or has not been successful or that the court has previously found, pursuant to section 19-3-508 (1)(e), that an appropriate treatment plan could not be devised. In a county designated pursuant to section 19-1-123, if a child is under six years of age

at the time a petition is filed in accordance with section 19-3-501 (2), no parent or parents shall be found to be in reasonable compliance with or to have been successful at a court-approved treatment plan when:

(A) The parent has not attended visitations with the child as set forth in the treatment plan, unless good cause can be shown for failing to visit; or

(B) The parent exhibits the same problems addressed in the treatment plan without adequate improvement, including but not limited to improvement in the relationship with the child, and is unable or unwilling to provide nurturing and safe parenting sufficiently adequate to meet the child's physical, emotional, and mental health needs and conditions despite earlier intervention and treatment for the family. The court may receive testimony regarding the family's progress under the treatment plan from the child's physician or therapist, foster parent, educational or religious teachers, CASA volunteer, or caseworker.

(II) That the parent is unfit; and

(III) That the conduct or condition of the parent or parents is unlikely to change within a reasonable time.

(2) In determining unfitness, conduct, or condition for purposes of paragraph (c) of subsection (1) of this section, the court shall find that continuation of the legal relationship between parent and child is likely to result in grave risk of death or serious bodily injury to the child or that the conduct or condition of the parent or parents renders the parent or parents unable or unwilling to give the child reasonable parental care to include, at a minimum, nurturing and safe parenting sufficiently adequate to meet the child's physical, emotional, and mental health needs and conditions. In making such determinations, the court shall consider, but not be limited to, the following:

(a) Any one of the bases for a finding of parental unfitness set forth in paragraph (b) of subsection (1) of this section;

(b) Conduct towards the child of a physically or sexually abusive nature;

(c) History of violent behavior;

(d) A single incident of life-threatening or serious bodily injury or disfigurement of the child;

(e) Excessive use of intoxicating liquors or controlled substances, as defined in section 18-18-102 (5), C.R.S., which affects the ability to care and provide for the child;

(f) Neglect of the child;

(g) Injury or death of a sibling due to proven parental abuse or neglect, murder, voluntary manslaughter, or circumstances in which a parent aided, abetted, or attempted the commission of or conspired or solicited to commit murder of a child's sibling;

(h) Reasonable efforts by child-caring agencies which have been unable to rehabilitate the parent or parents;

(i) That any parent who is a named respondent in the termination proceeding has had prior involvement with the department of human services concerning an incident of abuse or neglect involving the child and a subsequent incident of abuse or neglect occurs;

(j) Whether a parent committed felony assault that resulted in serious bodily injury to the child or to another child of the parent;

(k) That the child has been in foster care under the responsibility of the county department for fifteen of the most recent twenty-two months, unless:

(I) The child is placed with a relative of the child;

(II) The county department or a state agency has documented in the case plan, which shall be available for court review, that filing such a motion would not be in the best interests of the child;

(III) Where required to make reasonable efforts, services identified as necessary for the safe return of the child to the child's home have not been provided to the family consistent with the time period in the case plan; or

(IV) The child has been in foster care under the responsibility of the county department for such period of time due to circumstances beyond the control of the parent such as incarceration of the parent for a reasonable period of time, court delays or continuances that are not attributable to the parent, or such other reasonable circumstances that the court finds are beyond the control of the parent;

(l) Whether, on two or more occasions, a child in the physical custody of the parent has been adjudicated dependent or neglected in a proceeding under this article or comparable proceedings under the laws of another state or the federal government;

(m) Whether, on one or more prior occasions, a parent has had his or her parent-child legal relationship terminated pursuant to this article or section 19-5-105 or comparable proceedings under the laws of another state or the federal government.

(3) In considering the termination of the parent-child legal relationship, the court shall give primary consideration to the physical, mental, and emotional conditions and needs of the child. The court shall review and order, if necessary, an evaluation of the child's physical, mental, and emotional conditions. For the purpose of determining termination of the parent-child legal relationship, written reports and other materials relating to the child's mental, physical, and social history may be received and considered by the court along with other evidence; but the court, if so requested by the child, his parent or guardian, or any other interested party, shall require that the person who wrote the report or prepared the material appear as a witness and be subject to both direct and cross-examination. In the absence of such request, the court may order the person who prepared the report or other material to appear if it finds that the interest of the child so requires.

Source: L. 87: Entire title R&RE, p. 788, § 1, effective October 1. **L. 90:** (1)(a) amended, p. 1037, § 5, effective April 3. **L. 91:** (1)(a)(I) amended, p. 1159, § 5, effective July 1. **L. 92:** (3) amended, p. 224, § 11, effective July 1. **L. 94:** (1) and IP(2) amended and (2)(i) added, p. 2055, § 8, effective July 1. **L. 97:** IP(1) and (1)(b) amended, p. 521, § 10, effective July 1; (1)(b) amended, p. 1440, § 16, effective July 1. **L. 98:** (1)(b), IP(2), (2)(d), and (2)(g) amended and (2)(j) and (2)(k) added, pp. 1419, 1420, §§ 6, 7, effective July 1. **L. 2001:** (2)(l) and (2)(m) added, p. 499, § 1, effective May 4; (1)(b)(V) and (1)(b)(VI) amended and (1)(b)(VII) added, p. 847, § 10, effective June 1. **L. 2003:** (1)(c)(I)(B) amended, p. 754, § 6, effective March 25. **L. 2008:** (1)(a)(I) amended, p. 1894, § 67, effective August 5. **L. 2012:** (2)(e) amended, (HB 12-1311), ch. 281, p. 1625, § 61, effective July 1. **L. 2017:** (1)(b)(I) amended, (HB 17-1046), ch. 50, p. 158, § 10, effective March 16; (1)(b)(I) amended, (SB 17-242), ch. 263, p. 1318, § 167, effective May 25.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-11-105 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments made to subsection (1)(b) by Senate Bill 97-218 and Senate Bill 97-71 were harmonized.

Cross references: For the legislative declaration contained in the 2001 act amending subsections (1)(b)(V) and (1)(b)(VI) and enacting subsection (1)(b)(VII), see section 1 of chapter 241, Session Laws of Colorado 2001. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

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 with a relative of the child. When ordering guardianship of the person and legal custody of the child, the court may give preference to a grandparent, aunt, uncle, brother, sister, half-sibling, or first cousin 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 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.

(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.

(3) In making placement determinations concerning a child following the order of termination of the parent-child legal relationship pursuant to the provisions of this section, the court shall consider all pertinent information related to modifying the placement of the child prior to removing the child from his or her placement, including the following:

(a) An individualized assessment of the child's needs created pursuant to Title IV-E of the federal "Social Security Act", as amended, and regulations promulgated thereunder, as amended;

(b) Whether the child's placement at the time of the hearing is a safe and potentially permanent placement for the child, including documentation that a county department or a licensed child placement agency has adequately screened the family member who is seeking to care for the child and any adult residing in the home and that all of the criminal history record checks and other background checks have been completed as required pursuant to section 26-6-106.3, C.R.S., or section 19-3-407;

(c) The child's actual age and developmental stage and, in consideration of this information, the child's attachment needs;

(d) Whether the child has significant psychological ties to a person who could provide a permanent placement for the child, including a relative, and, if so, whether this person maintained contact with the child during the child's placement out of the home;

(e) Whether a person who could provide a permanent placement for the child is willing to maintain appropriate contact after an adoption of the child with the child's relatives, particularly sibling relatives, when such contact is safe, reasonable, and appropriate;

(f) Whether a person who could provide a permanent placement for the child is aware of the child's culture and willing to provide the child with positive ties to his or her culture;

(g) The child's medical, physical, emotional, or other specific needs, and whether a person who could provide a permanent placement for the child is able to meet the child's needs; and

(h) The child's attachment to the child's caregiver at the time of the hearing and the possible effects on the child's emotional well-being if the child is removed from the caregiver's home.

Source: L. 87: Entire title R&RE, p. 789, § 1, effective October 1. **L. 2003:** Entire section amended, p. 2626, § 7, effective June 5. **L. 2005:** (1) amended, p. 93, § 1, effective March 31; entire section amended, p. 678, § 3, effective July 1. **L. 2015:** (3)(b) amended, (SB 15-087), ch. 263, p. 1019, § 12, effective June 2; (3) amended, (HB 15-1337), ch. 328, p. 1342, § 2, effective June 5.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-11-105.5 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments to this section by House Bill 05-1174 and House Bill 05-1173 were harmonized.

(3) Amendments to subsection (3)(b) by HB 15-1337 and SB 15-087 were harmonized.

Cross references: (1) For the legislative declaration contained in the 2005 act amending this section, see section 1 of chapter 194, Session Laws of Colorado 2005.

(2) For part E of Title IV of the federal "Social Security Act", see 42 U.S.C. sec. 670 et seq.

19-3-606. Review of child's disposition following termination of the parent-child legal relationship. (1) The court, at the conclusion of a hearing in which it ordered the termination of a parent-child legal relationship, shall order that a review hearing be held not later than ninety days following the date of the termination. At such hearing the agency or individual vested with custody of the child shall report to the court what disposition of the child, if any, has occurred, and the guardian ad litem shall submit a written report with recommendations to the court, based upon an independent investigation, for the best disposition of the child. Any report required under this subsection (1) shall be subject to the provisions of section 19-1-309.

(2) If no adoption has taken place within a reasonable time and the court determines that adoption is not immediately feasible or appropriate, the court may order that provision be made immediately for alternative long-term placement of the child.

Source: L. 87: Entire title R&RE, p. 790, § 1, effective October 1. **L. 89:** (1) amended, p. 944, § 5, effective March 27. **L. 90:** (1) amended, p. 1012, § 7, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-11-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-607. Expert testimony. (1) An indigent parent has the right to have appointed one expert witness of his or her own choosing whose reasonable fees and expenses, subject to the review and approval by the office of the respondent parents' counsel, shall be paid by the state of Colorado pursuant to section 19-3-610.

(2) All ordered evaluations shall be made available to counsel at least fifteen days prior to the hearing.

Source: L. 87: Entire title R&RE, p. 790, § 1, effective October 1. **L. 2016:** (1) amended, (SB 16-205), ch. 216, p. 830, § 1, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-11-107 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-608. Effect of decree. (1) An order for the termination of the parent-child legal relationship divests the child and the parent of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other, but it shall not modify the child's status as an heir at law which shall cease only upon a final decree of adoption.

(2) No order or decree entered pursuant to this part 6 shall disentitle a child to any benefit due him from any third person, including, but not limited to, any Indian tribe, any agency, any state, or the United States.

(3) After the termination of a parent-child legal relationship, the former parent is not entitled to any notice of proceedings for the adoption of the child by another, nor has he any right to object to the adoption or to otherwise participate in such proceedings.

Source: L. 87: Entire title R&RE, p. 790, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-11-108 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-609. Appeals. (1) Appeals of court decrees made under this part 6 shall be given precedence on the calendar of the appellate court over all other matters unless otherwise provided by law.

(2) Whenever an appeal is made under this part 6, an indigent parent, upon request, shall be provided a transcript of the trial proceeding for the appeal at the expense of the state pursuant to section 19-3-610.

Source: L. 87: Entire title R&RE, p. 790, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-11-109 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-610. Budgetary allocation for expenses. The general assembly shall make annual appropriations to the office of the respondent parents' counsel for the purpose of meeting the expenses of sections 19-3-607 (1) and 19-3-609 (2).

Source: L. 87: Entire title R&RE, p. 791, § 1, effective October 1. **L. 2016:** Entire section amended, (SB 16-205), ch. 216, p. 830, § 2, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-11-110 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-3-611. Review of decisions regarding placement of children. (Repealed)

Source: L. 88: Entire section added, p. 755, § 2, effective May 31. **L. 91:** Entire section repealed, p. 883, § 1, effective June 5.

19-3-612. Reinstatement of the parent-child legal relationship - circumstances - petition - hearings - legislative declaration. (1) The general assembly finds that, for various reasons, some children are not adopted after the termination of the parent-child legal relationship and in some cases might benefit from a reinstatement of the parent-child legal relationship if the former parent has remediated the issues that led to the termination. The purpose of this section is to address the problem of children who linger in the child welfare system by giving them a second chance at achieving permanency with their rehabilitated former parent. The purpose of this section is to create a process by which the former parent's legal rights may be restored if certain conditions are met, both the child and the former parent want reinstatement of the relationship, a trial period is successful, and it is found to be in the best interests of the child. Reinstatement is a recognition that the situation of the former parent and child has changed since the time of the termination of the parent-child legal relationship, and reunification is now appropriate and in the best interests of the child.

(2) A county department with custody of a child whose parent's rights were terminated voluntarily or involuntarily, or the guardian ad litem of such a child, may file a petition to reinstate the parent-child legal relationship alleging the following:

(a) (I) The child is twelve years of age or older; or

(II) The child is younger than twelve years of age and is part of a sibling group, as defined in section 19-1-103 (98.5), that includes a child described in subparagraph (I) of this paragraph (a) for whom a petition to reinstate the parent-child legal relationship has been filed, and the younger sibling independently meets the conditions set forth in paragraphs (b) to (f) of this subsection (2);

(b) Both the child and the former parent consent to the petition for reinstatement of the parent-child legal relationship;

(c) The child does not have a legal parent, is not in an adoptive placement, and is not likely to be adopted within a reasonable period of time, and other permanency options have been exhausted;

(d) The child is in the legal custody of a county department;

(e) The date of the final order terminating the parent-child legal relationship was at least three years before the filing of the petition or, if the court finds that it is in the best interests of the child to consider a petition for reinstatement of the parent-child legal relationship, less than three years from the date of the final order terminating the parent-child legal relationship; and

(f) The dependency and neglect action did not involve substantiated allegations of sexual abuse or an incident of egregious abuse or neglect against a child, a near fatality, or a suspicious fatality or near fatality as those terms are defined in section 26-1-139, C.R.S.

(3) A child who is sixteen years of age or older, or his or her guardian ad litem, may also file a petition to reinstate the parent-child legal relationship alleging that the conditions set forth in paragraphs (b) to (f) of subsection (2) of this section are met.

(4) If a former parent whose rights have been terminated contacts either the county department that has custody of the child or the child's guardian ad litem about the possible reinstatement of the parent-child legal relationship through a petition filed under this section, the county department or the guardian ad litem who was contacted must notify the other party, as applicable, within thirty days after the contact with the name and address of the former parent.

(5) If a petition to reinstate the parent-child legal relationship is filed, a former parent who is named in the petition and whose rights the petition seeks to have reinstated is entitled to appointed counsel if the former parent meets the income eligibility criteria for public counsel, or the former parent may retain counsel at his or her own expense.

(6) The petition must state the name and age of the child; the county department that has legal custody of the child; and the name and address of the former parent named in the petition. The petition shall be verified, and the statements in the petition may be made upon information and belief. The party filing a petition to reinstate the parent-child legal relationship shall serve the petition on the following nonmovants:

(a) The child's guardian ad litem;

(b) The county department with legal custody of the child; and

(c) The former parent whose parent-child legal relationship the petition seeks to have reinstated.

(7) Upon receipt of the petition for reinstatement of the parent-child legal relationship, the court must set a date for an initial hearing to take place no more than sixty-three days after the filing of the petition. The court shall provide notice of all hearings and reviews to:

(a) The county department with legal custody of the child;

(b) The guardian ad litem;

(c) The former parent whose parent-child legal relationship the petition seeks to have reinstated;

(d) The foster parents, if any; and

(e) The child's tribe if the child is an Indian child.

(8) At the initial hearing and all subsequent hearings on the petition, the court shall consider information from the county department with legal custody of the child, the child, the child's guardian ad litem, the former parent, the person or agency that is providing care for the child, and any other person or agency that may aid the court in its review.

(9) At the initial hearing, the court shall consider and make findings about the following threshold conditions for pursuing a reinstatement of the parent-child legal relationship:

(a) Whether the allegations for filing the petition in paragraphs (a) to (f) of subsection (2) of this section or in subsection (3) of this section have been established by clear and convincing evidence;

(b) Whether the child is of a sufficient age and maturity and able to express his or her preference about reinstatement of the parent-child legal relationship;

(c) Whether the former parent has remedied the conditions that led to the child's removal and termination of the parent-child legal relationship, if applicable;

(d) What temporary transition services would be needed by the child and the former parent to have a successful reinstatement of the parent-child legal relationship;

(e) Whether the former parent can provide a safe and stable home for the child; and

(f) Whether the former parent has participated in an assessment that supports that the reinstatement of the parent-child legal relationship is in the best interests of the child. The state board may adopt rules defining the types of assessments that may be done to support reinstatement of the parent-child legal relationship. A previous finding of termination does not disqualify the former parent from being certified as an appropriate placement for a trial period under this section.

(10) At the conclusion of the initial hearing, the court shall either dismiss the petition because the threshold conditions for reinstatement set forth in subsection (9) of this section have not been met or enter an order finding that the threshold conditions for reinstatement set forth in subsection (9) of this section have been met and that it is in the best interests of the child to work toward reinstatement of the parent-child legal relationship. If the court finds that it is in the best interests of the child to pursue reinstatement of the parent-child legal relationship, the court must approve a transition plan developed by the county department and designed for reinstatement of the parent-child legal relationship, including visitation or placement of the child with the former parent for a designated trial period of up to six months, during which time legal custody of the child remains with the county department. As part of the transition plan, the county department shall provide transition services, as needed. The county department shall assess the visitation or temporary placement of the child with the former parent and prepare a report about the success of the visitation or temporary placement. The county department shall submit the report to the court, the former parent, and the guardian ad litem not later than thirty days prior to the expiration of the designated trial period. The county department may stop the visitation or remove the child from placement with the former parent at any time, in accordance with the procedures outlined in sections 19-3-401 and 19-3-403, if it deems that the child is not safe or that it is no longer in the best interests of the child for the child to remain with the former parent.

(11) (a) The court shall schedule a final hearing prior to the expiration of the designated trial period. At the final hearing, the court shall consider the following:

(I) Whether the threshold criteria for reinstatement of the parent-child legal relationship set forth in subsection (9) of this section are still met;

(II) Whether the trial period of visitation or placement of the child with the former parent was successful;

(III) Whether the child will lose or gain any benefits or services as a result of reinstatement and how this might affect the child; and

(IV) Whether reinstatement of the parent-child legal relationship is in the best interests of the child.

(b) The court shall make findings supporting the disposition of the petition for reinstatement. The court may make the following orders:

(I) The court may grant the petition and order the reinstatement of the parent-child legal relationship if the court finds by clear and convincing evidence that it is in the best interests of the child to reinstate the parent-child legal relationship; or

(II) The court may dismiss the petition, in which case:

(A) The county department retains the legal custody of the child; and

(B) The county department shall arrange for the immediate placement of the child in out-of-home placement; and

(C) The court shall set a hearing to determine the permanency plan in accordance with section 19-3-702; or

(III) The court may continue the matter for no more than sixty days and may issue an order requiring the former parent or the county department to take certain actions before the next hearing; except that the court shall either dismiss or grant a motion for reinstatement of the parent-child legal relationship within twelve months after the date the petition for reinstatement was filed.

(12) An order reinstating the parent-child legal relationship restores all rights, powers, privileges, immunities, duties, and obligations of the former parent as to the child, including those relating to custody, control, and support of the child. If the parent-child legal relationship is reinstated, the court may require periodic review within ninety days after reinstatement.

(13) The granting of a petition for reinstatement of the parent-child legal relationship does not vacate or otherwise affect the validity of the original order terminating the parent-child legal relationship.

(14) The granting of a petition for reinstatement of the parent-child legal relationship for one former parent does not restore or otherwise impact the rights or legal status of the other former parent.

(15) A parent whose parent-child legal relationship is restored pursuant to this section is not liable for child support or the costs of any services provided to the child from the date of the original order terminating the parent-child legal relationship to the date of the order reinstating the parent-child legal relationship.

(16) This section does not create a cause of action against the county department or its employees concerning the original order terminating the parent-child legal relationship. Nothing in this section shall be construed to limit or alter the protections granted to public entities and to their employees under the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

Source: L. 2014: Entire section added, (SB 14-062), ch. 77, p. 310, § 1, effective August 6.

PART 7

REVIEW OF PLACEMENT

Law reviews. For article, "Achieving Safe, Permanent Homes for Colorado Children", see 31 Colo. Law. 37 (Oct. 2002).

19-3-701. Petition for review of need for placement. (Repealed)

Source: L. 87: Entire title R&RE, p. 791, § 1, effective October 1. **L. 91:** (1) amended, p. 1159, § 4, effective July 1. **L. 92:** (2) amended, p. 225, § 12, effective July 1. **L. 93:** (1) amended, p. 1637, § 24, effective July 1; (1) amended, p. 1139, § 75, effective July 1, 1994. **L. 94:** (2)(c) and (6) amended, p. 2686, § 206, effective July 1. **L. 96:** (6) amended, p. 1247, § 117, effective August 7. **L. 97:** (6) amended, p. 1441, § 19, effective July 1. **L. 99:** (2)(c) and (6) amended, p. 912, § 8, effective July 1. **L. 2007:** Entire section repealed, p. 1509, § 5, effective May 31.

Cross references: For the legislative declaration contained in the 2007 act repealing this section, see section 1 of chapter 351, Session Laws of Colorado 2007.

19-3-702. Permanency hearing - periodic review. (1) In order to provide stable permanent homes for children in as short a time as possible, a court on its own motion or upon motion brought by any party shall conduct a permanency hearing if a child cannot be returned home under section 19-1-115 (4)(b) for the purpose of making a determination regarding the future status of the child. Such permanency hearing shall be held as soon as possible following the dispositional hearing but shall be held no later than twelve months after the date the child is considered to have entered foster care and no later than every twelve months thereafter while the child remains in out-of-home placement, or more frequently as deemed necessary by the court. If the court finds that reasonable efforts to reunify the child and the parent are not required pursuant to section 19-1-115 (7), a permanency hearing that includes consideration of in-state and out-of-state permanent placement options for the child shall be held within thirty days after the finding. If the court finds that reasonable efforts to reunify the child and the parent are not required and a motion for termination has been properly filed pursuant to section 19-3-602, the permanency hearing and the hearing on the motion for termination may be combined, and all of the court determinations required at both hearings shall be made in the combined hearing. 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), such permanency hearing shall be held no later than three months after the decree of disposition of the child. A child shall be considered to have entered foster care on the date that the child is placed out of the home. If the court finds that an appropriate treatment plan cannot be devised at a dispositional hearing in accordance with section 19-3-508 (1)(e)(I), the permanency hearing shall be held no later than thirty days after such determination, unless a motion for termination of parental rights has been filed within thirty days after the court's finding. Where possible, the permanency hearing shall be combined with the six-month review as provided for in section 19-1-115 (4)(c).

(1.5) Any hearing or action, such as a paper review, an ex parte hearing, or a stipulated agreement that has been made an order of the court, that is not open to the participation of the parents of a child, the child, if appropriate, and the foster parents, relative caregivers, or pre-adoptive parents of a child, if any, shall not be considered a permanency hearing for purposes of this section.

(2) When the court schedules a permanency hearing under this section, the court shall promptly issue a notice reciting briefly the substance of the motion. The notice shall set forth the constitutional and legal rights of the child and the child's parents or guardian. Notice of the hearing shall be given in accordance with the requirements stated in section 19-3-502 (7). Nothing in this section shall require the presence of any person before the court unless the court so directs. The court shall order the county department of social services to develop a permanency plan for the child, which plan shall be completed and submitted to the court at least three working days in advance of the permanency hearing as required in this section.

(2.5) At a permanency hearing held 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) and has been placed out of the home for three months, the court shall review the progress of the case and the treatment plan including the provision of services. The court may order the county department of social services to show cause why it should not file a motion to terminate the parent-child legal relationship pursuant to part 6 of this article. Cause may include, but not be limited to, the following conditions:

(a) The parents or guardians have maintained regular parenting time and contact with the child, and the child would benefit from continuing this relationship; or

(b) The criteria of section 19-3-604 have not yet been met.

(2.7) Consideration of the placement of children together as a sibling group shall not delay the efforts for expedited permanency planning or permanency planning in order to achieve permanency for each child in the sibling group.

(3) Except as provided in subsection (2.5) of this section, at the permanency hearing, the court shall first determine whether the child shall be returned to the child's parent or guardian, pursuant to section 19-1-115 (4)(b) and, if applicable, the date on which the child shall be returned, and whether reasonable efforts have been made to find a safe and permanent placement for the child. If the child is not returned to the custody of the child's parent or guardian, the court shall determine whether there is a substantial probability that the child will be returned to the physical custody of the child's parent, guardian, or legal custodian within six months. If the court so determines, it shall set another review hearing for not more than six months, which shall be a permanency hearing.

(3.5) At any permanency hearing conducted by the court, the court shall make determinations as to the following:

(a) Whether procedural safeguards to preserve parental rights have been applied in connection with any change in the child's placement or any determination affecting parental visitation of the child;

(b) Whether reasonable efforts have been made to finalize the permanency plan that is in effect at the time of the permanency hearing;

(c) If a child resides in a placement out of state, whether the out-of-state placement continues to be appropriate and in the best interests of the child; and

(d) If the child is sixteen years of age or older, whether the permanency plan includes independent living services.

(3.7) The court conducting the permanency hearing shall consult with the child in an age-appropriate manner regarding the child's permanency plan.

(4) If the court determines that the child cannot be returned to the physical custody of such child's parent or guardian and that there is not a substantial probability that the child will be

returned to the physical custody of such child's parent or guardian within six months, the court shall enter an order determining the future status or placement of the child. Any court order regarding future status or placement of a child out of the home shall include specific findings concerning the placement goal for the child. Such findings shall include a determination of whether the placement goal for the child is that the child be returned to the parent, be referred for legal guardianship or custody, be placed in a planned permanent living arrangement, or be placed for adoption, in which case the county department shall file a motion for termination of parental rights. In cases in which the county department has documented to the court a compelling reason for determining that it would not be in the best interests of the child to return home, the court's findings shall include a determination of whether the placement goal for the child is that the child be referred for termination of parental rights, be placed for adoption, be placed with a fit and willing relative, be placed with a legal guardian or custodian, or be placed in another permanent living arrangement. The court must be provided with documentation of a compelling reason for establishing a permanency plan with a goal other than reunification, adoption, or legal guardianship.

(5) In order to enable the child to obtain a permanent home, the court may make the following determinations and orders:

(a) If the court finds from the materials submitted by the county department of social services that the child appears to be adoptable and meets the criteria for adoption in section 19-5-203, the court may order the county department of social services to show cause why it should not file a motion to terminate the parent-child legal relationship pursuant to part 6 of this article. Cause may include, but need not be limited to, any of the following conditions:

(I) The parents or guardians have maintained regular parenting time and contact with the child, and the child would benefit from continuing this relationship; or

(II) A child who is twelve years of age or older objects to the termination of the parent-child legal relationship; or

(III) The child's foster parents are unable to adopt the child because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the child but are willing and capable of providing the child with a stable and permanent environment, and the removal of the child from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the child; or

(IV) The criteria of section 19-3-604 have not yet been met.

(b) If the child is currently in a foster home and the foster parents are capable of providing and willing to provide a stable and permanent environment, the court may determine that the child shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the foster parents.

(6) (a) Periodic reviews conducted by the court or, if there is no objection by any party to the action, in the court's discretion, through an administrative review conducted by the state department of human services, shall determine the following:

(I) Whether the child's safety is protected in the placement;

(II) Whether reasonable efforts have been made to find a safe and permanent placement;

(III) The continuing necessity for and appropriateness of the placement;

(IV) The extent of compliance with the case plan, and the extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care; and

(V) A likely date by which the child may be returned to and safely maintained at the home, placed for adoption, legal guardianship, or placed in another permanent safe placement setting.

(b) (Deleted by amendment, L. 2003, p. 2487, § 2, effective July 1, 2003.)

(c) (Deleted by amendment, L. 2001, p. 847, § 11, effective June 1, 2001.)

(6.5) If the court combines a permanency hearing and a periodic review, the court shall make the determinations required by this section for both the permanency hearing and the periodic review at the combined hearing.

(7) (Deleted by amendment, L. 93, p. 390, § 4, effective April 19, 1993.)

(8) (a) Subsequent reviews by the court or, if there is no objection by any party to the action, in the court's discretion, through an administrative review conducted by the state department of human services, shall be conducted every six months except when the court requires a court review or when a court review is requested by the child's parents or guardians or by the child. In the event that an administrative review is ordered, all counsel of record shall be notified and may appear at said review. The entity conducting the review shall make the same determinations as are required at a periodic review conducted pursuant to paragraph (a) of subsection (6) of this section.

(b) (Deleted by amendment, L. 2003, p. 2487, § 2, effective July 1, 2003.)

(c) (Deleted by amendment, L. 2001, p. 847, § 11, effective June 1, 2001.)

(9) In making placement determinations concerning a child pursuant to the provisions of this section, the court shall consider all pertinent information related to modifying the placement of the child prior to removing the child from his or her placement, including the following:

(a) An individualized assessment of the child's needs created pursuant to Title IV-E of the federal "Social Security Act", as amended, and regulations promulgated thereunder, as amended;

(b) Whether the child's placement at the time of the hearing is a safe and potentially permanent placement for the child;

(c) The child's actual age and developmental stage and, in consideration of this information, the child's attachment needs;

(d) Whether the child has significant psychological ties to a person who could provide a permanent placement for the child, including a relative, and, if so, whether this person maintained contact with the child during the child's placement out of the home;

(e) Whether a person who could provide a permanent placement for the child is willing to maintain appropriate contact after an adoption of the child with the child's relatives, particularly sibling relatives, when such contact is safe, reasonable, and appropriate;

(f) Whether a person who could provide a permanent placement for the child is aware of the child's culture and willing to provide the child with positive ties to his or her culture;

(g) The child's medical, physical, emotional, or other specific needs, and whether a person who could provide a permanent placement for the child is able to meet the child's needs; and

(h) The child's attachment to the child's caregiver at the time of the hearing and the possible effects on the child's emotional well-being if the child is removed from the caregiver's home.

(10) Prior to closing a case prior to a youth's eighteenth birthday, the court or the youth's guardian ad litem shall notify the youth that he or she shall lose the right to receive medicaid

until the youth's twenty-first birthday if the case is closed prior to the youth's eighteenth birthday.

Source: L. 89: Entire section added, p. 930, § 2, effective April 23. **L. 92:** (1), (2), (4), (6), and (8) amended, p. 225, § 13, effective July 1. **L. 93:** (1), (2), (4), (6), and (7) amended, p. 390, § 4, effective April 19; (5)(a)(I) amended, p. 582, § 20, effective July 1. **L. 94:** (1) and (3) amended and (2.5) added, p. 2057, § 9, effective July 1; (6) and (8) amended, p. 2687, § 207, effective July 1. **L. 98:** (1), (3), (4), and (6) amended, p. 1421, § 9, effective July 1. **L. 99:** (1), (2), (2.5), (3), (6), and (8) amended, p. 913, § 9, effective July 1. **L. 2000:** (2.7) added, p. 476, § 5, effective July 1. **L. 2001:** Entire section amended, p. 847, § 11, effective June 1. **L. 2003:** (1), (6)(a), (6)(b), and (8)(b) amended and (6.5) added, p. 2487, § 2, effective July 1. **L. 2005:** (9) added, p. 679, § 4, effective July 1. **L. 2007:** (1) and (1.5) amended and (3.7) added, p. 1018, § 9, effective May 22. **L. 2008:** (10) added, p. 1533, § 2, effective July 1. **L. 2015:** (9) amended, (HB 15-1337), ch. 328, p. 1342, § 3, effective June 5.

Editor's note: Although subsections (3) and (4) refer to the term "custody", references to the term "custody", and related terms, have been changed in other places in the Colorado Revised Statutes to correspond with the use of the term "parental responsibilities" as described in section 14-10-124, C.R.S.

Cross references: (1) For the legislative declaration contained in the 1993 act amending subsection (5)(a)(I), see section 1 of chapter 165, Session Laws of Colorado 1993. For the legislative declaration contained in the 1999 act amending subsections (1), (2), (2.5), (3), (6), and (8), see section 1 of chapter 233, Session Laws of Colorado 1999. For the legislative declaration contained in the 2001 act amending this section, see section 1 of chapter 241, Session Laws of Colorado 2001. For the legislative declaration contained in the 2005 act enacting subsection (9), see section 1 of chapter 194, Session Laws of Colorado 2005.

(2) For part E of Title IV of the federal "Social Security Act", see 42 U.S.C. sec. 670 et seq.

19-3-703. Permanent home. In a county designated pursuant to section 19-1-123, if a child is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2), the child shall be placed in a permanent home no later than twelve months after the original placement out of the home unless the court determines that a placement in a permanent home is not in the best interests of the child at that time. In determining whether such a placement delay is in the best interests of the child, the court must be shown clear and convincing evidence that reasonable efforts, as defined in section 19-1-103 (89), were made to find the child an appropriate permanent home and such a home is not currently available or that the child's mental or physical needs or conditions deem it improbable that such child would have a successful permanent placement. The caseworker and the child's guardian ad litem shall provide the court with a report specifying which services are being given the child in order to remedy the child's problems. The case shall be reviewed at least every six months until the child is permanently placed. The six-month reviews and twelve-month permanency hearings shall continue as long as the child remains in foster care. Clear and convincing standards of evidence shall be applicable at any such review. For the purposes of this section, a permanent home shall include, but not be

limited to, the child's reunification with the child's parents; placement with a relative, with a potential adoptive parent, or permanent custody granted to another; or, if the child cannot be returned home, placement in the least restrictive level of care.

Source: L. 94: Entire section added, p. 2058, § 10, effective July 1. **L. 98:** Entire section amended, p. 822, § 28, effective August 5. **L. 2001:** Entire section amended, p. 851, § 12, effective June 1.

Cross references: For the legislative declaration contained in the 2001 act amending this section, see section 1 of chapter 241, Session Laws of Colorado 2001.

PART 8

TASK FORCE ON THE COLLECTION AND SECURITY
OF DIGITAL IMAGES OF CHILD ABUSE OR NEGLECT

19-3-801. Legislative declaration. (1) The general assembly has a strong interest in the practices, standards, and safeguards surrounding county employees in the child welfare system who have an open involvement with a child related to suspected assault or child abuse or neglect that is documented through digital imagery.

(2) The general assembly finds that there is a need to balance the policies and practices used in documenting suspected child abuse or neglect through digital imagery with the need to protect the privacy rights of children and parents.

(3) Due to advances in technology and in digital imagery, it is important to evaluate whether the current statutes, rules, and practices relating to the collection and storage of digital images of children that document suspected child abuse or neglect are handled in ways that ensure the privacy, safety, and protection of children.

(4) In addition, there is a need to ensure there is adequate guidance about the security and confidentiality of evidence that might be obtained in documentation of suspected child abuse or neglect, including the taking and storage of digital images of children and encouraging collaboration between county employees, law enforcement, medical personnel, and other agencies legally authorized in the investigation of abuse and neglect of children. While the general assembly acknowledges that some parents may have concerns about any photographs or digital images being taken of their children, the general assembly finds that documentation of abuse or neglect is important to protect children and that all photographs and digital images taken of children should be safeguarded and remain confidential as required by law.

(5) The general assembly recognizes the importance of establishing clear standards to achieve consistent practices in documenting evidence of abuse or neglect, the need to periodically review whether laws, rules, and practices regarding the collection of digital images of children by government employees need to be updated to reflect changes in technologies and emerging technologies, and the importance of encouraging collaboration between government employees, medical personnel, and any other agencies legally authorized in the investigation of child abuse or neglect.

(6) Therefore, the general assembly finds that it would be valuable to create a task force of persons with experience in or knowledge of the child welfare policy system to examine the

current policies and statutes governing the collection and security of digital images of evidence of child abuse or neglect, study best practices on collecting and securing digital images of evidence of child abuse or neglect, study the best practices for documenting evidence of abuse or neglect or the absence of evidence of abuse or neglect in areas visible or not visible in plain sight on the child and private areas of a child, and make recommendations to the executive branch and general assembly on administrative and legislative changes to improve the collecting and securing of digital images of evidence of suspected child abuse or neglect.

Source: L. 2016: Entire part added, (HB 16-1377), ch. 253, p. 1035, § 1, effective June 8.

19-3-802. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Child's private areas" means the child's genitals, pubic area, buttocks, or female breast area.

(2) "County department" means a county department of social or human services.

(3) "County employee" means an employee of a county department. "County employee" also includes a person working as a contractor or subcontractor who is providing caseworker services for a county.

(4) "Digital image" or "digital imagery" means any visual depiction created electronically or transformed into an electronic format, including any photograph, film, video, computer or computer-generated image or picture, or any similar visual depiction that is:

(a) Capable of storage in or transmission to an electronic format, including on electronic devices and applications, on the internet, or in the cloud; or

(b) Capable of transformation from an electronic format into another format, such as a printed page.

(5) "Government" means the state; any county, city and county, municipality, or law enforcement agency; and any school district.

(6) "Government employee" means a person employed by the government or acting under the color of state law.

(7) "Open involvement" means a situation in which the county department currently has a referral, has a response to a report, has opened an assessment, is providing services, or has an open case in the Colorado TRAILS system that is related to the provision of child welfare services, as defined in section 26-5-101 (3), C.R.S.

(8) "State department" means the state department of human services.

(9) "Task force" means the task force on the collection and security of digital images of child abuse or neglect, created in section 19-3-803.

(10) "Visible in plain sight on the child" means an area of the child's body that is viewable by the public and that could be observed visually without removal or rearrangement of the child's clothing. "Visible in plain sight on the child" does not include a child's private areas.

Source: L. 2016: Entire part added, (HB 16-1377), ch. 253, p. 1036, § 1, effective June 8.

19-3-803. Task force on the collection and security of digital images of child abuse or neglect - creation - membership. (1) There is hereby created the task force on the collection

and security of digital images of child abuse or neglect, for the purpose of studying the issues set forth in section 19-3-804 and making findings and recommendations to the governor, the state department, the child welfare training academy, the Colorado association of chiefs of police, the county sheriffs of Colorado, the Colorado medical society, and the general assembly on administrative and legislative changes to improve the collection and security of digital images of suspected child abuse or neglect.

(2) The membership of the task force must not exceed twenty-one members and, to the extent practicable, must include persons from throughout the state and must reflect the ethnic diversity of the state. The task force consists of the following members:

(a) The executive director of the state department or his or her designee;

(b) The child protection ombudsman, appointed pursuant to section 19-3.3-102;

(c) An attorney who is a representative of the office of the child's representative created in section 13-91-104, C.R.S., appointed by the director of the office of the child's representative;

(d) An attorney who is a representative of the respondent parents' counsel created in section 13-92-103, C.R.S., appointed by the director of the office of the respondent parents' counsel;

(e) A representative of the attorney general's office, appointed by the attorney general;

(f) A representative of the Colorado district attorneys' council, appointed by the executive director of the Colorado district attorneys' council;

(g) Five members appointed by the governor. In making his or her appointments, the governor shall consider appointing members from among the following individuals or representatives:

(I) An individual who is a licensed pediatrician in this state with previous experience with child abuse or neglect cases;

(II) A representative of the child welfare training academy created in section 26-5-109, C.R.S.;

(III) An individual who is a director or administrator of a county department;

(IV) An individual who is trained as a sexual assault nurse examiner (SANE), as defined in section 23-5-143 (2)(d), C.R.S.;

(V) A licensed psychiatrist or psychologist who works with children who have been abused or neglected; and

(VI) Any other individual or representative with relevant experience, as the governor sees fit.

(h) Five members appointed by the speaker of the house of representatives. In making his or her appointments, the speaker shall consider appointing members from among the following individuals or representatives:

(I) An individual who is a forensic interviewer with an accredited child advocacy center with experience in interviewing children who have been abused or neglected;

(II) An individual representing a professional social work organization with experience counseling children who have experienced child abuse or neglect;

(III) A foster parent who is currently caring for or has previously cared for children in foster care;

(IV) A representative of schools, such as a principal, administrator, or school nurse;

(V) An individual who is a caseworker for a county department who conducts assessments of child abuse or neglect cases; and

(VI) Any other individual or representative with relevant experience, as the speaker sees fit.

(i) Five members appointed by the president of the senate. In making his or her appointments, the president shall consider appointing members from among the following individuals and representatives:

(I) A representative of law enforcement who investigates or has experience with investigating allegations of child abuse or neglect;

(II) An individual who serves as a court-appointed special advocate (CASA) for abused or neglected children, as defined in section 13-91-103 (3), C.R.S.;

(III) An attorney in private practice who has experience dealing with child abuse or neglect cases;

(IV) A county attorney with experience in dependency or neglect cases;

(V) An individual who represents a child advocacy organization active in this state; and

(VI) Any other individual or representative with relevant experience, as the president sees fit.

(3) The appointing authorities in subsection (2) of this section shall make their initial appointments to the task force no later than September 1, 2016. Each member of the task force who is appointed pursuant to subsection (2) of this section serves at the pleasure of the appointing authority who appointed the member.

(4) The members of the task force serve without compensation and without reimbursement for expenses.

(5) (a) The executive director of the state department or his or her designee shall convene the first meeting of the task force on or before October 1, 2016.

(b) The task force shall elect a chair and vice-chair from among its members.

(c) The task force shall meet four to six times per calendar year to complete its duties.

(d) Upon request by the task force, the state department shall provide office space, equipment, and staff services as may be necessary to implement this part 8.

Source: L. 2016: Entire part added, (HB 16-1377), ch. 253, p. 1037, § 1, effective June 8.

19-3-804. Task force - purposes - issues to study - written reports. (1) The purpose of the task force is to:

(a) Study current laws, rules, and practices followed in the state and best practices in other states regarding the documentation of evidence or the absence of evidence of suspected child abuse through the collection and security of digital images by government employees;

(b) Consider whether the statutes and practices concerning the collection of evidence of suspected abuse or neglect and the use of digital images are consistent with existing technologies and emerging electronic technologies; and

(c) Recommend the best practices to be used in the collection and security of digital imagery evidence of child abuse or neglect.

(2) In carrying out the purposes outlined in subsection (1) of this section, the task force shall consider:

(a) The constitutional standards, case law, statutes, rules, practices, and standards in Colorado, if any, that govern:

(I) How a county employee who has open involvement with a child takes, maintains, and disseminates digital images of a child, including the child's private areas, to document the abuse or neglect or the absence of abuse or neglect; and

(II) How a government employee takes, maintains, and disseminates digital images of a child's body, including those areas of a child's body that are visible in plain sight and those that are private areas;

(b) Whether the criteria or standards that government employees follow when documenting evidence of suspected child abuse or neglect through digital images balance the need to collect evidence of suspected child abuse or neglect with the need to protect the privacy and constitutional rights of both parents and of children;

(c) The safeguards used by a government employee to ensure the best interests of children when documenting evidence of suspected child abuse or neglect through digital imagery;

(d) The role of law enforcement agencies in conducting a child abuse or neglect assessment or investigation jointly with county departments pursuant to cooperative agreements implemented pursuant to section 19-3-308 (5.5) and whether there are best practices that have been developed through cooperative agreements relating to the collection, sharing, and handling of digital images;

(e) How governments and medical professionals collaborate during assessments or investigations of suspected child abuse or neglect to collect, transmit, and share evidence, including digital images, without slowing down the process and while ensuring that there is no impediment to the child's safety;

(f) Whether section 19-3-306, regarding the taking of color photographs of children, should be amended to include all types of digital images and what precautions should be taken regarding the transmission and storage of digital images of children;

(g) The statutes, rules, and policies that govern the taking of digital images of children's bodies, including private areas, on personal or government-owned cell phones, cameras, devices, or other equipment that can be used to take digital images, and the safeguards in place to guide government employees on how to take, maintain, and disseminate digital images;

(h) Whether digital images of children that may be used as evidence in cases of child abuse under section 18-6-401, C.R.S., should be transmitted and stored through the statewide discovery sharing system pursuant to section 16-9-702, C.R.S., and what safeguards should be developed on the transmission and maintenance of digital images through that system;

(i) The statutes, rules, and policies that govern the audiotaping and videotaping of a child interview and the storage and maintaining of those child interviews; and

(j) The best practices followed in other states or recommended by national child welfare experts for child welfare caseworkers to follow when collecting evidence of suspected child abuse or neglect through digital imagery to document evidence or absence of evidence of child abuse or neglect; collaborating with and sharing in the dissemination of evidence with law enforcement agencies, medical professionals, and any other agencies legally authorized in the investigation of child abuse or neglect; referring a child for medical examinations; and maintaining, storing, and safeguarding digital images of children.

(3) The task force shall consider and recommend:

(a) The best practices and procedures that government employees should use when documenting evidence of suspected abuse or neglect on a child's body, including areas that are not visible in plain sight on the child or that are private areas of a child or both; and

(b) The best practices and procedures that government employees should use when observing or assessing a child's private areas or collecting digital images or other evidence of suspected abuse or neglect.

(4) The task force shall study the following sequence of events and recommend best practices when a government employee seeking to view or document evidence of suspected child abuse or neglect of private areas of the child:

(a) Is required to obtain the consent of a parent, guardian, or legal custodian of the child; or

(b) Is required to obtain the consent of a child who is fifteen years of age or older and less than eighteen years of age, in addition to obtaining the consent of that child's parent, guardian, or legal custodian; or

(c) Must obtain a court order directing that the child be presented to and examined and evaluated by an independent medical provider, a sexual assault nurse examiner (SANE), or the child's own physician, if the parent, guardian, or legal custodian, or the child, if between the ages of fifteen and eighteen, refuses to give consent; or

(d) May proceed in examining and photographing the private areas of the child without the parent's consent or the child's consent, if the child is fifteen years of age or older and less than eighteen years of age, and without a court order based upon a reasonable belief that exigent circumstances exist that constitute a medical emergency, such as in conjunction with a call to 911, or based upon a reasonable suspicion that the child needs treatment or is in immediate threat of serious bodily injury.

(5) Based on the study of the issues outlined in subsections (2) to (4) of this section, the task force should develop recommendations for administrative changes that governments should undertake and develop specific recommendations for legislation, if any.

(6) On or before December 1, 2017, the task force shall submit an initial written report on its findings and progress to the governor; the state department; the child welfare training academy; the Colorado association of chiefs of police; the county sheriffs of Colorado; the Colorado medical society; the joint budget committee; and the public health care and human services committee of the house of representatives and the health and human services committee of the senate, or any successor committees. On or before December 1, 2018, the task force shall submit a final written report to the governor; the state department; the child welfare training academy; the Colorado association of chiefs of police; the county sheriffs of Colorado; the Colorado medical society; the joint budget committee; and the public health care and human services committee of the house of representatives and the health and human services committee of the senate, or any successor committees. The final report must include, but need not be limited to, the task force's findings and recommendations for changes in administrative rules and recommendations for legislation, if necessary.

Source: L. 2016: Entire part added, (HB 16-1377), ch. 253, p. 1040, § 1, effective June 8.

19-3-805. Repeal of part. This part 8 is repealed, effective July 1, 2019.

Source: L. 2016: Entire part added, (HB 16-1377), ch. 253, p. 1043, § 1, effective June 8.

ARTICLE 3.3

Office of the Child Protection Ombudsman

19-3.3-101. Legislative declaration. (1) The general assembly finds and declares that:

(a) Child abuse and neglect is a serious and reprehensible problem in society;

(b) The protection of children from abuse and neglect by applying prevention measures and observing best practices in treating children who are abused and neglected must be one of Colorado's highest public policy priorities;

(c) The child protection system must protect and serve Colorado's children in a manner that keeps them safe and healthy and promotes their well-being;

(d) The children and families served by the child protection system, as well as the public, must have a high level of confidence that the system will act in a child's best interests and will respond to the child's needs in a timely and professional manner;

(e) To engender this high level of confidence in the child protection system, it is important that children and families who become involved in the system, mandatory reporters, and the general public have a well-publicized, easily accessible, and transparent grievance process for voicing concerns regarding the child protection system along with the expectation that those concerns, once voiced, will be heard and addressed in a timely and appropriate manner; and

(f) To improve child protection outcomes and to foster best practices, there must be effective accountability mechanisms, including the review and evaluation of concerns voiced by children and families, mandatory reporters, persons involved in the child protection system, and members of the general public, that provide policymakers with the information necessary to formulate systemic changes, where appropriate.

(2) The general assembly further finds and declares that the establishment of the office of the child protection ombudsman will:

(a) Improve accountability and transparency in the child protection system and promote better outcomes for children and families involved in the child protection system; and

(b) Allow families, concerned citizens, mandatory reporters, employees of the state department and county departments, and other professionals who work with children and families to voice their concerns, without fear of reprisal, about the response by the child protection system to children experiencing, or at risk of experiencing, child maltreatment.

Source: L. 2010: Entire article added, (SB 10-171), ch. 225, p. 974, § 1, effective May 14. **L. 2015:** IP(2) amended, (SB 15-204), ch. 264, p. 1031, § 14, effective June 2.

19-3.3-102. Office of the child protection ombudsman established - child protection ombudsman advisory board - qualifications of ombudsman - duties. (1) (a) On or before January 1, 2016, the independent office of the child protection ombudsman, referred to in this article as the "office", is established in the judicial department as an independent agency for the purpose of ensuring the greatest protections for the children of Colorado.

(a.5) The office and the judicial department shall operate pursuant to a memorandum of understanding between the two entities. The memorandum of understanding contains, at a minimum:

(I) A requirement that the office has its own personnel rules;

(II) A requirement that the ombudsman has independent hiring and termination authority over office employees;

(III) A requirement that the office must follow judicial fiscal rules;

(IV) A requirement that the office of the state court administrator shall offer the office of the child protection ombudsman limited support with respect to:

(A) Personnel matters;

(B) Recruitment;

(C) Payroll;

(D) Benefits;

(E) Budget submission, as needed;

(F) Accounting; and

(G) Office space, facilities, and technical support limited to the building that houses the office of the state court administrator; and

(V) Any other provisions regarding administrative support that will help maintain the independence of the office.

(b) The office and the related child protection ombudsman board, established in subsection (2) of this section, shall operate with full independence. The board and office have complete autonomy, control, and authority over operations, budget, and personnel decisions related to the office, board, and ombudsman.

(c) The office shall work cooperatively with the child protection ombudsman board established in subsection (2) of this section, the department of human services and other child welfare organizations, as appropriate, to form a partnership between those entities and persons, parents, and the state for the purpose of ensuring the greatest protections for the children of Colorado.

(2) (a) There is established an independent, nonpartisan child protection ombudsman board, referred to in this article as the "board". The membership of the board must not exceed twelve members and, to the extent practicable, must include persons from throughout the state and persons with disabilities and must reflect the ethnic diversity of the state. All members must have child welfare policy or system expertise or experience.

(b) The board members must be appointed on or before August 1, 2015, as follows:

(I) The chief justice of the Colorado supreme court shall appoint:

(A) An individual with experience as a respondent parents' counsel;

(B) An individual with experience defending juveniles in court proceedings;

(C) An individual with legal experience in dependency and neglect cases; and

(D) An individual with experience in criminal justice involving children and youth.

(II) The governor shall appoint:

(A) An individual with previous professional experience with a rural county human or social services agency or a rural private child welfare advocacy agency;

(B) An individual with previous professional experience with the department of human services;

(C) An individual with previous professional experience with an urban human or social services agency or an urban private child welfare agency; and

(D) An individual with experience in primary or secondary education.

(III) The president and minority leader of the senate shall appoint:

(A) An individual who was formerly a child in the foster care system; and

(B) An individual with professional experience as a county and community child protection advocate; and

(IV) The speaker and the minority leader of the house of representatives shall appoint:

(A) A current or former foster parent; and

(B) A health care professional with previous experience with child abuse and neglect cases.

(c) Board members shall serve for terms of four years; except that, of the members first appointed, two members appointed pursuant to subparagraphs (I), (II), and (III) of paragraph (b) of this subsection (2) and one member appointed pursuant to subparagraph (IV) of paragraph (b) of this subsection (2), as designated by the appointing officials, shall serve initial terms of two years. The appointing officials shall fill any vacancies on the board for the remainder of any unexpired term.

(d) The board shall meet a minimum of two times per year and additionally as needed. At least one meeting per year must be held outside of the Denver metropolitan area.

(e) Board members shall serve without compensation but may be reimbursed for actual and reasonable expenses incurred in the performance of their duties.

(f) Expenses incurred for the board must be paid from the general operating budget of the office of the child protection ombudsman.

(3) The board has the following duties and responsibilities:

(a) To oversee the following personnel decisions related to the ombudsman:

(I) On or before December 1, 2015, and as necessary thereafter, appointing a person to serve as the child protection ombudsman and director of the office, referred to in this article as the "ombudsman". The ombudsman appointed by the board on or before December 1, 2015, shall assume his or her position on the effective date of the memorandum of understanding between the judicial department and the office. The board may also discharge an acting ombudsman for cause. A two-thirds majority vote is required to hire or discharge the ombudsman. The general assembly shall set the ombudsman's compensation, and such compensation may not be reduced during the term of the ombudsman's appointment.

(II) Filling a vacancy in the ombudsman position;

(III) Evaluating the ombudsman's performance as determined necessary based on feedback received related to the ombudsman; and

(IV) Developing a public complaint process related to the ombudsman's performance;

(b) To oversee and advise the ombudsman on the strategic direction of the office and its mission and to help promote the use, engagement, and access to the office;

(c) To work cooperatively with the ombudsman to provide fiscal oversight of the general operating budget of the office and ensure that the office operates in compliance with the provisions of this article, the memorandum of understanding, and state and federal laws relating to the child welfare system;

(d) to (g) (Deleted by amendment, L. 2016.)

(h) To promote the mission of the office to the public; and

(i) To provide assistance, as practicable and as requested by the ombudsman, to facilitate the statutory intent of this article.

(4) Meetings of the board are subject to the provisions of section 24-6-402, C.R.S., except for executive personnel actions or meetings requiring the protection of confidentiality for children's or parents' personal data pursuant to the federal "Child Abuse Prevention and Treatment Act", Pub.L. 93-247, and state privacy laws.

(5) The records of the board and the office are subject to the provisions of part 2 of article 72 of title 24, C.R.S.

Source: L. 2010: Entire article added, (SB 10-171), ch. 225, p. 975, § 1, effective May 14. **L. 2014:** (2)(a) amended, (SB 14-201), ch. 280, p. 1137, § 2, effective May 29. **L. 2015:** Entire section R&RE, (SB 15-204), ch. 264, p. 1022, § 1, effective June 2. **L. 2016:** (3) amended and (1)(a.5) added, (SB 16-013), ch. 102, p. 292, § 1, effective April 15.

19-3.3-103. Office of the child protection ombudsman - powers and duties - access to information - confidentiality - testimony - judicial review. (1) The ombudsman has the following duties, at a minimum:

(a) (I) (A) To receive complaints concerning child protection services made by or on behalf of a child relating to any action, inaction, or decision of any public agency or any provider that receives public moneys that may adversely affect the safety, permanency, or well-being of the child. The ombudsman may, independently and impartially, investigate and seek resolution of such complaints, which resolution may include, but need not be limited to, referring a complaint to the state department or appropriate agency or entity and making a recommendation for action relating to a complaint.

(B) The ombudsman shall treat all complaints received pursuant to sub-subparagraph (A) of this subparagraph (I) as confidential, including the identities of complainants and individuals from whom information is acquired; except that disclosures may be permitted if the ombudsman deems it necessary to enable the ombudsman to perform his or her duties and to support any recommendations resulting from an investigation. Records relating to complaints received by the office and the investigation of complaints are exempt from public disclosure pursuant to article 72 of title 24, C.R.S.

(II) (A) In investigating a complaint, the ombudsman shall have the authority to request and review any information, records, or documents, including records of third parties, that the ombudsman deems necessary to conduct a thorough and independent review of a complaint so long as either the state department or a county department would be entitled to access or receive such information, records, or documents.

(B) Nothing in the provisions of sub-subparagraph (A) of this subparagraph (II) shall be construed to grant subpoena power to the ombudsman for purposes of investigating a complaint pursuant to sub-subparagraph (A) of subparagraph (I) of this paragraph (a).

(III) The ombudsman shall refer any complaints relating to the judicial department and judicial proceedings, including but not limited to complaints concerning the conduct of judicial officers or attorneys of record, judicial determinations, and court processes and procedures to the appropriate entity or agency within the judicial department.

(b) To evaluate and make a recommendation to the executive director and any appropriate agency or entity for the creation of a statewide grievance policy that is accessible by children and families within the child protection system and that is transparent and accountable;

(c) To report, as required by the provisions of section 19-3.3-108, concerning the actions of the ombudsman related to the goals and duties of the office;

(d) To review the memorandum of understanding between the office and the judicial department and renegotiate such memorandum of understanding at any time as the office and the judicial department mutually deem appropriate;

(e) To act on behalf of the office and serve as signator for the office; and

(f) To ensure accountability and consistency in the operating policies and procedures, including reasonable rules to administer the provisions of this article and any other standards of conduct and reporting requirements as provided by law.

(2) The ombudsman has the following powers, at a minimum:

(a) To review issues raised by members of the community relating to child protection policies or procedures and make recommendations to the appropriate agency or entity concerning those issues;

(b) To review and evaluate the effectiveness and efficiency of any existing grievance resolution mechanisms and to make recommendations to the general assembly, executive director, and any appropriate agency or entity for the improvement of the grievance resolution mechanisms;

(c) To help educate the public concerning child maltreatment and the role of the community in strengthening families and keeping children safe;

(d) To promote best practices and effective programs relating to a publicly funded child protection system and to work collaboratively with county departments, when appropriate, regarding improvement of processes; and

(e) To recommend to the general assembly, the executive director, and any appropriate agency or entity statutory, budgetary, regulatory, and administrative changes, including systemic changes, to improve the safety of and promote better outcomes for children and families receiving child protection services in Colorado.

(3) The ombudsman, employees of the office, and any persons acting on behalf of the office shall comply with all state and federal confidentiality laws that govern the state department or a county department with respect to the treatment of confidential information or records and the disclosure of such information and records.

(4) Nothing in this article shall be construed to direct or authorize the ombudsman to intervene in any criminal or civil judicial proceeding or to interfere in a criminal investigation.

(5) In the performance of his or her duties, the ombudsman shall act independently of the divisions within the state department that are responsible for child welfare, youth services, or child care, of the county departments of human or social services, and of all judicial agencies, including, but not limited to, the office of the child's representative, the office of the respondent parents' counsel, the office of state public defender, the office of alternate defense counsel, and the office of attorney regulation counsel. Any recommendations made by the ombudsman or positions taken by the ombudsman do not reflect those of the state department, judicial department, or of the county departments of human or social services.

Source: L. 2010: Entire article added, (SB 10-171), ch. 225, p. 976, § 1, effective May 14. **L. 2014:** IP(1) and IP(2) amended, (SB 14-201), ch. 280, p. 1137, § 3, effective May 29. **L. 2015:** (1)(a)(I)(A), (1)(a)(II)(B), (1)(c), (2)(b), (2)(e), (3), and (5) amended, (SB 15-204), ch. 264, pp. 1026, 1031, §§ 2, 15, effective June 2. **L. 2016:** (1)(b) and (1)(c) amended and (1)(d), (1)(e), and (1)(f) added, (SB 16-013), ch. 102, p. 294, § 2, effective April 15. **L. 2017:** (5) amended, (HB 17-1329), ch. 381, p. 1978, § 43, effective June 6.

19-3.3-104. Qualified immunity. The ombudsman and employees or persons acting on behalf of the office are immune from suit and liability, either personally or in their official capacities, for any claim for damage to or loss of property, or for personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred within the scope of employment, duties, or responsibilities pertaining to the office, including but not limited to issuing reports or recommendations; except that nothing in this section shall be construed to protect such persons from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of that person.

Source: L. 2010: Entire article added, (SB 10-171), ch. 225, p. 978, § 1, effective May 14. **L. 2015:** Entire section amended, (SB 15-204), ch. 264, p. 1032, § 16, effective June 2.

19-3.3-105. Advisory work group - development of plan for autonomy and accountability - repeal. (Repealed)

Source: L. 2010: Entire article added, (SB 10-171), ch. 225, p. 978, § 1, effective May 14. **L. 2014:** Entire section R&RE, (SB 14-201), ch. 280, p. 1135, § 1, effective May 29.

Editor's note: Subsection (6) provided for the repeal of this section, effective July 1, 2016. (See L. 2014, p. 1135.)

19-3.3-106. Award of contract - extension - repeal. (Repealed)

Source: L. 2010: Entire article added, (SB 10-171), ch. 225, p. 979, § 1, effective May 14. **L. 2014:** (1)(a) amended, (SB 14-201), ch. 280, p. 1137, § 4, effective May 29. **L. 2015:** Entire section amended, (SB 15-204), ch. 264, p. 1027, § 3, effective June 2.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2016. (See L. 2015, p. 1027.)

19-3.3-107. Child protection ombudsman program fund - created - repeal. (Repealed)

Source: L. 2010: Entire article added, (SB 10-171), ch. 225, p. 980, § 1, effective May 14. **L. 2015:** (4) amended and (5) added, (SB 15-204), ch. 264, p. 1027, § 4, effective June 2.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2016. (See L. 2015, p. 1027.)

19-3.3-108. Office of the child protection ombudsman - annual report. (1) On or before September 1 of each year, commencing with the September 1 following the first fiscal year in which the office was established, the ombudsman shall prepare a written report that shall include, but need not be limited to, information from the preceding fiscal year and any recommendations concerning the following:

(a) Actions taken by the ombudsman relating to the duties of the office set forth in section 19-3.3-103;

(b) Statutory, regulatory, budgetary, or administrative changes relating to child protection, including systemic changes, to improve the safety of and promote better outcomes for children and families receiving child welfare services in Colorado.

(2) Notwithstanding section 24-1-136 (11)(a)(I), the ombudsman shall distribute the written report to the governor, the chief justice, the board, and the general assembly. The ombudsman shall present the report to the health and human services committees of the house of representatives and of the senate, or any successor committees.

(3) The ombudsman shall post the annual report on the office of the child protection ombudsman's website and the general assembly's website.

(4) The ombudsman shall present or communicate quarterly updates to the board on the activities of the office.

Source: L. 2010: Entire article added, (SB 10-171), ch. 225, p. 980, § 1, effective May 14. **L. 2015:** IP(1), (1)(a), (2), and (3) amended, (SB 15-204), ch. 264, pp. 1028, 1027, §§ 7, 5, effective June 2. **L. 2016:** (2) amended and (4) added, (SB 16-013), ch. 102, p. 295, § 3, effective April 15. **L. 2017:** (2) amended, (SB 17-234), ch. 154, p. 521, § 6, effective August 9.

19-3.3-109. Review by the state auditor's office. At the discretion of the legislative audit committee, the state auditor shall conduct or cause to be conducted a performance and fiscal audit of the office.

Source: L. 2010: Entire article added, (SB 10-171), ch. 225, p. 981, § 1, effective May 14. **L. 2014:** Entire section amended, (SB 14-201), ch. 280, p. 1138, § 5, effective May 29. **L. 2015:** Entire section amended, (SB 15-204), ch. 264, p. 1028, § 8, effective June 2. **L. 2016:** Entire section amended, (SB 16-013), ch. 102, p. 295, § 4, effective April 15.

19-3.3-109. Review by the state auditor's office. At the discretion of the legislative audit committee, the state auditor shall conduct or cause to be conducted a performance and fiscal audit of the office.

19-3.3-110. Funding recommendations. The ombudsman shall make funding recommendations to the joint budget committee of the general assembly for the operation of the office of the child protection ombudsman. The general assembly shall make annual appropriations, in such amount and form as the general assembly determines appropriate, for the operation of the office.

Source: L. 2015: Entire section added, (SB 15-204), ch. 264, p. 1028, § 6, effective June 2.

ARTICLE 3.5

Colorado Children's Trust Fund

19-3.5-101. Short title. This article shall be known and may be cited as the "Colorado Children's Trust Fund Act".

Source: L. 89: Entire article added, p. 933, § 1, effective July 1.

19-3.5-102. Legislative declaration. (1) The general assembly hereby finds that child abuse and neglect are a threat to the family unit and impose major expenses on society. The general assembly further finds that there is a need to assist private and public agencies in identifying, planning, and establishing statewide programs for the prevention of child abuse and neglect.

(2) It is the purpose of this article to promote primary and secondary prevention and education programs that are designed to lessen the occurrence of child abuse and neglect and to reduce the need for state intervention in child abuse and neglect prevention and education.

Source: L. 89: Entire article added, p. 933, § 1, effective July 1. **L. 92:** (1) amended, p. 181, § 1, effective May 14. **L. 2012:** (2) amended, (SB 12-064), ch. 56, p. 204, § 1, effective March 24.

19-3.5-103. Definitions. (Repealed)

Source: L. 89: Entire article added, p. 933, § 1, effective July 1. **L. 96:** Entire section repealed, p. 85, § 11, effective March 20.

Cross references: For current applicable definitions, see § 19-1-103.

19-3.5-104. Colorado children's trust fund board - creation - members. (1) (a) There is hereby created, in the department of public health and environment, the Colorado children's trust fund board. The board shall exercise its powers and duties as if transferred by a **type 2** transfer.

(b) The Colorado children's trust fund board is transferred to the department of human services. The board shall exercise its powers and duties as if transferred by a **type 2** transfer. Persons appointed to the Colorado children's trust fund board shall continue serving until completion of their terms and may be reappointed as provided in this section.

(2) The board shall consist of nine members, as follows:

(a) The executive director of the department of human services or his designee;

(a.5) The executive director of the department of public health and environment or such director's designee;

(b) The commissioner of education or his designee; and

(c) Six persons appointed by the governor and confirmed by the senate, five of whom shall be knowledgeable in the area of child abuse prevention and represent some of the following areas: Law enforcement; medicine; law; business; mental health; domestic relations; child abuse

prevention; education; and social work; and one who shall be a parent or a representative of a parent organization. In making appointments to the board, the governor is encouraged to include representation by at least one member who is a person with a disability, as defined in section 24-45.5-102 (2), C.R.S., a family member of a person with a disability, or a member of an advocacy group for persons with disabilities, provided that the other requirements of this paragraph (c) are met.

(3) (a) Each appointed member of the board shall serve for a term of three years; except that the original members appointed by the governor shall serve staggered terms not to exceed three years, to be decided by the board.

(b) A vacancy on the board shall be filled for the balance of the unexpired term.

(4) The board shall meet regularly and shall adopt its own rules of procedure.

(5) Members shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties.

Source: L. 89: Entire article added, p. 934, § 1, effective July 1. **L. 93:** (1), IP(2), and (2)(c) amended and (2)(a.5) added, p. 926, § 2, effective May 28. **L. 94:** (2)(a) and (2)(a.5) amended, pp. 2687, 2737, §§ 208, 365, effective July 1. **L. 2000:** (1) amended, p. 1569, § 3, effective July 1. **L. 2009:** (2)(c) amended, (HB 09-1281), ch. 399, p. 2153, § 1, effective August 5. **L. 2013:** (1) amended, (HB 13-1117), ch. 169, p. 584, § 7, effective July 1.

Cross references: For the legislative declaration in the 2013 act amending subsection (1), see section 1 of chapter 169, Session Laws of Colorado 2013.

19-3.5-105. Powers and duties of the board. (1) The board shall have the following powers and duties:

(a) To provide for the coordination and exchange of information on the establishment and maintenance of primary and secondary prevention programs;

(b) To develop and publicize criteria regarding grants from the trust fund, including the duration of grants and any requirements for matching funds which are received from the trust fund;

(c) To review and monitor the expenditure of moneys by recipients;

(d) Repealed.

(e) To accept grants from the federal government as well as to solicit and accept contributions, grants, gifts, bequests, and donations from individuals, private organizations, and foundations;

(f) To expend moneys of the trust fund for the establishment, promotion, and maintenance of primary and secondary prevention programs, including pilot programs, for programs to prevent and reduce the occurrence of prenatal drug exposure, and for operational expenses of the board;

(g) To sue and be sued as a board without individual liability for acts of the board;

(h) To exercise any other powers or perform any other duties which are consistent with the purposes for which the board was created and which are reasonably necessary for the fulfillment of the board's responsibilities.

(i) and (j) Repealed.

Source: L. 89: Entire article added, p. 934, § 1, effective July 1. **L. 92:** (1)(f) amended, p. 181, § 2, effective May 14. **L. 96:** (1)(d) repealed, p. 1246, § 115, effective August 7. **L. 2000:** (1)(j) repealed, p. 1570, § 4, effective July 1. **L. 2007:** (1)(i) amended, p. 2031, § 41, effective June 1. **L. 2008:** (1)(i) repealed, p. 687, § 1, effective August 5. **L. 2012:** (1)(a) and (1)(f) amended, (SB 12-064), ch. 56, p. 204, § 2, effective March 24.

Cross references: For the legislative declaration contained in the 1996 act repealing subsection (1)(d), see section 1 of chapter 237, Session Laws of Colorado 1996.

19-3.5-106. Colorado children's trust fund - creation - source of funds. (1) There is hereby created in the state treasury the Colorado children's trust fund, which shall be administered by the board and which shall consist of:

(a) All moneys which shall be transferred thereto in accordance with section 13-32-101 (5)(a)(I), C.R.S.; and

(b) All moneys collected by the board pursuant to section 19-3.5-105 (1)(e) from federal grants and other contributions, grants, gifts, bequests, donations, and any moneys appropriated thereto by the state. Such moneys shall be transmitted to the state treasurer for credit to the trust fund.

(2) All moneys in the fund shall be subject to annual appropriation by the general assembly. Any moneys not appropriated shall remain in the fund and shall not be transferred to or revert to the general fund of the state at the end of any fiscal year. Any interest earned on the investment or deposit of moneys in the fund shall also remain in the fund and shall not be credited to the general fund of the state.

(3) Repealed.

Source: L. 89: Entire article added, p. 935, § 1, effective July 1. **L. 92:** (1)(b) amended, p. 181, § 3, effective May 14. **L. 2000:** (1)(a) amended, p. 1570, § 5, effective July 1. **L. 2003:** (3) added, p. 455, § 8, effective March 5. **L. 2004:** (3) repealed, p. 194, § 11, effective August 4. **L. 2011:** (1)(a) amended, (HB 11-1303), ch. 264, p. 1158, § 36, effective August 10.

19-3.5-107. Disbursement of grants from the trust fund. (1) Grants may be awarded to provide moneys for the start-up, continuance, or expansion of primary or secondary prevention programs, including pilot programs and home visitation programs, to provide educational and public informational seminars, and to study and evaluate primary and secondary prevention programs, pilot programs, and home visitation programs. In addition, grants may be awarded for programs to prevent and reduce the occurrence of prenatal drug exposure.

(2) The board shall have discretion in determining the amount of money to be awarded under each grant; except that:

(a) Until the total amount of assets in the trust fund exceeds five million dollars, not more than seventy-five percent of the moneys credited to the trust fund each year pursuant to section 13-32-101 (5)(a)(I), C.R.S., plus any interest credited thereon to the trust fund during the previous year shall be available for disbursement or expenditure by the board; however, any other moneys deposited or maintained in the fund may be disbursed by the board pursuant to the provisions of this article in accordance with an appropriation from the fund made by the general assembly;

(b) After such time that the state treasurer certifies that the assets in the trust fund exceed five million dollars, no further moneys shall be collected for the trust fund pursuant to section 13-32-101 (5)(a)(I), C.R.S.; however, nothing in this paragraph (b) shall be construed to prohibit the continued collection of moneys for the trust fund pursuant to section 19-3.5-105 (1)(e);

(c) After such time that the state treasurer certifies that the assets in the trust fund exceed five million dollars, only the interest credited to the trust fund, together with any moneys collected for such fund pursuant to section 19-3.5-105 (1)(e), shall be available for disbursement or expenditure by the board.

(3) Any grant or moneys received by the board and credited to the trust fund pursuant to section 19-3.5-106 (1)(b) shall not be subject to the disbursement restriction of paragraph (a) of subsection (2) of this section.

Source: L. 89: Entire article added, p. 935, § 1, effective July 1. **L. 92:** Entire section amended, p. 182, § 4, effective May 14. **L. 94:** (2)(a) amended, p. 1290, § 1, effective July 1. **L. 2000:** (2) amended, p. 1570, § 6, effective July 1. **L. 2011:** (2) amended, (HB 11-1303), ch. 264, p. 1158, § 37, effective August 10. **L. 2012:** (1) amended, (SB 12-064), ch. 56, p. 204, § 3, effective March 24.

Editor's note: Although the amending clause in House Bill 11-1303 indicated that all of subsection (2) was amended, only subsections (2)(a) and (2)(b) appeared in the final act.

19-3.5-108. Repeal of article. (Repealed)

Source: L. 89: Entire article added, p. 936, § 1, effective July 1. **L. 93:** Entire section repealed, p. 927, § 3, effective May 28.

19-3.5-109. Report - repeal of article. (1) The department of human services shall contract for an independent evaluation of the trust fund, including administrative costs of operating the trust fund and the cost-effectiveness and the impact of the grants on reducing and preventing child abuse. A report of the evaluation shall be provided to the house and senate health and human services committees, or any successor committees, by November 1, 2011, and by November 1, 2021.

(2) This article is repealed, effective July 1, 2022.

Source: L. 2000: Entire section added, p. 1570, § 7, effective July 1. **L. 2002:** Entire section amended, p. 40, § 1, effective March 21. **L. 2003:** (1) amended, p. 2006, § 80, effective May 22. **L. 2007:** (1) amended, p. 2031, § 42, effective June 1. **L. 2012:** Entire section amended, (SB 12-064), ch. 56, p. 205, § 4, effective March 24. **L. 2013:** (1) amended, (HB 13-1117), ch. 169, p. 584, § 8, effective July 1.

Cross references: For the legislative declaration in the 2013 act amending subsection (1), see section 1 of chapter 169, Session Laws of Colorado 2013.

ARTICLE 4

Editor's note: This title was repealed and reenacted in 1987. For historical information concerning the repeal and reenactment, see the editor's note following the title heading.

Law reviews: For article, "Paternity Testing in the Age of DNA", see 19 Colo. Law. 2061 (1990); for article, "In Vitro Fertilization and Surrogacy: Following the Intent of the Parties", see 24 Colo. Law. 1535 (1995); for article, "Who's Their Daddy: Navigating Allocation of Parental Responsibilities and Paternity Actions", see 45 Colo. Law. 29 (May 2016).

19-4-101. Short title. This article shall be known and may be cited as the "Uniform Parentage Act".

Source: L. 87: Entire title R&RE, p. 793, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-102. Parent and child relationship defined. As used in this article, "parent and child relationship" means the legal relationship existing between a child and his natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. "Parent and child relationship" includes the mother and child relationship and the father and child relationship.

Source: L. 87: Entire title R&RE, p. 793, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-103. Relationship not dependent on marriage. The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.

Source: L. 87: Entire title R&RE, p. 793, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-103 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-104. How parent and child relationship established. The parent and child relationship may be established between a child and the natural mother by proof of her having given birth to the child or by any other proof specified in this article, between a child and the natural father pursuant to the provisions of this article, or between a child and an adoptive parent by proof of adoption.

Source: L. 87: Entire title R&RE, p. 793, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-104 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-105. Presumption of paternity. (1) A man is presumed to be the natural father of a child if:

(a) He and the child's natural mother are or have been married to each other and the child is born during the marriage, within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity of marriage, dissolution of marriage, or divorce, or after a decree of legal separation is entered by a court;

(b) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:

(I) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage or within three hundred days after its termination by death, annulment, declaration of invalidity of marriage, dissolution of marriage, or divorce; or

(II) If the attempted marriage is invalid without a court order, the child is born within three hundred days after the termination of cohabitation;

(c) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:

(I) He has acknowledged his paternity of the child in writing filed with the court or registrar of vital statistics, if such acknowledgment has not previously become a legal finding pursuant to paragraph (b) of subsection (2) of this section;

(II) With his consent, he is named as the child's father on the child's birth certificate; or

(III) He is obligated to support the child under a written voluntary promise or by court order or by an administrative order issued pursuant to section 26-13.5-110, C.R.S.;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child;

(e) He acknowledges his paternity of the child in a writing filed with the court or registrar of vital statistics, which shall promptly inform the mother of the filing of the acknowledgment, and she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the court or registrar of vital statistics, if such acknowledgment has not previously become a legal finding pursuant to paragraph (b) of subsection (2) of this section. If another man is presumed under this section to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted.

(f) The genetic tests or other tests of inherited characteristics have been administered as provided in section 13-25-126, C.R.S., and the results show that the alleged father is not excluded as the probable father and that the probability of his parentage is ninety-seven percent or higher.

(2) (a) A presumption under this section may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise which conflict with each

other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man. In determining which of two or more conflicting presumptions should control, based upon the weightier considerations of policy and logic, the judge or magistrate shall consider all pertinent factors, including but not limited to the following:

(I) The length of time between the proceeding to determine parentage and the time that the presumed father was placed on notice that he might not be the genetic father;

(II) The length of time during which the presumed father has assumed the role of father of the child;

(III) The facts surrounding the presumed father's discovery of his possible nonpaternity;

(IV) The nature of the father-child relationship;

(V) The age of the child;

(VI) The relationship of the child to any presumed father or fathers;

(VII) The extent to which the passage of time reduces the chances of establishing the paternity of another man and a child support obligation in favor of the child; and

(VIII) Any other factors that may affect the equities arising from the disruption of the father-child relationship between the child and the presumed father or fathers or the chance of other harm to the child.

(b) A duly executed voluntary acknowledgment of paternity shall be considered a legal finding of paternity on the earlier of:

(I) Sixty days after execution of such acknowledgment; or

(II) On the date of any administrative or judicial proceeding pursuant to this article or any administrative or judicial proceeding concerning the support of a child to which the signatory is a party.

(c) Except as otherwise provided in section 19-4-107.3, a legal finding of paternity may be challenged in court only on the basis of fraud, duress, or mistake of material fact, with the burden of proof upon the challenger. Any legal responsibilities resulting from signing an acknowledgment of paternity, including child support obligations, shall continue during any challenge to the finding of paternity, except for good cause shown.

Source: L. 87: Entire title R&RE, p. 793, § 1, effective October 1. **L. 89:** (1)(c)(III) amended, p. 1247, § 3, effective April 1. **L. 91:** (1)(f) amended, p. 253, § 10, effective July 1. **L. 97:** (1)(c)(I), (1)(e), and (2) amended, p. 1274, § 13, effective July 1. **L. 2003:** (2)(a) amended, p. 1268, § 59, effective July 1. **L. 2008:** (2)(c) amended, p. 1656, § 2, effective August 15.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-6-105 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 1997 act amending subsections (1)(c)(I), (1)(e), and (2), see section 1 of chapter 236, Session Laws of Colorado 1997.

19-4-105.5. Commencement of proceedings - summons - automatic temporary injunction - enforcement. (1) All proceedings under this article shall be commenced in the

manner provided by the Colorado rules of civil procedure or as otherwise provided in this section or section 26-13.5-104, C.R.S.

(2) Upon commencement of a proceeding under this article by one of the parties, the other parties shall be served in the manner set forth in section 19-4-109 (2), the Colorado rules of civil procedure, or as otherwise provided in section 26-13.5-104, C.R.S.

(2.5) Upon the commencement of a proceeding under this article, each party shall provide to the court, in the manner prescribed by the court, his or her social security number and the social security number of each child who is the subject of the proceeding under this article.

(3) Proceedings under this article may be commenced prior to the birth of a child.

(4) If a petition is filed by an alleged father or possible father pursuant to the requirements of section 19-5-103.7, the licensed child placement agency involved shall receive notice of the action in the same manner as a party to the action.

(5) A summons issued upon commencement of a proceeding under this article shall contain the following advisements and notice:

(a) That a request for genetic tests shall not prejudice the requesting party in matters concerning allocation of parental responsibilities pursuant to section 14-10-124 (1.5), C.R.S.;

(b) That, if genetic tests are not obtained prior to a legal establishment of paternity and submitted into evidence prior to the entry of the final order establishing paternity, the genetic tests may not be allowed into evidence at a later date; and

(c) (I) That, except in proceedings initiated pursuant to section 19-1-117 or in proceedings initiated by a delegate child support enforcement unit, as defined in section 26-13-102.5 (1), C.R.S., pursuant to article 13 or 13.5 of title 26, C.R.S., or article 5 of title 14, C.R.S., upon personal service of the petition and summons on a respondent or upon waiver and acceptance of service by a respondent, a temporary injunction shall be in effect against both parties:

(A) Enjoining each party from molesting or disturbing the peace of the other party;

(B) Restraining each party from removing a minor child who is the subject of a proceeding under this article from the state without the consent of all other parties or an order of the court modifying the injunction; and

(C) Restraining each party, without at least fourteen days' advance notification and the written consent of all other parties or an order of the court modifying the injunction, from cancelling, modifying, terminating, or allowing to lapse for nonpayment of premiums, a policy of health insurance or life insurance that provides coverage to a minor child who is the subject of the proceeding or that names the minor child as a beneficiary of a policy.

(II) The temporary injunction shall be in effect upon personal service of the petition and summons on a respondent or upon waiver and acceptance of service by a respondent and shall remain in effect for one hundred twenty days after its effective date unless all parties consent to a modification of the temporary injunction. The court may, upon the motion of a party or upon its own motion, modify the length of time the temporary injunction is in effect to a shorter or longer period of time as the court deems appropriate.

(6) The provisions of the temporary injunction described in subsection (5) of this section shall be printed on the summons and the petition. A party may apply to the court for further temporary orders, an expanded temporary injunction, or modification or revocation of the temporary injunction.

(7) For purposes of enforcing the automatic temporary injunction described in paragraph (c) of subsection (5) of this section, if a respondent shows a duly authorized peace officer, as described in section 16-2.5-101, C.R.S., a copy of the petition and summons filed and issued pursuant to this section, or if a petitioner shows the peace officer a copy of the petition and summons filed and issued pursuant to this section together with a certified copy of the affidavit of service of process or a certified copy of the waiver and acceptance of service, and the peace officer has cause to believe that a violation of the part of the automatic temporary injunction that enjoins a party from molesting or disturbing the peace of the other party has occurred, the peace officer shall use every reasonable means to enforce that part of the injunction against the petitioner or respondent, as applicable. A peace officer shall not be held civilly or criminally liable for his or her actions pursuant to this subsection (7) if the peace officer acts in good faith and without malice.

Source: L. 94: Entire section added, p. 1541, § 13, effective May 31. **L. 96:** Entire section amended, p. 612, § 13, effective July 1. **L. 2005:** (3) and (4) added, p. 102, § 3, effective July 1; (5) added, p. 378, § 3, effective January 1, 2006. **L. 2006:** (5)(b) amended, p. 516, § 2, effective August 7. **L. 2010:** (5) amended and (6) and (7) added, (HB 10-1097), ch. 39, p. 158, § 1, effective August 15. **L. 2011:** (2.5) added, (SB 11-123), ch. 46, p. 119, § 5, effective August 10.

19-4-105.6. Amendment of proceedings - adding children. (1) In any existing case commenced under this article, if it is alleged that another child has been conceived of the parents named in the existing case, that child shall be added to the existing case if at least one of the presumptions of paternity specified in section 19-4-105 applies for the purpose of establishing paternity and child support. The caption shall be amended to include the added child.

(2) The party amending the petition pursuant to subsection (1) of this section shall serve the amended petition with the new caption upon the other parties in the manner set forth in section 19-4-109 (2), the Colorado rules of civil procedure, or as otherwise provided in section 26-13.5-104, C.R.S.

(2.5) The party amending the petition pursuant to subsection (1) of this section shall provide to the court, in the manner prescribed by the court, the social security number of the added child.

(3) Proceedings under this article may be amended prior to the birth of the child to be added to the proceedings.

(4) If a petition is amended pursuant to the requirements of section 19-5-103.7, the licensed child placement agency involved shall receive notice of the action in the same manner as a party to the action.

(5) A summons issued upon the amendment of a proceeding under this article shall contain the advisements set forth in section 19-4-105.5 (5).

(6) Notwithstanding the provisions of subsection (1) of this section, in any case where there exists more than one alleged or presumed father for a child pursuant to section 19-4-105, a new case shall be commenced for that child to determine the child's paternity, establish child support, and address any other related issues. If it is determined that the child is the child of parents named in an existing case, the cases shall be consolidated into the initial action pursuant to rule 42 of the Colorado rules of civil procedure.

Source: L. 2008: Entire section added, p. 1348, § 3, effective January 1, 2009. **L. 2011:** (2.5) added, (SB 11-123), ch. 46, p. 120, § 6, effective August 10.

19-4-105.7. Stay of paternity proceedings - criminal charges of allegations of sexual assault. (Repealed)

Source: L. 2013: Entire section added, (SB 13-227), ch. 353, p. 2060, § 5, effective July 1. **L. 2014:** Entire section repealed, (HB 14-1162), ch. 167, p. 587, § 3, effective July 1.

19-4-106. Assisted reproduction. (1) If, under the supervision of a licensed physician or advanced practice nurse and with the consent of her husband, a wife consents to assisted reproduction with sperm donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. If, under the supervision of a licensed physician or advanced practice nurse and with the consent of her husband, a wife consents to assisted reproduction with an egg donated by another woman, to conceive a child for herself, not as a surrogate, the wife is treated in law as if she were the natural mother of a child thereby conceived. Both the husband's and the wife's consent must be in writing and signed by each of them. The physician or advanced practice nurse shall certify their signatures and the date of the assisted reproduction and shall file the consents with the department of public health and environment, where they shall be kept confidential and in a sealed file; however, the physician's failure to do so does not affect the father and child relationship or the mother and child relationship. All papers and records pertaining to the assisted reproduction, whether part of the permanent record of a court or of a file held by the supervising physician or advanced practice nurse or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

(2) A donor is not a parent of a child conceived by means of assisted reproduction, except as provided in subsection (3) of this section.

(3) If a husband provides sperm for, or consents to, assisted reproduction by his wife as provided in subsection (1) of this section, he is the father of the resulting child.

(4) The requirement for consent set forth in subsection (1) of this section does not apply to the donation of eggs by a married woman for assisted reproduction by another woman or to the donation of sperm by a married man for assisted reproduction by a woman who is not his wife.

(5) Failure of the husband to sign a consent required by subsection (1) of this section before or after the birth of the child does not preclude a finding that the husband is the father of a child born to his wife pursuant to section 19-4-105 (2)(a).

(6) If there is no signed consent form, the nonexistence of the father-child relationship shall be determined pursuant to section 19-4-107 (1)(b).

(7) (a) If a marriage is dissolved before placement of eggs, sperm, or embryos, the former spouse is not a parent of the resulting child unless the former spouse consented in a record that if assisted reproduction were to occur after a dissolution of marriage, the former spouse would be a parent of the child.

(b) The consent of a former spouse to assisted reproduction may be withdrawn by that individual in a record at any time before placement of eggs, sperm, or embryos.

(8) If a spouse dies before placement of eggs, sperm, or embryos, the deceased spouse is not a parent of the resulting child unless the deceased spouse consented in a record that if assisted reproduction were to occur after death, the deceased spouse would be a parent of the child.

(9) This section does not apply to the birth of a child conceived by means of sexual intercourse.

(10) For purposes of this section, "donor" is defined in section 19-1-103 (44.5).

Source: L. 87: Entire title R&RE, p. 794, § 1, effective October 1. **L. 94:** (1) amended, p. 2737, § 366, effective July 1. **L. 2003:** Entire section amended, p. 1269, § 60, effective July 1. **L. 2008:** (1) amended, p. 128, § 9, effective January 1, 2009.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-6-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-107. Determination of father and child relationship - who may bring action - when action may be brought. (1) A child, his natural mother, or a man presumed to be his father under section 19-4-105 (1)(a), (1)(b), or (1)(c) or the state, the state department of human services, or a county department of social services, pursuant to article 13 or 13.5 of title 26, C.R.S., or article 5 of title 14, C.R.S., may bring an action:

(a) At any time for the purpose of declaring the existence of the father and child relationship presumed under section 19-4-105 (1)(a), (1)(b), or (1)(c); or

(b) For the purpose of declaring the nonexistence of the father and child relationship presumed under section 19-4-105 (1)(a), (1)(b), or (1)(c) only if the action is brought within a reasonable time after obtaining knowledge of relevant facts but in no event later than five years after the child's birth. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(2) Any interested party, including the state, the state department of human services, or a county department of social services, pursuant to article 13 or 13.5 of title 26, C.R.S., or article 5 of title 14, C.R.S., may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under section 19-4-105 (1)(d), (1)(e), or (1)(f).

(3) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under section 19-4-105 may be brought by the state, the state department of human services, a county department of social services, the child, the mother or personal representative of the child, the personal representative or a parent of the mother if the mother has died, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

(4) Regardless of its terms, an agreement, other than an agreement approved by the court in accordance with section 19-4-114 (2), between an alleged or presumed father and the mother or child does not bar an action under this section.

Source: L. 87: Entire title R&RE, p. 794, § 1, effective October 1. **L. 89:** IP(1) and (2) amended, p. 1247, § 4, effective April 1. **L. 94:** IP(1), (2), and (3) amended, p. 2687, § 209, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-107 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-107.3. When determination of parentage is final - modifications - exceptions. (1) (a) An order determining parentage pursuant to this article shall be modified or set aside, within the time frames specified in subsection (2) of this section, if genetic test results based on DNA testing, administered in accordance with section 13-25-126, C.R.S., establish the exclusion of the individual named as the father in the order as the biological parent of the child and the court determines that it is just and proper under the circumstances and in the best interests of the child.

(b) If the court modifies or sets aside an order determining parentage pursuant to paragraph (a) of this subsection (1), then the court shall modify the provisions of the order respecting child support for installments accruing subsequent to the filing of the motion pursuant to section 14-10-122 (6), C.R.S., and may vacate or deem as satisfied, in whole or in part, unpaid child support obligations arising from or based on the order determining parentage. The court shall not order restitution from the state for any sums paid to or collected by the state for the benefit of the child.

(2) (a) A motion to modify or set aside an order determining parentage pursuant to this section must be filed within two years from the date of the entry of the order.

(b) Repealed.

(3) Notwithstanding the provisions of subsection (1) of this section, neither a determination of parentage nor an order respecting child support shall be modified or set aside pursuant to this section if:

(a) The individual named in the order acknowledged paternity pursuant to section 19-4-105 (1)(c) or (1)(e) knowing that he was not the father of the child;

(b) The child was adopted by the individual named in the order; or

(c) The child was conceived by means of assisted reproduction.

(4) A motion filed pursuant to this section may be brought by the individual named as the father in the order and shall be served in the manner set forth in the Colorado rules of civil procedure upon all other parties. The court shall not modify or set aside a final order determining parentage pursuant to this section without a hearing.

(5) For purposes of this section, "DNA" means deoxyribonucleic acid.

Source: L. 2008: Entire section added, p. 1655, § 1, effective August 15.

Editor's note: Subsection (2)(b)(II) provided for the repeal of subsection (2)(b), effective July 1, 2011. (See L. 2008, p. 1655.)

19-4-107.5. Required notice of prior civil protection orders to prevent domestic abuse - determination of parent and child relationship. When filing a proceeding under this

article, the filing party shall have a duty to disclose to the court the existence of any prior temporary or permanent civil protection orders to prevent domestic abuse issued pursuant to article 14 of title 13, C.R.S., and any emergency protection orders issued pursuant to section 13-14-103, C.R.S., entered against either party by any court within ninety days prior to the filing of the proceeding to determine the parent and child relationship. The disclosure required pursuant to this section shall address the subject matter of the previous protection orders, including the case number and jurisdiction issuing such orders.

Source: L. 95: Entire section added, p. 84, § 2, effective July 1. **L. 99:** Entire section amended, p. 503, § 14, effective July 1. **L. 2004:** Entire section amended, p. 556, § 14, effective July 1. **L. 2005:** Entire section amended, p. 766, § 30, effective June 1.

19-4-108. Statute of limitations. An action to determine the existence of the father and child relationship may be brought at any time prior to the child's eighteenth birthday by the mother or father of said child, by the child, or by the delegate child support enforcement agency. If, however, the statute of limitations in effect at the time of the child's birth was less than eighteen years, the delegate child support enforcement agency may bring an action on behalf of the said child at any time prior to the child's twenty-first birthday. An action brought by a child whose paternity has not been determined may be brought at any time prior to the child's twenty-first birthday. This section and section 19-4-107 do not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise.

Source: L. 87: Entire title R&RE, p. 795, § 1, effective October 1; entire section amended, p. 1587, § 59, effective October 1. **L. 88:** Entire section amended, p. 634, § 11, effective July 1. **L. 89:** Entire section amended, p. 794, § 19, effective July 1.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-108 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Prior to the repeal and reenactment of this title in 1987, the statute of limitations to determine a father and child relationship was contained in § 19-6-108. The statute of limitations as contained in that section was changed by L. 85, p. 596, § 18, to eighteen years. For the statute of limitations in effect prior to the change in 1985, see § 19-6-108 as contained in the 1978 Replacement Volume 8 and in annual supplements thereto prior to 1985.

19-4-109. Jurisdiction - venue. (1) Without limiting the jurisdiction of any other court, the juvenile court has jurisdiction of an action brought under this article. A delegate child support enforcement unit also has jurisdiction to establish paternity in noncontested paternities in accordance with the procedures specified in article 13.5 of title 26, C.R.S. The action may be joined with an action in another court of competent jurisdiction for dissolution of marriage, legal separation, declaration of invalidity of marriage, or support.

(1.5) A paternity determination made by another state, whether established through voluntary acknowledgment, administrative processes, or judicial processes, shall be enforced and otherwise treated in the same manner as a judgment of this state.

(2) A person who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this article with respect to a child who may have been conceived by that act of intercourse. Upon filing of the petition, the court shall issue a summons. The hearing shall be set for a day not less than ten days after service is completed or on such later date as the court may order. In addition to any other method provided by rule or statute, including rule 4(e) of the Colorado rules of civil procedure, when there is a basis for personal jurisdiction over an individual living outside this state pursuant to section 14-5-201, C.R.S., service may be accomplished by delivering a copy of the summons, together with a copy of the petition upon which it was issued, to the individual served. Such service may be by private process server or by sending such copies to such individual by certified mail with proof of actual receipt by such individual.

(3) The action may be brought in the county in which the child or the alleged father resides or is found, or in any county where public assistance was or is being paid on behalf of the child, or, if the father is deceased, in any county in which proceedings for probate of his estate have been or could be commenced.

Source: L. 87: Entire title R&RE, p. 795, § 1, effective October 1. **L. 89:** (1) amended, p. 1247, § 5, effective April 1; (3) amended, p. 794, § 20, effective July 1. **L. 94:** (1.5) added and (2) amended, p. 1541, § 14, effective May 31. **L. 2005:** (2) amended, p. 378, § 4, effective April 22.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-109 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-110. Parties. The child may be made a party to the action. If the child is a minor, the court may appoint a guardian ad litem. The child's mother or father may not represent the child as guardian or otherwise. The court shall make the natural mother, each man presumed to be the father under section 19-4-105, and each man alleged to be the natural father parties or, if not subject to the jurisdiction of the court, provide notice of the action in a manner prescribed by the court and an opportunity to be heard. If a man who is alleged to be the natural father is deceased, the court shall make the personal representative of his estate, if one has been appointed, a party. If a personal representative has not been appointed, the court shall make the deceased man's spouse or an immediate blood relative a party. If a spouse or immediate blood relative is not known or does not exist, the court shall appoint a representative for the alleged natural father who is deceased. The court may align the parties. When the person to be served has no residence within Colorado and his or her place of residence is not known or when he or she cannot be found within the state after due diligence, service must be by publication pursuant to rule 4 (g) of the Colorado rules of civil procedure; except that service must be by a single publication and must be completed not less than five days prior to the time set for hearing on paternity adjudication.

Source: L. 87: Entire title R&RE, p. 796, § 1, effective October 1. **L. 93:** Entire section amended, p. 954, § 3, effective May 28. **L. 2006:** Entire section amended, p. 517, § 4, effective

August 7. **L. 2016:** Entire section amended, (HB 16-1165), ch. 157, p. 496, § 9, effective January 1, 2017.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-110 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-111. Pretrial proceedings. (1) As soon as practicable after an action to declare the existence or nonexistence of the father-child relationship has been brought, an informal hearing shall be held if it is determined by the court to be in the child's best interest. The court may order that the hearing be held before a magistrate. The public shall be barred from the hearing if it is determined by the court to be in the best interest of any of the parties. A record of the proceeding or any portion thereof shall be kept if any party requests or the court orders. Rules of evidence need not be observed. At the informal hearing, the judge or magistrate shall give a verbal advisement to the parties that a request for genetic tests shall not prejudice the requesting party in matters concerning allocation of parental responsibilities pursuant to section 14-10-124 (1.5), C.R.S. The judge or magistrate shall further advise the parties that, if genetic tests are not obtained prior to the legal establishment of paternity and submitted into evidence prior to the entry of the final order establishing paternity, the genetic tests may not be allowed into evidence at a later date.

(2) Upon the refusal of any witness, including a party, to testify under oath or produce evidence, the court may order such witness to testify under oath and produce evidence concerning all relevant facts. If the refusal is upon the ground that such witness' testimony or evidence might tend to incriminate such witness, the court may grant such witness immunity from the use of the testimony or evidence the witness is required to produce to prove the commission of a criminal offense by the witness. The refusal of a witness who has been granted immunity to obey an order to testify or produce evidence is a civil contempt of the court.

(3) Testimony of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged.

(4) Upon the filing of a petition under this article, any party may seek the issuance of a temporary protection order or injunction under the criteria set forth in section 14-10-108, C.R.S. Any party may further seek temporary orders as to the allocation of parental responsibilities, including allocation of decision-making responsibility and parenting time, and support once an order determining the existence of the parent and child relationship has been entered by the court. The filing of a motion for temporary orders shall not prevent a party or public agency from seeking other relief as may be provided by this article. Issues of temporary orders concerning the allocation of parental responsibilities, including decision-making responsibility and parenting time, and issues of support shall be determined in accordance with the criteria set forth in the "Uniform Dissolution of Marriage Act", article 10 of title 14, C.R.S. Any temporary protection order issued pursuant to this subsection (4) shall be on a standardized form prescribed by the judicial department, and a copy shall be provided to the protected person.

(5) At the time a protection order is requested pursuant to this section, the court shall inquire about, and the requesting party and such party's attorney shall have an independent duty to disclose, knowledge such party and such party's attorney may have concerning the existence

of any prior protection orders of any court addressing in whole or in part the subject matter of the requested protection order.

(6) The duties of peace officers enforcing orders issued pursuant to this section shall be in accordance with section 18-6-803.5, C.R.S., and any rules adopted by the Colorado supreme court pursuant to said section.

Source: L. 87: Entire title R&RE, p. 796, § 1, effective October 1. **L. 91:** (1) amended, p. 363, § 35, effective April 9. **L. 93:** (2) amended, p. 1737, § 30, effective July 1. **L. 94:** (4) to (6) added, p. 2016, § 11, effective January 1, 1995. **L. 98:** (4) amended, p. 1409, § 70, effective February 1, 1999. **L. 2003:** (4) and (5) amended, p.1016, § 26, effective July 1. **L. 2005:** (1) amended, p. 378, § 5, effective January 1, 2006.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-111 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-112. Genetic or other tests. Upon motion of the court or any of the interested parties, genetic tests or other tests of inherited characteristics shall be ordered and the results received in evidence, as provided in section 13-25-126, C.R.S. Upon agreement of the mother and the presumed or alleged father or fathers, genetic tests or other tests of inherited characteristics may be administered prior to filing of an action. If the action is then filed, the test results shall be admitted into evidence as provided in section 13-25-126, C.R.S.

Source: L. 87: Entire title R&RE, p. 796, § 1, effective October 1. **L. 91:** Entire section amended, p. 254, § 11, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-112 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-113. Evidence relating to paternity. (1) Evidence relating to paternity may include:

(a) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(b) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;

(c) Genetic test results, weighted in accordance with evidence, if available, of the statistical probability of the alleged father's paternity;

(d) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests; and

(e) All other evidence relevant to the issue of paternity of the child.

(2) In any action brought pursuant to article 13 or 13.5 of title 26, C.R.S., the parties shall be required to use the laboratory designated by the delegate child support enforcement unit

for genetic tests or other tests of inherited characteristics. Any subsequent test or other tests shall be determined by the court as provided in section 13-25-126, C.R.S.

Source: L. 87: Entire title R&RE, p. 796, § 1, effective October 1. **L. 92:** (2) added, p. 183, § 1, effective August 1. **L. 97:** (1)(c) amended, p. 562, § 9, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-114. Pretrial recommendations - temporary orders. (1) On the basis of the information produced at the pretrial hearing, the judge or magistrate conducting the hearing shall evaluate the probability of determining the existence or nonexistence of the father and child relationship in a trial and whether a judicial declaration of the relationship would be in the best interest of the child. On the basis of the evaluation, an appropriate recommendation for settlement shall be made to the parties, which may include any of the following:

(a) That the action be dismissed with or without prejudice;

(b) That the matter be compromised by an agreement among the alleged father, the mother, and the child in which the father and child relationship is not determined but in which a defined economic obligation is undertaken by the alleged father in favor of the child and, if appropriate, in favor of the mother, subject to approval by the judge or magistrate conducting the hearing. In reviewing the obligation undertaken by the alleged father in a compromise agreement, the judge or magistrate conducting the hearing shall consider the best interest of the child, in the light of the factors enumerated in section 19-4-116 (6), discounted by the improbability, as it appears to him, of establishing the alleged father's paternity or nonpaternity of the child in a trial of the action. In the best interest of the child, the court may order that the alleged father's identity be kept confidential. In that case, the court may designate a person or agency to receive from the alleged father and disburse on behalf of the child all amounts paid by the alleged father in fulfillment of obligations imposed on him.

(c) That the alleged father voluntarily acknowledge his paternity of the child;

(d) That the action be consolidated with a relinquishment action filed pursuant to part 1 of article 5 of this title.

(2) If the parties accept a recommendation made in accordance with subsection (1) of this section, judgment shall be entered accordingly.

(3) If a party refuses to accept a recommendation made under subsection (1) of this section and genetic tests have not been taken, the court shall require the parties to submit to genetic tests, if practicable. Thereafter, the judge or magistrate shall make an appropriate final recommendation. If a party refuses to accept the final recommendation, the action shall be set for trial. If the evidence relating to paternity meets the requirements set forth in section 13-25-126 (1)(g), C.R.S., the court shall issue temporary orders establishing current child support, foster care maintenance, and medical support to remain in effect pending a final disposition of the proceeding.

(4) The guardian ad litem may accept or refuse to accept a recommendation under this section.

(5) The informal hearing may be terminated and the action set for trial if the judge or magistrate conducting the hearing finds unlikely that all parties would accept a recommendation he might make under subsection (1) or (3) of this section.

Source: L. 87: Entire title R&RE, p. 797, § 1, effective October 1. **L. 91:** (1), (3), and (5) amended, p. 363, § 36, effective April 9. **L. 93:** (1)(b) amended, p. 1780, § 43, effective June 6. **L. 97:** (3) amended, p. 562, § 10, effective July 1; (3) amended, p. 1275, § 14, effective July 1. **L. 2003:** (3) amended, p. 1270, § 61, effective July 1. **L. 2005:** (1)(d) added, p. 102, § 4, effective July 1.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-114 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments made to subsection (3) by House Bill 97-1205 and Senate Bill 97-114 were harmonized.

Cross references: For the legislative declaration contained in the 1997 act amending subsection (3), see section 1 of chapter 236, Session Laws of Colorado 1997.

19-4-115. Civil action. An action under this article is a civil action governed by the Colorado rules of civil procedure. The mother of the child and the alleged father are competent to testify and may be compelled to testify. Sections 19-4-111 (2) and (3), 19-4-112, and 19-4-113 apply.

Source: L. 87: Entire title R&RE, p. 798, § 1, effective October 1. **L. 91:** Entire section amended, p. 254, § 12, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-115 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-116. Judgment or order - birth-related costs - evidence. (1) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

(2) If the judgment or order of the court is at variance with the child's birth certificate or if the court enters a judgment or order determining the existence of a parent and child relationship during the course of a proceeding held pursuant to article 3 of this title, the court shall order that a new birth certificate be issued under section 19-4-124.

(3) (a) The judgment or order may contain any other provision directed against the appropriate party to the proceeding concerning the duty of support, the recovery of child support debt pursuant to section 14-14-104, C.R.S., the allocation of parental responsibilities with respect to the child and guardianship of the child, parenting time privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment or order may direct the father to pay for genetic testing and to pay the reasonable expenses of the mother's pregnancy and confinement.

(b) Repealed.

(c) Bills for pregnancy, childbirth expenses, and genetic testing are admissible as evidence without the necessity of third-party foundation testimony and shall constitute prima facie evidence of the amounts incurred for such services or for expenses incurred on behalf of the child.

(4) Support judgments or orders ordinarily shall be for periodic payments which may vary in amount. In the best interest of the child, a lump-sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support. The court or delegate child support enforcement unit may enter an order directing the father to pay for support of the child, in an amount as may be determined by the court or delegate child support enforcement unit to be reasonable under the circumstances, for a time period which occurred prior to the entry of the order establishing paternity. The court may limit the father's liability for past support of the child to the proportion of the expenses already incurred that the court deems just.

(5) The judgment or order may include a provision requiring that the respondent initiate inclusion of the child under a medical insurance policy currently in effect for the benefit of the respondent, purchase medical insurance for the child, or in some other manner provide for the current or future medical needs of the child. At the same time, the court may make a determination of whose responsibility it shall be to pay required medical insurance deductibles and copayments. If the judgment or order does not contain a provision regarding medical support, such as insurance coverage, payment for medical insurance deductibles and copayments, or unreimbursed medical expenses, that fact may be grounds for a modification of the order under section 14-10-122, C.R.S.

(6) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts, including:

(a) The needs of the child;

(b) The standard of living and circumstances of the parents;

(c) The relative financial means of the parents;

(d) The earning ability of the parents;

(e) The need and capacity of the child for education, including higher education;

(f) The age of the child;

(g) The financial resources and the earning ability of the child;

(h) The responsibility of the parents for the support of others;

(i) The value of services contributed by the parent with whom the child resides the majority of the time;

(j) The standard of living the child would have enjoyed had the parents been married; and

(k) The child support guidelines, as set forth in section 14-10-115, C.R.S.

(7) Any order of support made pursuant to subsections (4) to (6) of this section shall continue until the child is nineteen years of age, unless the support order is terminated sooner by court order.

(8) The court may order support to be continued after the child is nineteen years of age if the child is unable to care for himself or herself by reason of mental or physical disability or other reason justifiable in the opinion of the court.

(9) All child support orders entered pursuant to this article shall include the names and dates of birth of the parties and of the children who are the subject of the order and the parties' residential and mailing addresses. The social security numbers of the parties and children shall be collected pursuant to sections 14-14-113 and 26-13-127, C.R.S.

Source: L. 87: Entire title R&RE, p. 798, § 1, effective October 1; (6)(i) and (6)(j) amended and (6)(k) added, p. 1587, § 60, effective October 1. **L. 89:** (3), (5), and (7) amended, p. 794, § 21, effective July 1. **L. 93:** (3) amended, p. 582, § 21, effective July 1; (8) amended, p. 1638, § 25, effective July 1. **L. 94:** (4), (7), and (8) amended, p. 1542, § 15, effective May 31. **L. 95:** (3) amended, p. 1397, § 2, effective July 1. **L. 97:** (3)(a) amended and (3)(c) and (9) added, p. 1276, §§ 15, 16, effective July 1. **L. 98:** (3)(a) and (6)(i) amended, p. 1409, § 71, effective February 1, 1999. **L. 99:** (2) and (9) amended, p. 1086, § 5, effective July 1. **L. 2008:** (9) amended, p. 1348, § 4 effective July 1.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-116 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Subsection (3)(b)(II) provided for the repeal of subsection (3)(b), effective June 30, 1999. (See L. 95, p. 1397.)

Cross references: For the legislative declaration contained in the 1993 act amending subsection (3), see section 1 of chapter 165, Session Laws of Colorado 1993. For the legislative declaration contained in the 1997 act amending subsection (3)(a) and adding subsections (3)(c) and (9), see section 1 of chapter 236, Session Laws of Colorado 1997.

19-4-117. Costs. The court shall order reasonable fees of counsel, experts, and the child's guardian ad litem and other costs of the action and pretrial proceedings, including genetic tests, to be paid by the parties in proportions and at times determined by the court. In any action brought pursuant to article 13 or 13.5 of title 26, C.R.S., the final costs of any genetic tests or other tests of inherited characteristics shall be assessed against the nonprevailing party on the parentage issue.

Source: L. 87: Entire title R&RE, p. 799, § 1, effective October 1. **L. 92:** Entire section amended, p. 183, § 2, effective August 1. **L. 97:** Entire section amended, p. 563, § 11, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-117 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-118. Enforcement of judgment or order. (1) If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this article or under prior law, the obligation of the father may be enforced in the same or other proceedings by the mother, the child, or the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by

any other person, including a private agency, to the extent he has furnished or is furnishing these expenses.

(2) The court may order support payments to be made to the obligee, the clerk of the court, in those cases in which the executive director of the department of human services has notified the state court administrator pursuant to section 26-13-114 (5), C.R.S., that the judicial district in which the court is situated is ready to participate in the family support registry, through the family support registry, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court. The court may not order payments to be made to the clerk of the court once payments may be made through the family support registry.

(3) Willful failure to obey the judgment or order of the court is a civil contempt of the court. All remedies for the enforcement of judgments apply.

(4) In making any order for support pursuant to this section, the court shall take into consideration the capability of both parents to provide support.

Source: L. 87: Entire title R&RE, p. 799, § 1, effective October 1. **L. 98:** (2) amended, p. 766, § 16, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-118 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-119. Modification of judgment or order. (1) The court has continuing jurisdiction to modify or revoke a judgment or order:

(a) For future education and support; and

(b) With respect to matters listed in sections 19-4-116 (3) and (4) and 19-4-118 (2); except that a court entering a judgment or order for the payment of a lump sum or the purchase of an annuity under section 19-4-116 (4) may specify that the judgment or order may not be modified or revoked.

(2) The court may modify an order of support only in accordance with the provisions of and the standard for modification in section 14-10-122, C.R.S.

Source: L. 87: Entire title R&RE, p. 799, § 1, effective October 1. **L. 90:** (2) added, p. 892, § 16, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-119 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-120. Represented by counsel. At the pretrial hearing and in further proceedings, any party may be represented by counsel.

Source: L. 87: Entire title R&RE, p. 799, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-120 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-121. Hearings and records - confidentiality. (Repealed)

Source: L. 87: Entire title R&RE, p. 800, § 1, effective October 1. **L. 90:** Entire section repealed, p. 1012, § 8, effective July 1.

19-4-122. Action to declare mother and child relationship. Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of this article applicable to the father and child relationship apply.

Source: L. 87: Entire title R&RE, p. 800, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-122 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-123. Promise to render support. (1) Any promise in writing to furnish support for a child, growing out of a supposed or alleged father and child relationship, does not require consideration and is enforceable according to its terms, subject to section 19-4-107 (4).

(2) In the best interest of the child or the mother, the court may, and upon the promisor's request shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on behalf of the child all amounts paid in performance of the promise.

Source: L. 87: Entire title R&RE, p. 800, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-123 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-124. Birth records. (1) Upon order of a court of this state or upon an order issued and filed pursuant to article 13.5 of title 26, C.R.S., or upon request of a court of another state, the state registrar of vital statistics shall prepare a new certificate of birth consistent with the findings of the court and shall substitute the new certificate for the original certificate of birth.

(2) The fact that the father and child relationship was declared after the child's birth shall not be ascertainable from the new certificate, but the actual place and date of birth shall be shown.

(3) The evidence upon which the new certificate was made and the original birth certificate shall be kept in a sealed and confidential file and be subject to inspection only upon consent of the court and all interested persons or, in exceptional cases only, upon an order of the court for good cause shown.

Source: L. 87: Entire title R&RE, p. 800, § 1, effective October 1. **L. 89:** (1) amended, p. 1247, § 6, effective April 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-124 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-125. "Father" defined. In case of a maternity suit against a purported mother, where appropriate in the context, the word "father" shall mean "mother".

Source: L. 87: Entire title R&RE, p. 800, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-127 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-126. Uniformity of application and construction. This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

Source: L. 87: Entire title R&RE, p. 800, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-128 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-127. Severability. If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and, to this end, the provisions of this article are severable.

Source: L. 87: Entire title R&RE, p. 800, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-129 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-4-128. Right to trial to court. Any party may demand a trial to the court to determine the existence or nonexistence of the parent and child relationship. No party may demand a jury trial, and notwithstanding any demand which may have been made, trial shall be to the court and not to a jury.

Source: L. 88: Entire section added, p. 746, § 15, effective July 1. **L. 92:** Entire section amended, p. 183, § 3, effective August 1. **L. 94:** Entire section amended, p. 1542, § 16, effective May 31. **L. 97:** Entire section amended, p. 1276, § 17, effective July 1.

Cross references: For the legislative declaration contained in the 1997 act amending this section, see section 1 of chapter 236, Session Laws of Colorado 1997.

19-4-129. Child support - guidelines - schedule of basic support obligations. The provisions of section 14-10-115, C.R.S., shall apply to all child support obligations, established or modified, as part of any proceeding under this article, whether filed on or subsequent to July 1, 1988.

Source: L. 88: Entire section added, p. 746, § 15, effective July 1.

19-4-130. Temporary orders. (1) Upon the filing of any proceeding under this article or under article 13.5 of title 26, C.R.S., the court shall, as soon as practicable, enter a temporary or permanent order allocating parental responsibilities that shall allocate the decision-making responsibility and parenting time of the child until further order of the court.

(2) Subsection (1) of this section shall not apply to any paternity determination made pursuant to section 14-5-402, C.R.S.

Source: L. 92: Entire section added, p. 184, § 4, effective August 1. **L. 96:** Entire section amended, p. 612, § 14, effective July 1. **L. 98:** (1) amended, p. 1410, § 72, effective February 1, 1999. **L. 2015:** (2) amended, (HB 15-1198), ch. 173, p. 568, § 35, effective July 1.

ARTICLE 5

Relinquishment and Adoption

Editor's note: This title was repealed and reenacted in 1987. For historical information concerning the repeal and reenactment, see the editor's note following the title heading.

Law reviews: For article, "Difficult Issues in Adoption - Part 1", see 24 Colo. Law. 851 (1994); for article, "Difficult Issues in Adoption - Part 2", see 24 Colo. Law. 1083 (1994); for casenote, "Inappropriate Application of the Best Interests of the Child Standard Leads to Worst Case Scenario: In re C.C.R.S.", see 68 U. Colo. L. Rev. 259 (1997).

PART 1

RELINQUISHMENT

19-5-100.2. Legislative declaration. (1) The general assembly hereby finds that parental relinquishment and adoption of children are important and necessary options to facilitate the permanent placement of minor children if the birth parents are unable or unwilling to provide proper parental care. The general assembly further finds that adoption offers significant psychological, legal, economic, and social benefits not only for children who might otherwise be homeless but also for parents who are unable to care for their children and for adoptive parents who desire children to nurture, care for, and support. Conversely, the general

assembly recognizes that disrupted adoptive placements often have a profound and negative impact on individuals, particularly children, involved in the adoption proceedings.

(2) It is the purpose of this article to promote the integrity and finality of adoptions to ensure that children placed in adoptive placements will be raised in stable, loving, and permanent families. The general assembly intends that by enacting this legislation, it will be protecting children from being uprooted from adoptive placements and from the life-long emotional and psychological trauma that often accompanies being indiscriminately moved.

Source: L. 94: Entire section added, p. 746, § 1, effective April 20.

19-5-100.5. Applicability of article. Except where indicated otherwise, each provision of this article pertaining to relinquishment or adoption shall apply only to child welfare adoptions and not to private adoptions.

Source: L. 2010: Entire section added, (HB 10-1106), ch. 278, p. 1273, § 4, effective May 26.

19-5-101. Termination of the parent-child legal relationship. (1) The juvenile court may, upon petition, terminate the parent-child legal relationship between a parent or parents, or a possible parent or parents, and a child in:

(a) Proceedings under section 19-1-104 (1)(d);

(a.5) Proceedings under section 19-5-103.5 (2)(d);

(b) Proceedings under section 19-5-105;

(c) Proceedings under section 19-5-203 (1)(d), (1)(e), (1)(f), (1)(j), and (1)(k); or

(d) Proceedings under section 19-5-105.5.

(2) No parent shall relinquish the parent-child legal relationship with a child other than in accordance with the provisions of this article.

(3) A termination by a court of a parent-child legal relationship pursuant to proceedings under this section or any section described by subsection (1) of this section shall not be deemed to terminate a sibling relationship between sibling children who are parties to the termination of the parent-child legal relationship.

Source: L. 87: Entire title R&RE, p. 801, § 1, effective October 1. **L. 99:** (1) amended, p. 1065, § 9, effective June 1. **L. 2007:** (1) amended, p. 113, § 1, effective July 1. **L. 2008:** (3) added, p. 2, § 2, effective August 5. **L. 2013:** (1)(b) and (1)(c) amended and (1)(d) added, (SB 13-227), ch. 353, p. 2057, § 2, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-4-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-5-102. Venue. (1) A petition for relinquishment of the parent-child relationship shall be filed in the county where the child resides or in the county where the petitioner resides. If a child placement agency is involved, the petition may be filed in the county where the child placement agency is located.

(2) A petition for termination of the parent-child legal relationship pursuant to section 19-5-105.5 or section 19-5-105.7 must be filed in the county where the child resides or in the county where the petitioner resides.

Source: L. 87: Entire title R&RE, p. 801, § 1, effective October 1. **L. 88:** Entire section R&RE, p. 746, § 16, effective July 1. **L. 89:** Entire section amended, p. 938, § 1, effective March 21. **L. 2014:** Entire section amended, (HB 14-1162), ch. 167, p. 591, § 5, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-105 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-5-102.5. Relinquishment hearings - court docket priority. (1) On and after July 1, 2002, any hearing concerning a petition for relinquishment filed in a district court, the Colorado court of appeals, or the Colorado supreme court shall be given a priority on the court's docket. On and after July 1, 2002, if there is no determination on a case concerning a petition for relinquishment by any such court within two months of the filing of the petition, it shall be given a priority on the court's docket that supersedes the priority of any other priority civil hearing on the court's docket.

(2) Notwithstanding the provisions of subsection (1) of this section, nothing in this section shall affect the priority of a hearing concerning the issuance of a temporary protection order pursuant to section 13-14-104.5, C.R.S.

(3) The provisions of this section shall be implemented within existing appropriations.

Source: L. 2002: Entire section added, p. 1644, § 2, effective July 1. **L. 2003:** (2) amended, p. 1016, § 27, effective July 1. **L. 2004:** (2) amended, p. 556, § 15, effective July 1. **L. 2013:** (2) amended, (HB 13-1259), ch. 218, p. 1016, § 21, effective July 1.

19-5-103. Relinquishment procedure - petition - hearings. (1) Any parent desiring to relinquish his or her child shall:

(a) Obtain counseling for himself or herself and the child to be relinquished as the court deems appropriate from the county department of social services in the county where such parent resides or from a licensed child placement agency, and, if the petitioner has not received the counseling required by the court, the petition shall be continued until counseling is obtained, and the petitioner shall be referred to counseling by the court;

(b) (I) Petition the juvenile court upon a standardized form prescribed by the judicial department giving the following information: The name of both natural parents, if known; the name of the child, if named; the ages of all parties concerned; and the reasons for which relinquishment is desired.

(II) The petition shall be accompanied by a standardized affidavit of relinquishment counseling prescribed by the judicial department that includes:

(A) A statement indicating the nature and extent of counseling furnished to the petitioner, if any, and the recommendations of the counselor;

(B) A copy of the original birth certificate or a copy of the application therefor; and

(C) A statement disclosing any and all payments, gifts, assistance, goods, or services received, promised, or offered to the relinquishing parent in connection with the pregnancy, birth, or proposed relinquishment of the child and the source or sources of such payments, gifts, assistance, goods, or services.

(1.5) (a) Pursuant to the provisions of section 19-1-126, the petition for relinquishment shall:

(I) Include a statement indicating whether the child is an Indian child; and

(II) Include the identity of the Indian child's tribe, if the child is identified as an Indian child.

(b) If notices were sent to the parent or Indian custodian of the child and to the Indian child's tribe, pursuant to section 19-1-126, the postal receipts shall be attached to the petition and filed with the court or filed within fourteen days after the filing of the petition, as specified in section 19-1-126 (1)(c).

(2) The counseling specified in paragraph (a) of subsection (1) of this section and provided by the department or the child placement agency shall include, but not be limited to, the following:

(a) Information to the relinquishing parent concerning the permanence of the decision and the impact of such decision on the relinquishing parent now and in the future;

(b) Information concerning each parent's complete medical and social histories;

(c) In the case of pregnancy, referral of the woman for medical care and for determination of eligibility for medical assistance;

(d) Information concerning alternatives to relinquishment and referral to private and public resources that may meet the parent's needs;

(e) Relinquishment services necessary to protect the interests and welfare of a child born in a state institution;

(f) Information to the child's parent that if he or she applies for public assistance for himself or herself and the child, he or she must cooperate with the child support enforcement unit for the establishment and enforcement of a child support order; and

(g) The confidentiality of all information, except for nonidentifying information as defined in section 19-1-103 (80) that may be accessed as provided in part 4 of this article, obtained by the department and the child placement agency in the course of relinquishment counseling unless the parent provides written permission or a release of information is ordered by a court of competent jurisdiction and except for a copy of an original birth certificate that may be obtained by an adult adoptee, adult descendant of an adoptee, or a legal representative of the adoptee or descendant as authorized by section 19-5-305. The counseling shall also include notice that a birth parent has the opportunity to file a written statement specifying that the birth parent's information remain confidential, an explanation of the rights and responsibilities of birth parents who disagree about consent as set forth in section 19-5-305, and notice that a birth parent has the opportunity to sign and submit a contact preference form and updated medical history statements to the state registrar as set forth in section 19-5-305 (1.5).

(2.5) In those cases in which a parent proposes to relinquish his or her parent-child legal relationship with respect to a child who is under one year of age pursuant to the expedited procedures set forth in section 19-5-103.5, the licensed child placement agency or the county department of social services assisting the relinquishing parent shall proceed with filing the petition and providing notice as set forth in section 19-5-103.5.

(3) Upon receipt of the petition for relinquishment, the court shall set the same for hearing on the condition that the requirements of subsection (1) of this section have been complied with by the petitioner.

(4) (a) Except as otherwise provided in section 19-5-103.5 (2)(d), the parent-child legal relationship of a parent shall not be terminated by relinquishment proceedings unless the parent joins in the petition.

(b) The relinquishing parent, child placement agency, and county department of social services shall provide the court any and all information described in section 19-1-103 (80) that is available to such relinquishing parent, agency, or county department.

(5) The court shall not issue an order of relinquishment until it is satisfied that the relinquishing parent and the child, if determined appropriate by the court, have been counseled pursuant to subsection (1) of this section and this subsection (5) and fully advised of the consequences of the parent's act. The court may order counseling for any age child to be relinquished if the court deems such counseling would be in the child's best interests. The court may order that a child younger than twelve years of age be prepared for relinquishment, termination of parental rights, or adoption.

(6) If the court finds after the hearing that it is in the best interests of the child that no relinquishment be granted, the court shall enter an order dismissing the action.

(7) (a) The court shall enter an order of relinquishment if the court finds after the hearing that:

(I) The relinquishing parent or parents and any child that the court directed into counseling have been counseled as provided in subsections (1) and (5) of this section; and

(II) The parent's decision to relinquish is knowing and voluntary and not the result of any threats, coercion, or undue influence or inducements; and

(III) The relinquishment would best serve the interests of the child to be relinquished.

(b) There shall be a rebuttable presumption that a relinquishment would not be in the child's best interests if the child is twelve years of age or older and objects to the relinquishment.

(8) If the court is not satisfied that the relinquishing parents and the child, if twelve years of age or older, have been offered proper and sufficient counsel and advice, it shall continue the matter for such time as the court deems necessary.

(9) (a) The court may appoint a guardian ad litem to protect the interests of the child if:

(I) The court finds that there is a conflict of interest between the child and his or her parents, guardian, or legal custodian;

(II) The court finds that such appointment would be in the best interests of the child; or

(III) The court determines that the child is twelve years of age or older and that the welfare of the child mandates such appointment.

(b) Reasonable fees for guardians ad litem appointed pursuant to this subsection (9) shall be paid by the relinquishing parent or parents; except that, in the case of an indigent parent or parents, such fees shall be paid as an expense of the state from annual appropriations to the office of the state court administrator.

(10) The court may interview the child in chambers to ascertain the child's wishes as to the relinquishment proceedings. The court may permit counsel to be present at such an interview. The court shall cause a record of the interview to be made, and it shall be made a part of the record in the case.

(11) The court may seek the advice of professional personnel whether or not said personnel are employed on a regular basis by the court. Any advice given by professional persons shall be in writing and shall be made available by the court to attorneys of record, to the parties, and to any other expert witnesses upon request, but it shall be considered confidential for any other purposes, shall be sealed, and shall not be open to inspection except by consent of the court. Attorneys of record may call for the cross-examination of any professional persons consulted by the court.

(12) The provisions of this section, including but not limited to relinquishment counseling, notification, and the relinquishment hearing, shall apply in any case involving a child in Colorado or for whom Colorado is the home state as described in section 14-13-102 (7), C.R.S., including any case in which it is proposed that the child to be relinquished will be relinquished or adopted outside the state of Colorado.

Source: L. 87: Entire title R&RE, p. 801, § 1, effective October 1. **L. 92:** (1)(b)(II) amended, p. 179, § 1, effective March 20. **L. 97:** Entire section amended, p. 1155, § 1, effective July 1. **L. 2000:** (2)(g) amended, p. 1373, § 6, effective July 1; (12) amended, p. 1538, § 6, effective July 1. **L. 2002:** (1.5) added, p. 787, § 8, effective May 30. **L. 2003:** (2.5) added, p. 872, § 2, effective July 1. **L. 2005:** (2)(g) amended, p. 992, § 4, effective July 1. **L. 2007:** (4)(a) amended, p. 115, § 5, effective July 1. **L. 2012:** (1.5)(b) amended, (SB 12-175), ch. 208, p. 875, § 135, effective July 1. **L. 2014:** (2)(g) amended, (SB 14-051), ch. 260, p. 1048, § 3, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-4-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2002 act enacting subsection (1.5), see section 1 of chapter 217, Session Laws of Colorado 2002.

19-5-103.5. Expedited relinquishment procedure - children under one year of age - other birth parents - notice - termination. (1) (a) Notwithstanding the provisions of section 19-5-103 to the contrary, a parent desiring to relinquish his or her child may seek an expedited order terminating his or her parent-child legal relationship without the necessity of a court hearing if:

(I) The child is under one year of age, at the time of filing the petition;

(II) The relinquishing parent is being assisted by a licensed child placement agency or the county department of social services in the county where such parent resides;

(III) The requirements of section 19-5-103 (1) have been met; and

(IV) The parent signs an affidavit stating his or her desire to voluntarily relinquish his or her parent-child legal relationship with the child and consenting to a waiver of his or her right to contest a termination of parentage.

(b) (I) The affidavit required to be signed by the parent seeking to relinquish his or her parental rights pursuant to this section shall advise the relinquishing parent of the consequences of the relinquishment decision and shall further advise the relinquishing parent that he or she is still required to obtain the relinquishment counseling described in section 19-5-103 (1)(a) and

(2). The relinquishing parent shall be advised of the opportunity to seek independent counseling. The affidavit shall also advise the relinquishing parent that he or she may withdraw the affidavit anytime after signing it but before the affidavit and petition are filed with the court. The relinquishing parent may sign the affidavit before the birth of the child. The relinquishing birth parent may withdraw the affidavit from the child placement agency or county department of social services in the county where such parent resides any time after signing it but before the affidavit and petition are filed with the court.

(II) The affidavit shall include the following:

(A) A statement that the petitioner has completed the relinquishment counseling required in section 19-5-103 (1) and (2) or understands he or she must complete the counseling prior to entry of the order of termination;

(B) A statement that the child to be relinquished is under one year of age at the time of filing the petition;

(C) A statement that the relinquishing parent's decision is knowing and voluntary and not the result of threats, coercion, or undue influence or inducements; and

(D) A statement that the relinquishing parent believes the relinquishment is in the best interests of the child.

(III) The relinquishing parent's signature on the affidavit shall be witnessed by two witnesses, one of whom shall be either a representative of the licensed child placement agency with which the relinquishing parent has contracted or a representative of the county department of social services in the county where such parent resides, whichever is assisting the parent. The other witness shall not be associated with either the licensed child placement agency or the county department of social services in the county where such parent resides, whichever is assisting the parent, and shall not be the potential adoptive parent of the child to be relinquished.

(IV) The affidavit shall be notarized and shall be attached to the petition for relinquishment and filed with the court after the birth of the child. The petition for relinquishment may not be filed until at least four days after the birth of the child.

(c) If the birth parent has signed the affidavit described in this subsection (1) and if it is properly witnessed and notarized and attached to the petition, the court may vacate the hearing required pursuant to section 19-5-103 (3) and, upon making the findings set forth in section 19-5-103 (7)(a), shall enter an order of relinquishment, without a hearing, no more than seven business days after the date of the filing of the petition for relinquishment and the accompanying affidavit.

(2) (a) Notwithstanding the provisions of section 19-5-105 to the contrary, in those cases in which a parent seeks to relinquish his or her parent-child legal relationship with a child pursuant to this section, the licensed child placement agency or the county department of social services assisting the relinquishing parent shall proceed with filing the petition for termination of the other birth parent's or possible birth parents' parent-child legal relationship and notify pursuant to this section the other birth parent or possible birth parents identified pursuant to section 19-5-105 (2).

(b) Notice of the proceeding pursuant to this section shall be given to every person identified as the other birth parent or a possible birth parent in the manner appropriate under the Colorado rules of juvenile procedure for the service of process or in any manner the court directs; except that notice shall not be required to be given to a person who has received notice pursuant to section 19-5-103.7 if the person waives the right to contest a termination of parental

rights and waives the right to further notice concerning the expedited relinquishment or if the person fails to reply as required pursuant to section 19-5-103.7. The notice shall inform the parent or alleged parent whose rights are to be determined that failure to file an answer or to appear within twenty-one days after service and, in the case of an alleged father, failure to file a claim of paternity under article 4 of this title within twenty-one days after service, if a claim has not previously been filed, may likely result in termination of the parent's or the alleged parent's parental rights to the child. The notice shall also inform the parent or alleged parent whose rights are to be determined that the person has the right to waive his or her right to appear and contest and that failure to appear and contest may likely result in termination of the parent's or the alleged parent's parental rights to the child. Proof of giving the notice shall be filed with the court before the petition is heard or otherwise acted upon. If no person has been identified as the birth parent, the court shall order that notice be provided to all possible birth parents by publication or public posting of the notice at times and in the places and manner the court deems appropriate.

(c) The other birth parent or possible birth parents may sign the affidavit of voluntary relinquishment described in subsection (1) of this section. Such birth parent may sign the affidavit prior to the birth of the child. If the other birth parent or possible birth parent signs an affidavit of voluntary relinquishment, he or she may withdraw the affidavit from the child placement agency or the county department of social services assisting the relinquishing parent any time after signing it but before the affidavit and petition are filed with the court.

(d) (I) The court shall vacate the proceeding and, at the time of the review of the case pursuant to paragraph (c) of subsection (1) of this section, enter an order terminating the parent-child legal relationship of the other birth parent or possible birth parent if the other birth parent or possible birth parent:

(A) Has waived his or her right to contest the termination of parental rights; or

(B) Has failed to appear and contest or to file an answer to the petition for termination or to file a paternity action within the prescribed twenty-one days following the date of the service, publication, or posting of the notice as provided in the notice pursuant to paragraph (b) of this subsection (2); or

(C) Has signed the affidavit of voluntary relinquishment described in subsection (1) of this section; or

(D) Has waived his or her right to notice and right to contest the termination of parental rights pursuant to section 19-5-103.7.

(II) If the provisions of subparagraph (I) of this paragraph (d) do not apply and the other birth parent or possible birth parent expresses his or her desire to appear and contest the termination of the parent-child legal relationship, the court shall proceed with a hearing on the petition for termination of the other birth parent's parent-child legal relationship.

(3) The licensed child placement agency or the county department of social services assisting the relinquishing parent shall not submit the documents referenced in subsections (1) and (2) of this section for judicial review unless a permanent placement for the child has been identified.

(4) The court shall not be bound to enter an order terminating a parent-child legal relationship upon the affidavit of the relinquishing parent pursuant to subsection (1) of this section and the court shall not be bound to enter an order terminating a parent-child legal relationship of the other birth parent or possible birth parents pursuant to subsection (2) of this

section, but the court may, upon its own motion, require that a formal hearing be held to determine any or all issues presented by the pleadings.

Source: L. 2003: Entire section added, p. 869, § 1, effective July 1. **L. 2004:** (2)(a) amended, p. 263, § 1, effective April 5. **L. 2005:** (2)(b) and (2)(d) amended, p. 101, § 2, effective July 1. **L. 2007:** (2)(a) and (2)(d)(II) amended, p. 114, § 4, effective July 1. **L. 2012:** (2)(b) and (2)(d)(I)(B) amended, (SB 12-175), ch. 208, p. 875, § 136, effective July 1.

19-5-103.7. Anticipated expedited relinquishment - children under one year of age - notice to other or possible parent - administrative procedures. (1) Notwithstanding any provision of section 19-5-103 to the contrary, a licensed child placement agency assisting a parent who plans to relinquish a child through an expedited relinquishment pursuant to section 19-5-103.5, may provide notice of the anticipated expedited relinquishment on behalf of the relinquishing parent to any other birth parent or possible birth parent identified pursuant to section 19-5-105 (2) who is not a presumed parent pursuant to section 19-4-105 (1).

(2) The licensed child placement agency may give notice of the anticipated expedited relinquishment prior to or after the filing of the affidavit and petition with the court, but not more than sixty-three days prior to the anticipated birth of the child to be relinquished.

(3) (a) Notice to the other birth parent or possible birth parent given pursuant to this section shall be provided:

(I) By publication appearing in a newspaper of general circulation in the county of the person's last known address, if the person's identity is known, or the county in which the relinquishing parent reports the conception to have occurred. Notice by publication is only proper if a person has not been identified as the other birth parent or possible birth parent or the location of the other birth parent or possible birth parent has not been determined after diligent efforts.

(II) In person, delivered:

(A) In a manner appropriate under the Colorado rules of juvenile procedure for the service of process; or

(B) By an employee or a representative of the licensed child placement agency assisting the relinquishing parent, with a requirement that the other birth parent or possible birth parent sign a statement acknowledging receipt of the notice; or

(III) By certified mail to only the other birth parent or possible birth parent, return receipt requested, with return receipt providing prima facie evidence of service.

(b) The date of notice shall be considered either the date on which the notice is delivered pursuant to subparagraph (II) of paragraph (a) of this subsection (3) or the date on the return receipt for notice given by certified mail pursuant to subparagraph (III) of paragraph (a) of this subsection (3), whichever is applicable. If notice is provided by publication, the date of notice shall be the date of the first day of publication.

(4) (a) Notice of the anticipated expedited relinquishment given pursuant to this section shall include the name, mailing address, and physical address of the licensed child placement agency providing the notice and shall inform the other birth parent or possible birth parent of the following:

(I) The name of the parent of the child who anticipates seeking to relinquish his or her parental rights for purposes of the child's adoption and the anticipated date of birth or the actual date of birth of the child;

(II) That the other birth parent or possible birth parent has been identified by the parent who anticipates seeking to relinquish his or her parental rights as potentially being the other birth parent of the child, or, if no other birth parent or possible birth parent has been identified, that the parent who anticipates seeking to relinquish his or her parental rights is unable to identify the other birth parent or possible birth parent;

(III) That placing a child for adoption requires termination of the child's parent-child legal relationships;

(IV) That the other birth parent or possible birth parent has a right to contest the termination of parental rights; and

(V) That failure to declare an intent to contest the termination of parental rights may likely result in a termination of the person's parental rights to the child, and that, to declare an intent to contest the termination of the parent-child legal relationship, the other birth parent or possible birth parent shall:

(A) No later than twenty-one days after the date of notice pursuant to paragraph (b) of subsection (3) of this section or before a relinquishment petition is filed with the court, whichever occurs later, either return a reply form to the licensed child placement agency by certified mail, return receipt requested, or personally appear at the licensed child placement agency to declare an intent to contest the termination of parental rights; and

(B) No later than twenty-one days after the date of notice pursuant to paragraph (b) of subsection (3) of this section or before a relinquishment petition is filed with the court, whichever occurs later, file a claim of paternity pursuant to article 4 of this title and notify the licensed child placement agency pursuant to section 19-4-105.5 (4);

(VI) That the other birth parent or possible birth parent may waive the right to contest the termination of parental rights and that waiver may likely result in a termination of the person's parental rights to the child; and

(VII) That further notice related to the anticipated expedited relinquishment proceedings shall not be provided to the other birth parent or possible birth parent without receipt of a response required by subparagraph (V) of this paragraph (a).

(b) (I) Except when notice is provided by publication, the licensed child placement agency assisting the relinquishing parent with an expedited relinquishment shall send or deliver a reply form described in sub-subparagraph (A) of subparagraph (V) of paragraph (a) of this subsection (4) to the other birth parent or possible birth parent at the same time and by the same method as the delivery of notice given pursuant to subsection (3) of this section. The reply form sent pursuant to this paragraph (b), or otherwise available at the licensed child placement agency pursuant to paragraph (b) of subsection (7) of this section, shall be signed by the other birth parent or possible birth parent, witnessed, and dated, and shall require the other birth parent or possible birth parent to disclose the following information to the licensed child placement agency:

(A) The full name of the other birth parent or possible birth parent;

(B) The name of the relinquishing parent and the anticipated date of birth or the actual date of birth of the child to be relinquished, as listed on the notice;

(C) The other birth parent's or possible birth parent's address;

(D) The case number of the pending action filed, if any, by the other birth parent or the possible birth parent for determination of the parent-child legal relationship pertaining to the child to be relinquished; and

(E) If a case concerning the determination of the parent-child legal relationship pertaining to the child to be relinquished has been filed, a copy of any court orders issued regarding the other birth parent's or possible birth parent's parent-child legal relationship.

(II) In addition to the requirements of subparagraph (I) of this paragraph (b), the reply form sent or delivered pursuant to this paragraph (b), or otherwise available at the licensed child placement agency pursuant to paragraph (b) of subsection (7) of this section, shall provide response options for selection by the other birth parent or the possible birth parent replying to the notice, which response options shall be substantially similar to the following:

(A) That the person replying to the notice acknowledges that there may be a parent-child legal relationship, declares an intent to contest the termination of parental rights, and declares an intent to seek to have the court make this determination;

(B) That the person replying to the notice acknowledges that there may be a parent-child legal relationship, waives the right to contest a termination of parental rights, and waives the right to further notice concerning the expedited relinquishment and the termination of parental rights with respect to the child; and

(C) That the person replying to the notice does not acknowledge that there may be a parent-child legal relationship, waives the right to contest a termination of parental rights, and waives the right to further notice concerning the expedited relinquishment and the termination of parental rights with respect to the child.

(III) In addition to the requirements of subparagraphs (I) and (II) of this paragraph (b), the reply form sent or delivered pursuant to this paragraph (b), or otherwise available at the licensed child placement agency pursuant to paragraph (b) of subsection (7) of this section, shall include a statement of acknowledgment by the other birth parent or possible birth parent that there is a requirement to file a claim of paternity and to notify the licensed child placement agency pursuant to section 19-4-105.5 (4) no later than twenty days after the date of notice or before a relinquishment petition is filed with the court, whichever occurs later.

(5) To properly reply and declare an intent to contest the termination of the parent-child legal relationship pursuant to this section, the other birth parent or possible birth parent shall, no later than twenty days after receiving notice pursuant to subsection (3) of this section or before a relinquishment petition is filed with the court, whichever occurs later:

(a) Return a reply form to the licensed child placement agency by certified mail, return receipt requested, or, for other birth parents or possible birth parents who receive notice by publication or who otherwise decide not to return the reply form by certified mail, personally appear at the licensed child placement agency to declare an intent to contest the termination of parental rights in the anticipated proceedings; and

(b) File a claim of paternity pursuant to article 4 of this title and notify the licensed child placement agency pursuant to section 19-4-105.5 (4).

(6) The other birth parent or possible birth parent who is served with notice pursuant to subsection (3) of this section and fails to reply as required in subsection (5) of this section irrevocably waives the right to further notice of proceedings related to the anticipated expedited relinquishment and irrevocably waives the right to appear and contest the termination of his or

her parental rights, unless the other birth parent or possible birth parent proves, by clear and convincing evidence, the following:

(a) That it was not possible for the other birth parent or possible birth parent to properly reply and declare an intent to contest the termination of the parent-child legal relationship pursuant to the requirements of subsection (5) of this section; and

(b) That the other birth parent or possible birth parent did properly reply and declare an intent to contest the termination of the parent-child legal relationship pursuant to the requirements of subsection (5) of this section within twenty days after it became possible for the other birth parent or possible birth parent to do so.

(7) (a) If the other birth parent or possible birth parent replies to the notice provided pursuant to subsection (3) of this section by returning the reply form via certified mail to the licensed child placement agency that sent the notice, the licensed child placement agency shall accept and file the original reply form with the court upon filing the petition for relinquishment or upon receipt of the reply form, whichever occurs later. The date of the reply shall be then noted on the return receipt.

(b) If the other birth parent or possible birth parent replies to the notice provided pursuant to subsection (3) of this section by appearing in person at the licensed child placement agency to declare his or her response, the licensed child placement agency shall provide a reply form for the other birth parent or the possible birth parent to complete and sign. An agency or social services employee shall sign the form as a witness. The licensed child placement agency shall accept the completed, signed reply form, provide a copy of the form to the other birth parent or the possible birth parent, and file the original with the court upon filing the petition for relinquishment or upon receipt of the completed reply form, whichever occurs later. The date of the reply shall be the date on which the other birth parent or the possible birth parent signs the reply.

(c) (I) Notwithstanding any provision of this section to the contrary, if the other birth parent or possible birth parent replies to notice provided by publication pursuant to subsection (3) of this section by contacting the licensed child placement agency in a manner other than is specified in paragraph (b) of this subsection (7), and the other birth parent or possible birth parent provides his or her full name and address, the licensed child placement agency shall:

(A) Within seven days after the contact, and by certified mail, return receipt requested, send a reply form to the other birth parent or possible birth parent with a written statement informing the person that the date he or she contacted the licensed child placement agency in response to the notice received shall be considered his or her date of reply if he or she returns the form no later than fourteen days after the date noted on the return receipt, and that, if he or she returns the form more than fourteen days after the date noted on the return receipt, the date the licensed child placement agency actually receives the reply form shall be considered his or her reply date; and

(B) Maintain a dated record to submit to the court of all communications made related to this paragraph (c).

(II) The date of reply provided in the manner described in this paragraph (c) shall be the date the other birth parent or possible birth parent contacts the licensed child placement agency in response to the notice received if he or she returns the form no later than fourteen days after the date noted on the return receipt of the form. If the other birth parent or possible birth parent

returns the form more than fourteen days after the date noted on the return receipt, the date the reply is received by the licensed child placement agency shall be considered the reply date.

(d) Notwithstanding any provision of this section to the contrary, if the other birth parent or possible birth parent files a claim of paternity pursuant to article 4 of this title and provides notice to the licensed child placement agency pursuant to section 19-4-105.5, then such claim and notice shall be deemed to satisfy the requirements of subsection (5) of this section, so long as the claim of paternity is filed and notice is provided to the licensed child placement agency no later than twenty-one days after receiving notice pursuant to subsection (3) of this section or before a relinquishment petition is filed with the court.

(e) The other birth parent or possible birth parent who replies to a licensed child placement agency pursuant to this subsection (7) shall notify the agency of any change in his or her address.

(f) (I) Notwithstanding any provision of this section to the contrary, the licensed child placement agency shall respond as specified in subparagraph (II) of this paragraph (f) and shall not have the duty to respond as required in paragraph (a), (b), or (c) of this subsection (7) or to file any further documentation of a respondent's reply if, before the respondent replies to the notice as described in paragraph (a), (b), or (c) of this subsection (7), all of the following have occurred:

(A) The relinquishment petition has been filed with the court;

(B) At least twenty-one days have passed since the notice was provided; and

(C) The licensed child placement agency has filed the affidavit of administrative notice described in subsection (8) of this section with the court.

(II) If the requirements specified in subparagraph (I) of this paragraph (f) have been met before the respondent replies to the notice as described in paragraph (a), (b), or (c) of this subsection (7), the licensed child placement agency shall provide the respondent, to the extent of the agency's knowledge, with the following information:

(A) Verification that the petitions and affidavit have been filed;

(B) The court in which the case was filed;

(C) The case number; and

(D) Whether the court has ordered the termination of the respondent's parental rights.

(8) A licensed child placement agency that provides notice of the anticipated expedited relinquishment on behalf of the relinquishing parent to the other birth parent or possible birth parent pursuant to the provisions of this section shall have the duty to file with the court the following information at the time it files the petition for relinquishment:

(a) An affidavit of administrative notice with respect to the other birth parent or possible birth parent who has received notice pursuant to subsection (3) of this section, including the following information, if available:

(I) The method of providing notice;

(II) The date of notice;

(III) The deadline for reply;

(IV) The date of the reply;

(V) The intent declared in the reply;

(VI) A statement indicating whether an action relating to the parent and child legal relationship was filed;

(VII) A statement indicating whether the person's reply was timely; and

(VIII) A statement indicating that the expedited relinquishment was filed pursuant to section 19-5-103.5.

(b) In addition to the affidavit of administrative notice filed with the court pursuant to paragraph (a) of this subsection (8), the licensed child placement agency shall file all available evidence supporting the affidavit, including but not limited to signed return receipts, completed reply forms, affidavits of service of process, evidence of publication, evidence of the filing of an action relating to the parent and child legal relationship, and any other records of pertinent communication with the possible birth parent or other birth parent.

(9) Nothing in this section shall be construed to require a parent who plans to relinquish a child through an expedited relinquishment pursuant to section 19-5-103.5 to file the expedited relinquishment.

(10) Nothing in this section shall be construed to authorize the filing of a petition and affidavit of relinquishment prior to the birth of a child.

Source: L. 2005: Entire section added, p. 95, § 1, effective July 1. **L. 2007:** (3)(a)(II) amended and (7)(f) added, pp. 114, 113, §§ 3, 2, effective July 1. **L. 2012:** (2), (4)(a)(V), (7)(c)(I)(A), (7)(c)(II), (7)(d), and (7)(f)(I)(B) amended, (SB 12-175), ch. 208, p. 875, § 137, effective July 1.

19-5-104. Final order of relinquishment. (1) If the court terminates the parent-child legal relationship of both parents or of the only living parent, the court, after taking into account the religious background of the child, shall order guardianship of the person and legal custody transferred to:

(a) The county department of social services; or

(b) A licensed child placement agency; or

(c) A relative of the child; or

(d) An individual determined to be of good moral character through a process that includes the assessment made pursuant to section 19-5-206 (2)(g), if such individual shall have had the child living in his or her home for six months or more, including a foster parent or a designated adoptive parent.

(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.

(3) No person shall be precluded from adopting a child solely because that person has been a child's foster parent.

(4) The order of relinquishment shall set forth all pertinent facts brought at the hearing, and, in addition, it shall state that the court is satisfied that the counsel and guidance provided for in section 19-5-103 (1) and (5) has been offered the relinquishing parent or parents and any child for whom the court has ordered counseling.

(5) A final order of relinquishment shall divest the relinquishing parent or parents of all legal rights and obligations they may have with respect to the child relinquished, but it shall not modify the child's status as an heir at law which shall cease only upon a subsequent final decree of adoption; except that the relinquishing parent's or parents' obligation to pay for services received by the child through the department, or other support received, shall be terminated upon a subsequent final decree of adoption or by order of the court at the time of relinquishment. The order of relinquishment shall release the relinquished child from all legal obligations with respect to the relinquishing parent or parents.

(6) If one parent files a petition for the relinquishment of a child and the agency or person having custody of the child files a petition to terminate the rights of the other parent pursuant to section 19-5-105, the court shall set a hearing, as expeditiously as possible, on the relinquishment petition. A court may enter an order of relinquishment for the purpose of adoption prior to the relinquishment or termination of the other parent's parental rights. Except as otherwise provided in subsection (7) of this section, an order of relinquishment is final and irrevocable.

(7) (a) A relinquishment may be revoked only if, within ninety-one days after the entry of the relinquishment order, the relinquishing parent establishes by clear and convincing evidence that such relinquishment was obtained by fraud or duress.

(b) Notwithstanding paragraph (a) of this subsection (7), a relinquishment may not be revoked on the basis that the relinquishment or termination of the other parent's parental rights was not obtained because the relinquishing parent knew, but did not disclose, the name or whereabouts of such other parent.

(8) If the relinquishment by an individual is revoked pursuant to subsection (7) of this section and no grounds exist under section 19-5-105 or under part 6 of article 3 of this title for terminating the parental rights of that individual, the court shall dismiss any proceeding for adoption and shall provide for the care and custody of the child according to the child's best interests.

(9) The fact that the relinquishing parent or parents are minors shall in no way affect the validity of the final order of relinquishment.

Source: L. 87: Entire title R&RE, p. 802, § 1, effective October 1. **L. 88:** (1)(d) and (2) amended and (2.5) added, p. 757, § 3, effective May 31. **L. 94:** (4.3), (4.5), and (4.7) added, p. 747, § 2, effective April 20; (4) amended, p. 2688, § 210, effective July 1. **L. 97:** Entire section amended, p. 1158, § 2, effective July 1. **L. 2003:** (2) amended, p. 2627, § 8, effective June 5. **L. 2010:** IP(1) and (1)(d) amended, (HB 10-1106), ch. 278, p. 1273, § 3, effective May 26. **L. 2012:** (7)(a) amended, (SB 12-175), ch. 208, p. 877, § 138, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-4-103 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-5-105. Proceeding to terminate parent-child legal relationship. (1) If one parent relinquishes or proposes to relinquish or consents to the adoption of a child, the agency or person having custody of the child shall file a petition in the juvenile court to terminate the parent-child legal relationship of the other parent, unless the other parent's relationship to the child has been previously terminated or determined by a court not to exist. This section applies whether or not the other parent is a presumed parent pursuant to section 19-4-105 (1).

(2) In an effort to identify the other birth parent, the court shall cause inquiry to be made of the known parent and any other appropriate person. The inquiry shall include the following: Whether the mother was married at the time of conception of the child or at any time thereafter; whether the mother was cohabiting with a man at the time of conception or birth of the child; whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy; or whether any man has formally or informally acknowledged or declared his possible paternity of the child.

(3) If, after the inquiry, the other birth parent is identified to the satisfaction of the court or if more than one person is identified as a possible parent, each shall be given notice of the proceeding in accordance with subsection (5) of this section, including notice of the person's right to waive his or her right to appear and contest. If any of them waives his or her right to appear and contest or fails to appear or, if appearing, cannot personally assume legal and physical custody, taking into account the child's age, needs, and individual circumstances, such person's parent-child legal relationship with reference to the child shall be terminated. If the other birth parent or a person representing himself or herself to be the other birth parent appears and demonstrates the desire and ability to personally assume legal and physical custody of the child, taking into account the child's age, needs, and individual circumstances, the court shall proceed to determine parentage under article 4 of this title. If the court determines that the person is the other birth parent, the court shall set a hearing, as expeditiously as possible, to determine whether the interests of the child or of the community require that the other parent's rights be terminated or, if they are not terminated, to determine whether:

(a) To award custody to the other birth parent or to the physical custodian of the child; or

(b) To direct that a dependency and neglect action be filed pursuant to part 5 of article 3 of this title with appropriate orders for the protection of the child during the pendency of the action.

(3.1) The court may order the termination of the other birth parent's parental rights upon a finding that termination is in the best interests of the child and that there is clear and convincing evidence of one or more of the following:

(a) That the parent is unfit. In considering the fitness of the child's parent, the court shall consider the following:

(I) An emotional illness, a behavioral or mental health disorder, or an intellectual and developmental disability of the parent of such duration or nature as to render the parent unlikely, within a reasonable period of time, to care for the ongoing physical, mental, and emotional needs of the child;

(II) A single incident of life-threatening or serious bodily injury or disfigurement of the child or other children;

(III) Conduct toward the child or other children of a physically or sexually abusive nature;

(IV) A history of violent behavior that demonstrates that the individual is unfit to maintain a parent-child relationship with the minor, which may include an incidence of sexual assault, as defined in section 19-1-103 (96.5), that resulted in the conception of the child;

(V) Excessive use of intoxicating liquors or use of controlled substances, as defined in section 18-18-102 (5), C.R.S., that affects the ability of the individual to care and provide for the child;

(VI) Neglect of the child or other children;

(VII) Injury or death of a sibling or other children due to proven abuse or neglect by such parent;

(VIII) Whether, on two or more occasions, a child in the physical custody of the parent has been adjudicated dependent or neglected in a proceeding under article 3 of this title or comparable proceedings under the laws of another state or the federal government;

(IX) Whether, on one or more prior occasions, a parent has had his or her parent-child legal relationship terminated pursuant to this section or article 3 of this title or comparable proceedings under the laws of another state or the federal government.

(b) That the parent has not established a substantial, positive relationship with the child. The court shall consider, but shall not be limited to, the following in determining whether the parent has established a substantial, positive relationship with the child:

(I) Whether the parent has maintained regular and meaningful contact with the child;

(II) Whether the parent has openly lived with the child for at least one hundred eighty days within the year preceding the filing of the relinquishment petition or, if the child is less than one year old at the time of the filing of the relinquishment petition, for at least one-half of the child's life; and

(III) Whether the parent has openly held out the child as his or her own child.

(c) That the parent has not promptly taken substantial parental responsibility for the child. In making this determination the court shall consider, but shall not be limited to, the following:

(I) Whether the parent who is the subject of the petition is served with notice and fails to file an answer within thirty-five days after service of the notice and petition to terminate the parent-child legal relationship, or within twenty-one days if the petition for termination was filed pursuant to section 19-5-103.5, or fails to file a paternity action, pursuant to article 4 of this title, within thirty-five days after the birth of the child or within thirty-five days after receiving notice that he is the father or likely father of the child, or, for those petitions filed pursuant to section 19-5-103.5, within twenty-one days after the birth of the child or after receiving notice that he is the father or likely father of the child;

(II) Whether the parent has failed to pay regular and reasonable support for the care of the child, according to that parent's means; and

(III) Whether the birth father has failed to substantially assist the mother in the payment of the medical, hospital, and nursing expenses, according to that parent's means, incurred in connection with the pregnancy and birth of the child.

(3.2) In considering the termination of a parent's parental rights, the court shall give paramount consideration to the physical, mental, and emotional conditions and needs of the child. Such consideration shall specifically include whether the child has formed a strong, positive bond with the child's physical custodian, the time period that the bond has existed, and whether removal of the child from the physical custodian would likely cause significant psychological harm to the child.

(3.3) If the child is under one year of age at the time that the relinquishment petition is filed, there is an affirmative defense to any allegations under subparagraph (VI) of paragraph (a), paragraph (b), and paragraph (c) of subsection (3.1) of this section that the parent's neglect, failure to establish a substantial relationship, or failure to take substantial responsibility for the child was due to impediments created by the other parent or person having custody. A parent shall demonstrate such impediments created by the other parent or person having custody by a preponderance of the evidence.

(3.4) (a) If the court determines not to terminate the nonrelinquishing parent's parental rights nor to direct that a dependency and neglect action be filed, the court shall proceed to determine custody of the child, parenting time with the child, duty of support, and recovery of child support debt.

(b) The court shall determine custody based upon the best interests of the child giving paramount consideration to the physical, mental, and emotional conditions and needs of the child.

(c) If the child has been out of his or her birth parents' care for more than one year, irrespective of incidental communications or visits from the relinquishing or nonrelinquishing parent, there is a rebuttable presumption that the best interests of the child will be served by granting custody to the person in whose care the child has been for that period. Such presumption may be overcome by a preponderance of the evidence.

(3.5) Notwithstanding subsection (3.4) of this section, the court shall grant custody of the child to the nonrelinquishing birth parent if the court finds that the birth parent has the ability and the desire to assume personally legal and physical custody of the child promptly and that all of the following exists:

(a) The nonrelinquishing parent has established a substantial, positive relationship with the child;

(b) The nonrelinquishing parent has promptly taken substantial parental responsibility for the child; and

(c) The award of custody to the nonrelinquishing parent is in the best interests of the child.

(3.6) Except for a parent whose parental rights have been relinquished pursuant to section 19-5-104, a person who has or did have the child in his or her care has the right to intervene as an interested party and to present evidence to the court regarding the nonrelinquishing parent's contact, communication, and relationship with the child. If custody is at issue pursuant to subsection (3.4) of this section, such person also has the right to present

evidence regarding the best interests of the child and his or her own suitability as a placement for the child.

(4) If, after the inquiry, the court is unable to identify the other birth parent or any other possible birth parent and no person has appeared claiming to be the other birth parent and claiming custodial rights, the court shall enter an order terminating the unknown birth parent's parent-child legal relationship with reference to the child. Subject to the disposition of an appeal upon the expiration of thirty-five days after an order terminating a parent-child legal relationship is issued under subsection (3) of this section or this subsection (4), the order cannot be questioned by any person, in any manner, or upon any ground, except fraud upon the court or fraud upon a party. Upon an allegation of fraud, the termination order cannot be questioned by any person, in any manner or upon any ground, after the expiration of ninety-one days from the date that the order was entered.

(5) Notice of the proceeding shall be given to every person identified as the other birth parent or a possible birth parent in the manner appropriate under the Colorado rules of juvenile procedure for the service of process or in any manner the court directs. The notice shall inform the parent or alleged parent whose rights are to be determined that failure to file an answer or to appear within thirty-five days after service and, in the case of an alleged father, failure to file a claim of paternity under article 4 of this title within thirty-five days after service, if a claim has not previously been filed, may likely result in termination of the parent's or the alleged parent's parental rights to the minor. The notice also shall inform the parent or alleged parent whose rights are to be determined that such person has the right to waive his or her right to appear and contest and that failure to appear and contest may likely result in termination of the parent's or the alleged parent's parental rights to the minor. Proof of giving the notice shall be filed with the court before the petition is heard. If no person has been identified as the birth parent, the court shall order that notice be provided to all possible parents by publication or public posting of the notice at times and in places and manner the court deems appropriate.

(6) In those cases in which a parent proposes to relinquish his or her parent-child legal relationship with a child who is under one year of age, pursuant to the expedited procedures set forth in section 19-5-103.5, the licensed child placement agency or the county department of social services assisting the relinquishing parent shall proceed with filing the petition for termination of the other birth parent's or possible birth parents' parent-child legal relationship and notify the other birth parent or possible birth parents as provided in section 19-5-103.5 (2).

Source: L. 87: Entire title R&RE, p. 803, § 1, effective October 1. **L. 94:** Entire section amended, p. 747, § 3, effective April 20. **L. 97:** IP(3), (3.1)(c)(I), and (5) amended, p. 1160, § 3, effective July 1. **L. 98:** (3.1)(a)(II) amended, p. 1421, § 8, effective July 1. **L. 2001:** (3.1)(a)(VI) amended and (3.1)(a)(VIII) and (3.1)(a)(IX) added, p. 499, § 2, effective May 4. **L. 2003:** (3.1)(c)(I) amended and (6) added, p. 872, § 3, effective July 1. **L. 2012:** (3.1)(a)(V) amended, (HB 12-1311), ch. 281, p. 1625, § 62, effective July 1; (3.1)(c)(I), (4), and (5) amended, (SB 12-175), ch. 208, p. 877, § 139, effective July 1. **L. 2014:** (3.1)(a)(IV) amended, (HB 14-1162), ch. 167, p. 591, § 6, effective July 1. **L. 2017:** IP(3.1)(a) and (3.1)(a)(I) amended, (HB 17-1046), ch. 50, p. 158, § 11, effective March 16; (3.1)(a)(I) amended, (SB 17-242), ch. 263, p. 1318, § 168, effective May 25.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-6-126 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

19-5-105.5. Termination of parent-child legal relationship upon a finding that the child was conceived as a result of sexual assault - legislative declaration - definitions. (1) The general assembly hereby declares that the purpose of this statute is to protect the victim of a sexual assault and to protect the child conceived as a result of that sexual assault by creating a process to seek termination of the parental rights of the perpetrator of the sexual assault and by issuing protective orders preventing future contact between the parties. The general assembly further declares that this section creates civil remedies and is not created to punish the perpetrator but rather to protect the interests of the child and the victim of a sexual assault.

(2) As used in this section, unless the context otherwise requires:

(a) "Convicted" or "conviction" has the same meaning as defined in section 19-1-103 (29.3).

(a.5) "Disability" means:

(I) A physical or mental impairment that substantially limits one or more major life activities; or

(II) A record of a physical or mental impairment that substantially limited a major life activity.

(a.7) "Petitioner" means a victim of sexual assault who files a petition for termination of the parent-child legal relationship of the other parent as provided in this section.

(a.8) "Respondent" means a person against whom a petition for termination of the parent-child legal relationship is filed as provided in this section.

(b) "Sexual assault" has the same meaning as defined in section 19-1-103 (96.5).

(c) "Victim" has the same meaning as defined in section 19-1-103 (112)(b).

(3) If a child was conceived as a result of an act that led to the parent's conviction for sexual assault or for a conviction in which the underlying factual basis was sexual assault, the victim of the sexual assault or crime may file a petition in the juvenile court to prevent future contact with the parent who committed the sexual assault and to terminate the parent-child legal relationship of the parent who committed the sexual assault or crime.

(4) The verified petition filed under this section must allege that:

(a) The respondent was convicted on or after July 1, 2013, of an act of sexual assault against the petitioner or convicted of a crime in which the underlying factual basis was sexual assault against the petitioner;

(b) A child was conceived as a result of the act of sexual assault or crime described under paragraph (a) of this subsection (4); and

(c) Termination of the parent-child legal relationship of the respondent with the child is in the best interests of the child.

(4.5) After a petition has been filed pursuant to this section, the court shall issue a summons that recites briefly the substance of the petition and contains a statement that the purpose of the proceeding is whether to terminate the parent-child legal relationship of the

respondent. The petitioner shall have the respondent personally served with a copy of the summons or notified through notice by publication consistent with the statutory provisions for notice in section 19-3-503 and pursuant to the Colorado rules of civil procedure, unless the respondent appears voluntarily or waives service. Upon request, the court shall protect the whereabouts of the petitioner and must identify the petitioner and the child in the summons by initials.

(5) (a) After a petition has been filed pursuant to this section, the court shall appoint a guardian ad litem, who must be an attorney, to represent the child's best interests in the proceeding; except that, if at any time the court determines that a guardian ad litem for the child is no longer necessary, the court may discharge the guardian ad litem. The petitioner and the respondent have the right to be represented by legal counsel in proceedings under this section. The petitioner and the respondent each have the right to seek the appointment of legal counsel if he or she is unable financially to secure legal counsel on his or her own. The court shall waive filing fees for an indigent petitioner.

(b) The court will work to ensure that a petitioner or a respondent who has a disability has equal access to participate in the proceeding. If the petitioner or respondent has a disability, he or she has the right to request reasonable accommodations in order to participate in the proceeding; except that the disability of the petitioner, the respondent, or the child must not be the cause for the unnecessary delay of the process. The court shall presume that a petitioner or a respondent with a disability is legally competent and able to understand and participate in the proceeding unless the petitioner or respondent is determined to be an incapacitated person, as defined in section 15-14-102 (5), C.R.S.

(6) In any proceeding held under this section, the court may grant protective measures in the courtroom as requested by the petitioner, including but not limited to allowing the petitioner to not appear in the presence of the respondent, so long as these measures do not violate due process. The petitioner's and the child's whereabouts must be kept confidential.

(6.5) A respondent may admit parentage or may request genetic testing or other tests of inherited characteristics to confirm paternity. The test results must be admitted into evidence as provided in section 13-25-126, C.R.S. The final costs for genetic tests or other tests of inherited characteristics must be assessed against the nonprevailing party on the parentage issue.

(6.6) If the parties consent, the court has continuing jurisdiction and authority in the same proceeding to enter an order of relinquishment pursuant to part 1 of article 5 of this title without a finding or admission of the elements required by subsection (7) of this section. As part of the agreement, the respondent must agree in writing to waive the right to access the original birth certificate or other relinquishment documents as permitted by law under article 5 of this title or pursuant to the rules of the state department of human services. The waiver must be filed with the court that issues the order of relinquishment and with the state registrar of vital statistics.

(6.7) The court shall hear a petition to terminate the parent-child legal relationship no more than one hundred twenty days after service of the petition or from the first appearance date, whichever is later, unless both parties consent to an extension or the court finds good cause to extend the hearing beyond one hundred twenty days.

(7) The court shall terminate the parent-child legal relationship of the respondent if the court finds by clear and convincing evidence, and states the reasons for its decision, that:

(a) The respondent was convicted on or after July 1, 2013, of an act of sexual assault against the petitioner or was convicted of a crime in which the underlying factual basis was sexual assault against the petitioner;

(b) A child was conceived as a result of that act of sexual assault or crime as evidenced by the respondent admitting parentage or genetic testing establishing the paternity; and

(c) Termination of the parent-child legal relationship is in the best interests of the child. There is a rebuttable presumption that terminating the parental rights of the parent who committed the act of sexual assault or crime is in the best interests of the child. The court shall not presume that having only one remaining parent is contrary to the child's best interests.

(7.3) If the child is an Indian child, the court shall ensure compliance with the federal "Indian Child Welfare Act", 25 U.S.C. sec. 1901 et seq., and the provisions of section 19-1-126.

(7.5) If the court denies the petition to terminate the parent-child legal relationship, then the court shall articulate its reasons for the denial of the petition. If the court denies the petition, the court has continuing jurisdiction and authority to enter an order in the same proceeding allocating parental responsibilities between the parties, including but not limited to an order to not allocate parental responsibilities to the respondent. In issuing any order allocating parental responsibilities, including the duty of support, guardianship, and parenting time privileges with the child or any other matter, the court shall determine whether the order is in the best interests of the child based on a preponderance of the evidence.

(8) (a) A respondent whose parental rights are terminated in accordance with this section has:

(I) No right to allocation of parental responsibilities, including parenting time and decision-making responsibilities for the child;

(II) No right of inheritance from the child; and

(III) No right to notification of, or standing to object to, the adoption of the child.

(b) Notwithstanding the provisions of section 19-3-608, termination of parental rights under subsection (7) of this section does not relieve the respondent of any obligation to pay child support or birth-related costs unless waived by the petitioner. In cases in which child support obligations are not waived, the court, as informed by the wishes of the petitioner, shall determine if entering an order to pay child support is in the best interests of the child. If the court orders the respondent to pay child support, the court shall order the payments to be made through the child support registry to avoid the need for any contact between the parties and order that the payments be treated as a nondisclosure of information case. If the petitioner's parent-child legal relationship to the child is terminated after the entry of a child support order against the respondent, the court shall modify the child support order accordingly.

(9) A respondent whose parent-child legal relationship has been terminated in accordance with this section has no right to make medical treatment decisions or any other decisions on behalf of the child.

(9.5) The court may order a respondent whose parent-child legal relationship has been terminated to provide medical and family information to be shared with the child, as appropriate, and with the petitioner. For terminations entered under this section and section 19-5-105.7, the state court administrator shall establish a uniform process to determine how the information is collected, who can access it, when it can be accessed, and how it is stored. The court may order that a respondent's failure to comply with the request for information in a timely manner constitutes contempt of court.

(10) The juvenile court has original concurrent jurisdiction to issue a temporary or permanent civil protection order pursuant to section 13-14-104.5 or 13-14-106, C.R.S.

(11) Termination of the parent-child legal relationship pursuant to subsection (7) of this section is an independent basis for termination of parental rights, and the court need not make any of the considerations or findings described in section 19-3-604, 19-5-103.5, or 19-5-105.

(12) Nothing in this section prohibits the termination of parental rights by the court using the criteria described in section 19-3-604, 19-5-103.5, or 19-5-105.

Source: L. 2013: Entire section added, (SB 13-227), ch. 353, p. 2057, § 3, effective July 1. **L. 2014:** Entire section amended, (HB 14-1162), ch. 167, p. 582, § 1, effective July 1.

19-5-105.7. Termination of parent-child legal relationship in a case of an allegation that a child was conceived as a result of sexual assault but in which no conviction occurred - legislative declaration - definitions. (1) The general assembly hereby declares that the purpose of this statute is to protect a person in a case where it is determined that he or she is a victim of sexual assault but in which no conviction occurred and to protect a child conceived as a result of that sexual assault by creating a process to seek termination of the parental rights of the perpetrator of the sexual assault and by issuing protective orders preventing future contact between the parties. The general assembly further declares that this section creates civil remedies and is not created to punish the perpetrator but rather to protect the interests of the petitioner and the child. The general assembly creates this section to address the procedures in cases where there are allegations of sexual assault but in which a conviction did not occur.

(2) As used in this section, unless the context otherwise requires:

(a) "Conviction" has the same meaning as defined in section 19-1-103 (29.3).

(b) "Petitioner" means a person who alleges that he or she is a victim of sexual assault and who files a petition for termination of the parent-child legal relationship of the other parent as provided in this section.

(c) "Respondent" means a person against whom a petition for termination of the parent-child legal relationship is filed as provided in this section.

(d) "Sexual assault" has the same meaning as defined in section 19-1-103 (96.5).

(3) The person who alleges that he or she is a victim of sexual assault and who alleges that a child was conceived as a result of a sexual assault in which a conviction did not occur may file a petition in the juvenile court to prevent future contact with the parent who allegedly committed the sexual assault and to terminate the parent-child legal relationship of the parent who allegedly committed the sexual assault.

(4) The verified petition filed under this section must allege that:

(a) The respondent committed an act of sexual assault against the petitioner;

(b) The respondent has not been convicted for the act of sexual assault;

(c) A child was conceived as a result of the act of sexual assault as described under paragraph (a) of this subsection (4); and

(d) Termination of the parent-child legal relationship of the respondent with the child is in the best interests of the child.

(5) (a) After a petition has been filed pursuant to this section, the court shall issue a summons that recites briefly the substance of the petition and contains a statement that the purpose of the proceeding is to determine whether to terminate the parent-child legal relationship

of the respondent. The petitioner shall have the respondent personally served with a copy of the summons or notified through notice by publication consistent with the statutory provisions for notice in section 19-3-503 and pursuant to the Colorado rules of civil procedure, unless the respondent appears voluntarily or waives service. Upon request, the court shall protect the whereabouts of the petitioner and must identify the petitioner and the child in the summons by initials.

(b) The court will work to ensure that a petitioner or a respondent who has a disability has equal access to participate in the proceeding. If the petitioner or respondent has a disability, he or she has the right to request reasonable accommodations in order to participate in the proceeding; except that the disability of the petitioner, the respondent, or the child must not be the cause for the unnecessary delay of the process. The court shall presume that a petitioner or a respondent with a disability is legally competent and able to understand and participate in the proceeding unless the petitioner or respondent is determined to be an incapacitated person, as defined in section 15-14-102 (5), C.R.S.

(6) After a petition has been filed pursuant to this section, the court shall appoint a guardian ad litem, who must be an attorney, to represent the child's best interests in the proceeding; except that, if at any time the court determines that a guardian ad litem for the child is no longer necessary, the court may discharge the guardian ad litem. The petitioner and the respondent have the right to be represented by legal counsel in proceedings under this section. The petitioner and the respondent each have the right to seek the appointment of legal counsel if he or she is unable financially to secure legal counsel on his or her own. The court shall waive filing fees for an indigent petitioner.

(7) In any proceeding held under this section, the court may grant protective measures in the courtroom as requested by the petitioner, including but not limited to allowing the petitioner to not appear in the presence of the respondent so long as these measures do not violate due process. The petitioner's and the child's whereabouts must be kept confidential.

(8) A respondent may admit parentage or may request genetic testing or other tests of inherited characteristics to confirm paternity. The test results must be admitted into evidence as provided in section 13-25-126, C.R.S. The final costs for genetic tests or other tests of inherited characteristics must be assessed against the nonprevailing party on the parentage issue.

(9) If the parties consent, the court has continuing jurisdiction and authority in the same proceeding to enter an order of relinquishment pursuant to part 1 of article 5 of this title without a finding or admission of the elements required by subsection (11) of this section. As part of the agreement, the respondent must agree in writing to waive the right to access the original birth certificate or other relinquishment documents as permitted by law under article 5 of this title or pursuant to the rules of the state department of human services. The waiver must be filed with the court that issues the order of relinquishment and with the state registrar of vital statistics.

(10) The court shall hear a petition to terminate the parent-child legal relationship no more than one hundred twenty days after service of the petition or from the first appearance date, whichever is later, unless both parties consent to an extension or the court finds good cause to extend the hearing beyond one hundred twenty days.

(11) (a) The court shall terminate the parent-child legal relationship of the respondent if the court finds by clear and convincing evidence that:

(I) A sexual assault against the petitioner occurred;

(II) The sexual assault was perpetrated by the respondent;

(III) A child was conceived as a result of that act of sexual assault as evidenced by the respondent admitting parentage or genetic testing establishing the paternity;

(IV) Termination of the parent-child legal relationship is in the best interests of the child. The court shall not presume that having only one remaining parent is contrary to the child's best interests.

(b) If the child is an Indian child, the court shall ensure compliance with the federal "Indian Child Welfare Act", 25 U.S.C. sec. 1901 et seq., and the provisions of section 19-1-126.

(12) If the court denies the petition to terminate the parent-child legal relationship, the court shall articulate its reasons for the denial of the petition. If the court denies the petition, the court has continuing jurisdiction and authority to enter an order in the same proceeding allocating parental responsibilities between the petitioner and the respondent, including but not limited to an order to not allocate parental responsibilities to the respondent. In issuing any order allocating parental responsibilities, including the duty of support, guardianship, and parenting time privileges with the child or any other matter, the court shall determine whether the order is in the best interests of the child based on a preponderance of the evidence.

(13) (a) A respondent whose parental rights are terminated in accordance with this section has:

(I) No right to allocation of parental responsibilities, including parenting time and decision-making responsibilities for the child;

(II) No right of inheritance from the child; and

(III) No right to notification of, or standing to object to, the adoption of the child.

(b) Notwithstanding the provisions of section 19-3-608, termination of parental rights under subsection (10) of this section does not relieve the respondent of any obligation to pay child support or birth-related costs unless waived by the petitioner. In cases in which child support obligations are not waived, the court, as informed by the wishes of the petitioner, shall determine if entering an order to pay child support is in the best interests of the child. If the court orders the respondent to pay child support, the court shall order the payments to be made through the child support registry to avoid the need for any contact between the parties and order that the payments be treated as a nondisclosure of information case. If the petitioner's parent-child legal relationship to the child is terminated after the entry of a child support order against the respondent, the court shall modify the child support order accordingly.

(14) A respondent whose parent-child legal relationship has been terminated in accordance with this section has no right to make medical treatment decisions or any other decisions on behalf of the child.

(15) The court may order a respondent whose parent-child legal relationship has been terminated to provide medical and family information to be shared with the child, as appropriate, and with the petitioner. The sharing of information must be consistent with the uniform process established by the state court administrator as provided in section 19-5-105.5 (9.5). The court may order that a respondent's failure to comply with the request for information in a timely manner constitutes contempt of court.

(16) The juvenile court has original concurrent jurisdiction to issue a temporary or permanent civil protection order pursuant to section 13-14-104.5 or 13-14-106, C.R.S.

(17) Termination of the parent-child legal relationship pursuant to subsection (10) of this section is an independent basis for termination of parental rights, and the court need not make any of the considerations or findings described in section 19-3-604, 19-5-103.5, or 19-5-105.

(18) Nothing in this section prohibits the termination of parental rights by the court using the criteria described in section 19-3-604, 19-5-103.5, or 19-5-105.

Source: L. 2014: Entire section added, (HB 14-1162), ch. 167, p. 587, § 4, effective July 1.

19-5-106. Records. (Repealed)

Source: L. 87: Entire title R&RE, p. 804, § 1, effective October 1. **L. 89:** Entire section amended, p. 943, § 3, effective March 27. **L. 90:** Entire section repealed, p. 1012, § 8, effective July 1.

19-5-107. When notice of relinquishment proceedings required. (Repealed)

Source: L. 87: Entire title R&RE, p. 805, § 1, effective October 1. **L. 91:** Entire section amended, p. 254, § 13, effective July 1. **L. 92:** Entire section amended, p. 2175, § 30, effective June 2. **L. 94:** Entire section repealed, p. 752, § 4, effective April 20.

19-5-108. When notice of relinquishment proceedings required. If the custodial parent has assigned rights to support for a child who is the subject of relinquishment proceedings to the department of human services, notice of the relinquishment proceedings shall be given, by the parent proposing to relinquish a child or by that parent's counsel, to the appropriate delegate child support enforcement unit in cases where there is no adoption proceeding pending.

Source: L. 96: Entire section added, p. 613, § 15, effective July 1.

19-5-109. Birth parent access to records related to relinquishment of parental rights. (1) (a) Except for relinquishments ordered pursuant to section 19-5-105.5 (6.6) or 19-5-105.7 (9) or when the subsequent termination of the parent-child legal relationship is the result of a dependency and neglect action, in those cases in which a parent consents to the relinquishment of his or her child, the custodian of records shall provide to the relinquishing birth parent to whom the document pertains a copy of the relinquishment records, in the possession of the custodian of records, that are signed by the relinquishing birth parent or by a parent, guardian, custodian, or legal representative on behalf of the relinquishing birth parent and any of the following records listed in this paragraph (a) in which the relinquishing birth parent is named, including:

(I) The original birth certificate of the child who is being relinquished;

(II) The petition to relinquish;

(III) The final order of relinquishment;

(IV) The affidavit of counseling, excluding any attachments and excluding any notes or prerelinquishment counseling documents;

(V) The temporary waiver of custody;

(VI) Expedited relinquishment documents, if applicable;

(VII) A relinquishment interrogatory from a birth parent;

(VIII) The order for publication of relinquishment;

(IX) The notice to terminate the parent-child legal relationship; and

(X) The medical records of a birth mother related to the pregnancy and birth, which records may only be released by the health care provider, hospital, or maternity home that created the record.

(b) The custodian of records shall provide the records described in paragraph (a) of this subsection (1) to the relinquishing birth parent at the time of relinquishment of the child or at the time the document is created.

(2) If the records described in subsection (1) of this section were not provided to a birth parent at the time of the relinquishment of the child or at the time the document was created and if the subsequent termination of the parent-child legal relationship was not the result of a dependency or neglect action, then upon written request and proof of identification of the birth parent, the custodian of records shall provide access to and copies of the records described in subsection (1) of this section to the birth parent. Nothing in this section prevents the release of the records described in subsection (1) of this section to a birth parent who was a minor at the time of the relinquishment of a child in circumstances where the record was signed by a parent, guardian, legal custodian, or legal representative on behalf of the relinquishing birth parent.

(3) A licensed child placement agency is not liable to any person for the failure of a birth parent to request copies of the records described in subsection (1) of this section pursuant to the provisions of subsection (1) or subsection (2) of this section. A licensed child placement agency or succeeding custodian of records is not liable to any person for failure to produce a copy of a record that did not exist pursuant to the provisions of the Colorado Revised Statutes or rules at the time of the relinquishment of the child.

Source: L. 2014: Entire section added, (HB 14-1042), ch. 261, p. 1050, § 2, effective August 6; IP(1)(a) amended, (HB 14-1162), ch. 167, p. 595, § 10, effective August 6.

PART 2

ADOPTION

Law reviews. For article, "The Adoptee Trap, the Accidental Beneficiary, and the Rational Testator", see 42 Colo. Law. 29 (Feb. 2013).

19-5-200.2. Legislative declaration. (1) Notwithstanding any other provisions of this title to the contrary, it is the intent of the general assembly that the court shall protect and promote the best interests of the children who are the subjects of proceedings held pursuant to this part 2 while giving due regard to the interests of any other individuals affected.

(2) The general assembly hereby finds and declares that:

(a) It is beneficial for a child placed for adoption to be able to continue relationships with his or her brothers and sisters, regardless of age, in order that the siblings may share their strengths and association in their everyday and often common experiences;

(b) When parents and other adult relatives are no longer available to a child, the child's siblings constitute his or her biological family;

(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.

Source: L. 94: Entire section added, p. 1198, § 1, effective May 19. **L. 2000:** Entire section amended, p. 476, § 6, effective July 1. **L. 2003:** (2)(c) amended, p. 2627, § 9, effective June 5.

19-5-201. Who may be adopted. Any child legally available for adoption as provided in section 19-5-203, under eighteen years of age, and either present in the state at the time the petition for adoption is filed or under the jurisdiction of a court in Colorado for at least six months may be adopted. Upon approval of the court, a person eighteen years of age or older and under twenty-one years of age may be adopted as a child, and all provisions of this part 2 referring to the adoption of a child shall apply to such a person.

Source: L. 87: Entire title R&RE, p. 805, § 1, effective October 1. **L. 2017:** Entire section amended, (HB 17-1304), ch. 339, p. 1807, § 1, effective July 1.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-4-105 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Section 2 of chapter 339 (HB 17-1304), Session Laws of Colorado 2017, provides that the act changing this section applies to petitions filed on or after July 1, 2017.

19-5-202. Who may adopt. (1) Any person twenty-one years of age or older, including a foster parent, may petition the court to decree an adoption.

(2) A minor, upon approval of the court, may petition the court to decree an adoption.

(3) A person having a living spouse from whom he is not legally separated shall petition jointly with such spouse, unless such spouse is the natural parent of the child to be adopted or has previously adopted the child.

(4) A person having a living partner in a civil union from whom the person is not legally separated shall petition jointly with the partner, unless the partner is the natural parent of the child to be adopted or has previously adopted the child.

(5) A person who is a partner in a civil union may adopt a child of the other partner through the same process outlined in section 19-5-203 for a stepparent adoption and shall be considered a stepparent for the purpose of determining whether a child is available for adoption pursuant to section 19-5-203 (1).

Source: L. 87: Entire title R&RE, p. 805, § 1, effective October 1. **L. 88:** (1) amended, p. 758, § 4, effective May 31. **L. 2013:** (4) and (5) added, (SB 13-011), ch. 49, p. 167, § 24, effective May 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-4-106 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-5-202.5. Adoption hearings - termination appeals - court docket priority - exceptions. (1) On and after July 1, 2002, any hearing concerning a petition for adoption filed in a district court, the Colorado court of appeals, or the Colorado supreme court and any hearing concerning a petition filed in the Colorado court of appeals or the Colorado supreme court related to a child who is available for adoption due to an order of the court terminating the parent-child legal relationship shall be given a priority on the court's docket. On and after July 1, 2002, if there is no determination on a case concerning a petition for adoption or a case concerning a child who is available for adoption due to an order of the court terminating the parent-child legal relationship by any such court within six months of the filing of the petition, it shall be given a priority on the court's docket that supersedes the priority of any other priority civil hearing on the court's docket.

(2) Notwithstanding the provisions of subsection (1) of this section, nothing in this section shall affect the priority of a hearing concerning the issuance of a temporary protection order pursuant to section 13-14-104.5, C.R.S.

(3) The provisions of this section shall be implemented within existing appropriations.

Source: L. 2002: Entire section added, p. 1643, § 1, effective July 1. **L. 2003:** (2) amended, p. 1016, § 28, effective July 1. **L. 2004:** (2) amended, p. 557, § 16, effective July 1. **L. 2013:** (2) amended, (HB 13-1259), ch. 218, p. 1017, § 22, effective July 1.

19-5-203. Availability for adoption. (1) A child may be available for adoption only upon:

(a) Order of the court terminating the parent-child legal relationship in a proceeding brought under article 3 or 5 of this title;

(b) Order of the court decreeing the voluntary relinquishment of the parent-child legal relationship under section 19-5-103, 19-5-103.5, or 19-5-105;

(c) Written and verified consent of the guardian of the person, appointed by the court, of a child whose parents are deceased;

(d) (I) Written and verified consent of the parent in a stepparent adoption where the other parent is deceased or his parent-child legal relationship has been terminated under paragraph (a) or (b) of this subsection (1);

(II) Written and verified consent of the parent in a stepparent adoption, accompanied by an affidavit or sworn testimony of such parent, that the other birth parent has abandoned the child for a period of one year or more or that the other birth parent has failed without cause to provide reasonable support for such child for a period of one year or more. Upon filing of the petition in adoption, the court shall issue a notice directed to the other parent, which notice shall state the nature of the relief sought, the names of the petitioner and the child, and the time and place set for hearing on the petition. If the address of the other parent is known, service of such notice shall be in the manner provided by the Colorado rules of civil procedure for service of process. Upon affidavit by the petitioner that, after diligent search, the address of the other parent remains unknown, the court shall order service upon the other parent by one publication

of the notice in a newspaper of general circulation in the county in which the hearing is to be held. The hearing shall not be held sooner than thirty-five days after service of the notice is complete, and, at such time, the court may enter a final decree of adoption notwithstanding the time limitation in section 19-5-210 (2).

(d.5) (I) Written and verified consent in a second-parent adoption that the child has a sole legal parent, and the sole legal parent wishes the child to be adopted by a specified second adult.

(II) In a petition for a second-parent adoption, the court shall require a written home study report prepared by a county department of social services, designated qualified individual, or child placement agency and approved by the department pursuant to section 19-5-207.5 (2). If the child of a sole legal parent was adopted by that parent less than one hundred eighty-two days prior to the filing of an adoption petition by a second prospective parent and if the second prospective parent was included in the home study report that was prepared pursuant to section 19-5-207 for the adoption of the child by the first parent, then that home study report shall be a valid home study report for the purpose of the second parent's adoption. If the filing of a petition for adoption by the second prospective parent occurs one hundred eighty-two days or more after the adoption by the first parent, a separate home study report shall be required pursuant to section 19-5-207.

(e) Written and verified consent of the parent having only residual parental responsibilities when custody or parental responsibilities have been awarded or allocated to the other parent in a dissolution of marriage proceeding where the spouse of the parent having custody or parental responsibilities wishes to adopt the child;

(f) Written and verified consent of the parent or parents as defined in section 19-1-103 (82) in a stepparent adoption where the child is conceived and born out of wedlock;

(g) A statement by the department of human services or its designated agent as to whether any placement arranged outside the state of Colorado was carried out by a child placement agency licensed or authorized under the laws of another state to make placements;

(h) Verification by the child placement agency, a county department of social services, or the attorney for the petitioner in any adoption proceeding that any custody obtained outside the state of Colorado was acquired by:

(I) Proceedings to relinquish all parent-child legal relationships which complied with the laws of the state where conducted or conformed substantially to the laws of this state; or

(II) Proceedings to terminate all parent-child legal relationships which complied with the laws of the state where conducted or conformed substantially to the laws of this state; or

(III) Written and verified consent, under the conditions set forth in paragraphs (c) to (f) of this subsection (1), which was executed in accord with the laws of the state where granted or in substantial conformity with the laws of this state;

(i) Verification by the department of human services or its designated agent that any custody obtained outside the state of Colorado was acquired by proceedings sanctioned by the federal immigration and naturalization service, or any successor agency, in cooperation with the department of human services whenever such cooperation is authorized or advised by federal law;

(j) Submission of an affidavit or sworn testimony of the adoptive relative in a kinship adoption that the birth parent or birth parents have abandoned the child for a period of one year or more or that the birth parent or birth parents have failed without cause to provide reasonable

support for such child for a period of one year or more, and that the relative seeking the kinship adoption has had physical custody of the child for a period of one year or more and the child is not the subject of a pending dependency and neglect proceeding pursuant to article 3 of this title. Upon filing of the petition in adoption, the court shall issue a notice directed to the birth parent or birth parents, which notice shall state the nature of the relief sought, the names of the petitioner and the child, and the time and place set for hearing on the petition. If the address of the birth parent is known, service of such notice shall be in the manner provided by the Colorado rules of civil procedure for service of process. Upon affidavit by the petitioner that describes with specificity the diligent search made by the petitioner, and that states that, after diligent search, the address of the birth parent or birth parents remains unknown, the court shall order service upon the birth parent or birth parents by one publication of the notice in a newspaper of general circulation in the county in which the hearing is to be held. The hearing shall not be held sooner than thirty-five days after service of the notice is complete, and, at such hearing, the court may enter a final decree of adoption notwithstanding the time limitation in section 19-5-210 (2).

(k) Submission of an affidavit or sworn testimony of the legal custodian or legal guardian in a custodial adoption that the birth parent or birth parents have abandoned the child for a period of one year or more or that the birth parent or birth parents have failed without cause to provide reasonable support for such child for a period of one year or more and that the legal custodian or legal guardian seeking the custodial adoption has had the child in his or her physical custody for a period of one year or more. Upon filing of the petition in adoption, the court shall issue a notice directed to the birth parent or birth parents, which notice shall state the nature of the relief sought, the names of the petitioner and the child, and the time and place set for hearing on the petition. If the address of the birth parent or birth parents is known, service of such notice shall be in the manner provided by the Colorado rules of civil procedure for service of process. Upon affidavit by the petitioner that describes with specificity the diligent search made by the petitioner, and that states that, after diligent search, the address of the birth parent or birth parents remains unknown, the court shall order service upon the birth parent or birth parents by one publication of the notice in a newspaper of general circulation in the county in which the hearing is to be held. The hearing shall not be held sooner than thirty-five days after service of the notice is complete, and, at such hearing, the court may enter a final decree of adoption notwithstanding the time limitation in section 19-5-210 (2).

(2) Written consent to any proposed adoption shall be obtained from the person to be adopted if such person is twelve years of age or older.

Source: L. 87: Entire title R&RE, p. 805, § 1, effective October 1; (1)(f) amended, p. 1587, § 61, effective October 1. **L. 94:** (1)(g) and (1)(i) amended, p. 2688, § 211, effective July 1. **L. 97:** (1)(d)(II) amended, p. 1161, § 4, effective July 1. **L. 98:** (1)(f) amended, p. 822, § 29, effective August 5; (1)(e) amended, p. 1410, § 73, effective February 1, 1999. **L. 99:** (1)(j) and (1)(k) added, p. 1062, § 3, effective June 1. **L. 2005:** (1)(b) amended, p. 765, § 25, effective June 1. **L. 2007:** (1)(d.5) added, p. 837, § 1, effective August 3. **L. 2011:** (1)(i) amended, (HB 11-1303), ch. 264, p. 1158, § 38, effective August 10. **L. 2012:** (1)(d)(II), (1)(d.5)(II), (1)(j), and (1)(k) amended, (SB 12-175), ch. 208, p. 878, § 140, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-4-107 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-5-204. Venue. A petition for adoption shall be filed in the county of residence of the petitioner or in the county in which the placement agency is located.

Source: L. 87: Entire title R&RE, p. 806, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-105 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-5-205. Adoption decree of foreign country approved. (1) (a) A petition seeking a decree declaring valid an adoption granted by a court of any country other than the United States of America may be filed at any time by residents of the state of Colorado.

(b) The petition shall contain all information required in section 19-5-207 (2); except that the court shall not require the petition to contain or be accompanied by the written consent described in section 19-5-207 (1), the written home study report described in section 19-5-207 (2)(a), the fees described in section 19-5-207.5 (4), or a written legal memorandum with specific references to the applicable law of the foreign country.

(2) The court shall issue a decree declaring valid an adoption granted by a court of competent jurisdiction or other authorized individual or entity of a country other than the United States of America upon a finding that:

(a) At the time the petition is filed, the petition contains a verified statement that at least one of the adopting parents is a citizen and resident of the state of Colorado or other evidence that at least one of the adopting parents is a citizen and resident of the state of Colorado;

(b) The original or a certified copy of a valid foreign adoption decree, together with a notarized translation, is presented to the court; and

(c) The child is either a permanent resident or a naturalized citizen of the United States. A photocopy of the child's resident alien card issued by the immigration and naturalization service of the United States, department of justice, or any successor agency, shall be sufficient evidence that the child is either a permanent resident or a naturalized citizen of the United States.

(2.5) The adopting parties filing a petition pursuant to this section shall not be required to be represented by an attorney.

(3) Any decree issued pursuant to this section shall have the same legal effect as any decree of adoption issued by the court.

Source: L. 87: Entire title R&RE, p. 806, § 1, effective October 1. **L. 97:** (1)(b) and (2) amended and (2.5) added, p. 1162, § 5, effective July 1. **L. 99:** (1)(b) amended, p. 1024, § 5, effective May 29. **L. 2011:** (2)(c) amended, (HB 11-1303), ch. 264, p. 1158, § 39, effective August 10.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-4-107.5 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-5-205.5. Nonpublic agency interstate and foreign adoptions - legislative declaration - authority for department to select agencies. (1) The general assembly finds that timely processing of adoptions is in the best interests of the children being adopted. It is therefore the intent of the general assembly to expedite permanency for those children who are being adopted. It is the purpose of this section to promote timely processing of nonpublic agency interstate and foreign adoptions while increasing the department of human services' capacity to utilize existing staff to perform other child welfare functions.

(2) (a) The department is authorized to select nonpublic, licensed child placement agencies authorized to handle adoptions or nonpublic agencies that meet the qualifying criteria to be licensed child placement agencies pursuant to article 6 of title 26, C.R.S., and any implementing rules or regulations promulgated by the department for the provision of services to individuals seeking assistance in nonpublic agency interstate or foreign adoption cases pursuant to this part 2. The department shall, by rule, establish qualifying criteria by which such nonpublic agencies shall be selected for this purpose.

(b) The department shall further promulgate rules creating standards by which the department may evaluate the delivery of services by the selected nonpublic agencies and identifying the services and functions to be rendered by the nonpublic agencies selected pursuant to paragraph (a) of this subsection (2) including, but not limited to, the following:

(I) The review of all background information concerning the birth parents and individual case material on the adopting family's assessment;

(II) The review of all legal documents related to the relinquishment or termination of the birth parents' rights;

(III) The review of all birth and medical information;

(IV) The review of correspondence with the immigration and naturalization service in the United States, department of justice, or any successor agency, in foreign adoptions;

(V) The review of the child's social history, legal documents, medical information, and birth certificate in foreign adoption cases in which the child is to be placed in Colorado;

(VI) The provision of relinquishment counseling;

(VII) The promotion of permanent plans for the adopted child;

(VIII) The agency's compliance with federal and Colorado laws, including, but not limited to, the "Interstate Compact on Placement of Children" as set forth in part 18 of article 60 of title 24, C.R.S.;

(IX) The timeliness of the provision of services; and

(X) The overall protection of the child being adopted.

(3) (a) Nonpublic agencies may charge reasonable and necessary fees and costs to defray the direct and indirect expenses associated with the provision of nonpublic agency interstate and foreign adoption services associated with the statutorily required review and approval of interstate and foreign adoptive placements. Pursuant to section 19-5-208 (4), all fees and costs charged for services associated with the review and approval of interstate and foreign adoptions shall be separately specified in the expenses listed for the court's review as required.

(b) The department of human services shall, by rule, establish guidelines for the fees and costs which such nonpublic agencies selected pursuant to subsection (2) of this section may charge for the delivery of such services.

(4) All interstate and foreign adoptions in Colorado made by the court, the county departments of social services, or licensed child placement agencies shall be pursuant to section 19-5-206 (1).

(5) For purposes of this section, "nonpublic agency interstate and foreign adoption" is defined in section 19-1-103 (81).

Source: L. 94: Entire section added, p. 1200, § 1, effective July 1. **L. 96:** (4) amended, p. 84, § 10, effective March 20. **L. 97:** (2)(a), IP(2)(b), and (2)(b)(I) amended and (5) added, p. 1162, § 6, effective July 1. **L. 2011:** (2)(b)(IV) amended, (HB 11-1303), ch. 264, p. 1159, § 40, effective August 10.

19-5-206. Placement for purposes of adoption. (1) No placement of any child legally available for adoption under section 19-5-203 (1)(a), (1)(b), (1)(c), or (1)(g) shall be made for the purposes of adoption except by the court pursuant to section 19-5-104 (2), the county department of social services, or a licensed child placement agency.

(2) (a) In child welfare cases, a child's best interests shall be the primary consideration for a court, county department, or licensed child placement agency in making determinations concerning the placement of the child for the purpose of adoption.

(b) (Deleted by amendment, L. 2010, (HB 10-1106), ch. 278, p. 1272, § 2, effective May 26, 2010.)

(c) An agency that has responsibility for placing children out of the home shall use good faith efforts and due diligence to recruit and retain prospective foster and adoptive families from communities that reflect the racial, ethnic, cultural, and linguistic backgrounds of the children in the agency's care.

(d) In making determinations concerning the placement of a child for the purpose of adoption, a court, county department, or licensed child placement agency may, under extraordinary circumstances, consider the racial or ethnic background, color, or national origin of:

(I) The child; or

(II) A family who has submitted an application to adopt.

(e) A court, county department, or licensed child placement agency shall not delay a foster or adoptive placement of a child as a result of the racial or ethnic background, color, or national origin of:

(I) The child; or

(II) A family who has submitted an application to foster or adopt a child.

(f) In private adoption cases, a birth parent or birth parents may designate a specific applicant with whom they may wish to place their child for purposes of adoption. After assessment and approval of the potential adoptive parents and subsequent relinquishment of the child, the court shall grant guardianship of the child to a person or agency described in section 19-5-104 (1) until finalization of adoptive placement.

(g) The court may waive the assessment and approval of the potential adoptive parents in cases involving kinship or custodial adoption or may determine and order the kind of

information or written report it deems necessary for the assessment and approval of the potential adoptive parents, including an abbreviated home study or home evaluation. The court may proceed to finalize such adoptive placement upon finding that the placement is in the best interests of the child.

(3) (Deleted by amendment, L. 2010, (HB 10-1106), ch. 278, p. 1272, § 2, effective May 26, 2010.)

Source: L. 87: Entire title R&RE, p. 807, § 1, effective October 1. **L. 89:** (2) amended, p. 938, § 2, effective March 21. **L. 94:** (2) amended, p. 71, § 1, effective March 15; (3) added, p. 673, § 2, effective July 1. **L. 99:** (2) amended, p. 1063, § 4, effective June 1. **L. 2010:** (2) and (3) amended, (HB 10-1106), ch. 278, p. 1272, § 2, effective May 26.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-4-108 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-5-207. Written consent and home study report for public adoptions - criminal history records check - investigation. (1) When a child is placed for adoption by the county department of social services, a licensed child placement agency, or an individual, such department, agency, or individual shall file, with the petition to adopt, its written and verified consent to such adoption in addition to any notices received or sent pursuant to the terms of the "Interstate Compact on Placement of Children" set forth in part 18 of article 60 of title 24, C.R.S.

(2) In all petitions for adoption, whether by the court, the county department of social services, or child placement agencies, in addition to such written consent, the court shall require a written home study report from the county department of social services, the designated qualified individual, or the child placement agency approved by the state department of human services pursuant to section 19-5-207.5 (2) showing the following:

(a) The physical and mental health, emotional stability, and moral integrity of the petitioner and the ability of the petitioner to promote the welfare of the child; but no physical examination shall be required of any person who in good faith relies upon spiritual means or prayer in the free exercise of religion to prevent or cure disease unless there is reason to believe such person's physical condition is such that he or she would be unable to take care of such child;

(b) Confirmation that the petitioner has participated in adoption counseling if the court deems appropriate. The counseling may address the permanence of the decision, the impact of the decision on the adopting parent and the adopting parent's family now and in the future, and the issues that may arise in the event that the adoptee at some time in the future desires to contact the relinquishing parent.

(c) The physical and mental condition of the child;

(d) The child's family background, including the names of parents and other identifying data regarding the parents, if obtainable;

(e) Reasons for the termination of the parent-child legal relationship;

(f) The suitability of the adoption of this child by this petitioner and the child's own disposition toward the adoption in any case in which the child's age makes this feasible; and

(g) The length of time the child has been in the care and custody of the petitioner.

(2.5) (a) (I) In all petitions for adoption, whether by the court, the county department of social services, or child placement agencies, in addition to the written home study report described in subsection (2) of this section, the court shall require the county department of social services, the designated qualified individual, or the child placement agency to conduct a criminal history records check for any prospective adoptive parent or any adult residing in the home.

(II) For purposes of fulfilling the criminal history records check required in subparagraph (I) of this paragraph (a), the state board of human services shall promulgate rules concerning petitions for adoption when a child is placed for adoption by the county department of social services or a child placement agency to require each prospective adoptive parent attempting to adopt a child placed for adoption by the county department of social services or a child placement agency to obtain fingerprint-based criminal history record checks through the Colorado bureau of investigation and the federal bureau of investigation. The prospective adoptive parent to whom this subparagraph (II) applies shall be responsible for the cost of the criminal history record checks.

(III) For purposes of fulfilling the criminal history records check required in subparagraph (I) of this paragraph (a), a prospective adoptive parent, other than a prospective adoptive parent specified in subparagraph (II) of this paragraph (a), shall obtain fingerprint-based criminal history record checks through the Colorado bureau of investigation and the federal bureau of investigation. A prospective adoptive parent to whom this subparagraph (III) applies shall be responsible for providing a complete set of fingerprints to the Colorado bureau of investigation and for obtaining the fingerprint-based criminal history record checks. The prospective adoptive parent shall also be responsible for the cost of the criminal history record checks.

(IV) A prospective adoptive parent described in subparagraph (III) of this paragraph (a) shall be responsible for presenting the results of his or her fingerprint-based criminal history record checks and the results of the fingerprint-based criminal history records checks of any adult residing in the home to the court for review by the court. The county department of social services or the child placement agency, as may be appropriate, shall report to the court any case in which a fingerprint-based criminal history record check reveals that the prospective adoptive parent who is attempting to adopt a child placed for adoption by a county department of social services or child placement agency or any adult residing in the home was convicted at any time of a felony or misdemeanor in one of the following areas:

(A) Child abuse or neglect;

(B) Spousal abuse;

(C) Any crime against a child, including but not limited to child pornography;

(D) Any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(E) Violation of a protection order, as described in section 18-6-803.5, C.R.S.;

(F) Any crime involving violence, rape, sexual assault, or homicide; or

(G) Any felony physical assault or battery conviction or felony drug-related conviction within, at a minimum, the past five years.

(a.5) (I) Notwithstanding the provisions of sub-subparagraph (B) of subparagraph (II) of paragraph (b) of this subsection (2.5), a licensed child placement agency or a county placement agency may conduct an investigation of a prospective adoptive parent's background only if the fingerprint-based criminal history records check required pursuant to paragraph (a) of this

subsection (2.5) reveals that the prospective adoptive parent was convicted of a felony or misdemeanor at least ten years prior to the application for adoption.

(II) If a licensed child placement agency or a county placement agency conducts an investigation of the prospective adoptive parent, it shall have the opportunity to present its findings to the juvenile court responsible for reviewing the petition for adoption. The licensed child placement agency or the county placement agency shall provide to the juvenile court responsible for reviewing the petition for adoption:

(A) A certified copy of any criminal court documentation substantiating the disposition of the applicant's felony criminal case; or

(B) Certified documentation that the court records concerning the felony case have been destroyed or are otherwise unavailable.

(III) Pending the results of the investigation by the licensed child placement agency or the county placement agency and the juvenile court's ruling on the eligibility of the applicant for the placement of a child, the child shall not be placed in the prospective adoptive parent's home if the fingerprint-based criminal history records check revealed that the prospective adoptive parent was convicted at any time of a felony or misdemeanor.

(b) (I) Except as otherwise provided in subparagraph (II) of this paragraph (b), a person convicted of a felony offense specified in subparagraph (IV) of paragraph (a) of this subsection (2.5) may be allowed to adopt a child if:

(A) The applicant has had no further arrests or convictions subsequent to the conviction;

(B) The applicant has not been convicted of a pattern of misdemeanors, as defined by rule of the state board of human services; and

(C) The court enters a finding consistent with section 19-5-210 (2)(d) that the adoption is in the best interests of the child.

(II) A person convicted of a felony offense as described in this subparagraph (II) shall not be allowed to adopt a child if there is:

(A) A felony conviction on the application for adoption that involves child abuse, as described in section 18-6-401, C.R.S.; a crime of violence, as defined in section 18-1.3-406, C.R.S.; or a felony offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(B) A felony conviction on the application for adoption that occurred less than five years prior to the application that involved physical assault or battery or a drug-related offense; or

(C) A felony conviction on the application for adoption that occurred less than ten years prior to the application and involved domestic violence, as defined in section 18-6-800.3, C.R.S.

(c) In addition to the fingerprint-based criminal history records check, the county department of social services, the individual, or the child placement agency conducting the investigation shall contact the state department of human services and the appropriate entity in each state in which the prospective adoptive parent or parents or any adult residing in the home has resided in the preceding five years to determine whether the prospective adoptive parent or parents or any adult residing in the home has been found to be responsible in a confirmed report of child abuse or neglect and shall report such information to the court. Information obtained from any state records or reports of child abuse or neglect shall not be used for any purpose other than completing the investigation for approval of the prospective adoptive parent.

(d) The state board of human services shall promulgate rules setting forth the procedures for the fingerprint-based criminal history record check and the report to the court described in paragraph (a) of this subsection (2.5).

(3) In proposed relative adoptions, the court shall review the report prepared pursuant to subsection (2) of this section. The court may order further assessment if the court deems it necessary.

(4) Any party to the adoption proceeding may be entitled to see the report required by subsection (2) of this section; except that the names of parents and adoptive parents and any means of identifying either shall not be made available except upon order of the court.

(5) to (7) (Deleted by amendment, L. 99, p. 1018, § 1, effective May 29, 1999.)

(8) If a court orders a county department of social services to counsel a birth parent concerning relinquishment of a child pursuant to the provisions of sections 19-5-103 and 19-5-104, the county department shall charge a fee to meet the full cost of the counseling.

(9) If the child is being placed in an adoptive home by a licensed child placement agency, such agency shall file an affidavit with the court stating that the agency's license is in good standing with the department. A licensed child placement agency involved in an adoption proceeding pursuant to this article shall immediately notify the court in writing of any suspension, revocation, or denial of its license or of any disciplinary action taken against the agency by the state of Colorado. Failure of the agency to provide such notification shall be a class 3 misdemeanor punishable by a fine of five thousand dollars. The department shall, by rule, adopt a mechanism by which a child placement agency shall notify the court of any disciplinary action against the agency.

Source: L. 87: Entire title R&RE, p. 807, § 1, effective October 1. **L. 89:** (1) amended, p. 939, § 3, effective March 21. **L. 94:** (5) and (6) amended, p. 2688, § 212, effective July 1. **L. 97:** Entire section amended, p. 1163, § 8, effective July 1. **L. 98:** (2.5) added and (6) amended, p. 1423, §§ 10, 11, effective July 1. **L. 99:** IP(2), (2.5)(a), and (5) to (7) amended, p. 1018, § 1, effective May 29. **L. 2001:** (2.5) amended, p. 851, § 13, effective June 1. **L. 2003:** (2.5)(a) amended, p. 1016, § 29, effective July 1; (2.5)(a) amended, p. 1407, § 13, effective January 1, 2004. **L. 2005:** (2.5) amended, p. 584, § 1, effective May 26. **L. 2007:** (2.5)(b) amended and (2.5)(a.5) added, p. 693, § 1, effective May 3; (2.5)(a)(I), (2.5)(a)(IV)(C), and (2.5)(c) amended, p. 1019, § 10, effective May 22.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-4-109 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments to subsection (2.5)(a) by House Bill 03-1117 and House Bill 03-1211 were harmonized.

Cross references: For the legislative declaration contained in the 2001 act amending subsection (2.5), see section 1 of chapter 241, Session Laws of Colorado 2001. For the legislative declaration contained in the 2003 act amending subsection (2.5)(a), see section 1 of chapter 196, Session Laws of Colorado 2003.

19-5-207.3. Placement of sibling groups. (1) When a child is placed for adoption by the county department, if the child is part of a sibling group, as defined in section 19-1-103 (98.5), the county department shall include in the adoption report prepared for the court, the names and current physical custody and location of any siblings of the child who are also available for adoption; except that the names of children, parents, caretakers, and adoptive parents and any means of identifying such persons shall not be made available to any party to the adoption proceeding except upon order of the court or as otherwise permitted by law.

(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 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 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 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.

(4) Consideration of the placement of children together as a sibling group shall not delay the efforts for expedited permanency planning or permanency planning in order to achieve permanency for each child in the sibling group.

Source: L. 2000: Entire section added, p. 477, § 7, effective July 1. **L. 2003:** (2) and (3) amended, p. 2628, § 10, effective June 5.

19-5-207.5. Legislative declaration - standardized home studies - adoptive family resource registry - rules. (1) **Legislative declaration.** (a) (I) The general assembly hereby finds that there are a growing number of children in the legal custody of the county departments of social services who are the victims of physical or sexual abuse, neglect, or abandonment and who are awaiting permanent placement in safe, loving, and nurturing adoptive homes. The general assembly further finds that with the expedited permanency procedures that have been established and with the enactment of legislation implementing the federal "Adoption and Safe Families Act of 1997", Public Law 105-89, it is anticipated that the number of children available for adoption will continue to increase dramatically and that there will be a corresponding increased need to identify statewide those families that are willing and qualified to adopt these needy children.

(II) The general assembly finds that, although the county departments of social services have made admirable efforts in assessing and reporting on the qualifications of families interested in adopting, there is a need to make the valuable resource of such qualified families more available and accessible to all counties in the state in order to satisfy the growing need for suitable adoptive families.

(b) Accordingly, the general assembly determines that it is appropriate and desirable for the department to aid the county departments of social services in their efforts to achieve permanency for children in their legal custody who are available for adoption by making accessible to such county departments a statewide adoptive family resource registry of families who are qualified for and desirous of adopting children with special needs. Toward that end, the general assembly further determines that it would be beneficial to such children and families for the department to develop an approved vendor list of qualified home study providers by region, standardized investigation criteria, and minimum uniform adoptive home study report standards in order to achieve more timely adoptive placements, to reduce the burden associated with the adoption process, and to avert the possibility of failed adoptions.

(2) **Approved vendor lists for home studies.** (a) In order to achieve greater access to qualified families seeking to adopt children, to expedite permanency placement for children available for adoption, and to obtain reliable, high-quality assessments of families that can result in permanent and healthy placements, the department shall develop an approved vendor list of county departments, individuals, and child placement agencies qualified to prepare the home study reports in public adoptions as required by section 19-5-207 (2).

(b) (I) On or before January 1, 2000, the department shall issue a public request for applications from county departments of social services, individuals, and child placement agencies desirous of conducting investigations and preparing written home study reports for prospective public adoptions in specified counties or geographic regions. The department shall review the applications it receives and shall determine which applicants meet the qualifying criteria identified by the state board of human services pursuant to subparagraph (II) of this paragraph (b). Each county department of social services, individual, or child placement agency that meets the qualifying criteria shall be placed on the approved vendor list of home study report providers.

(II) The state board of human services shall promulgate rules identifying the qualifying criteria that county departments of social services, individuals, and child placement agencies must meet in order to qualify as an approved vendor pursuant to this paragraph (b) for the purpose of conducting adoptive investigations and preparing home study reports. All county departments of social services, qualified individuals, and child placement agencies that submit applications to the department and that meet the qualifying criteria shall be selected to perform home studies and, once such county departments, individuals, or agencies have been approved by the department pursuant to this paragraph (b), they shall be available to perform home studies in the specified county or region.

(c) All qualified county departments of social services, individuals, and child placement agencies approved by the department to conduct home studies pursuant to paragraph (b) of this subsection (2) shall prepare their home study reports in compliance with the minimum uniform standards prescribed by rule of the state board as described in subsection (3) of this section and any other additional criteria and standards established by a particular county pursuant to paragraph (b) of subsection (3) of this section.

(d) Each qualified county department of social services, individual, or child placement agency approved by the department may promote the adoption of available children through a public information campaign directed at educating and informing the public about the need for safe and healthy adoptive families. Regional educational campaigns shall be encouraged.

(e) All qualified county departments of social services, individuals, and child placement agencies approved by the department pursuant to this subsection (2) may participate in the statewide training provided by the department.

(3) **Standards for home studies.** (a) The state board of human services shall promulgate rules identifying the criteria for the investigation and the minimum uniform standards for the home study reports with which the qualified county departments of social services, individuals, or child placement agencies approved by the department shall comply. The criteria shall include, but shall not be limited to:

(I) The quality standards that the county department of social services, the individual, or the child placement agency must achieve;

(II) The time frames within which the county department of social services, the individual, or the child placement agency must complete the investigations and home study reports; and

(III) The capacity of the county department of social services, the individual, or the child placement agency to assess the abilities of prospective adoptive families to meet the needs of a child with special needs.

(b) Nothing in this section shall prohibit a county department of social services from establishing additional criteria and standards that a county department of social services, an individual, or a child placement agency shall meet in preparing a home study report.

(4) **Fees for investigations and home studies.** (a) (I) Any person who, by his or her own request or by order of the court as provided in section 19-5-209, is the subject of a home study report and investigation conducted pursuant to section 19-5-207 by a county department of social services, an individual, or a child placement agency shall be required to pay, based on an ability to pay, the cost of such report and investigation.

(II) In public adoptions, the state board of human services shall promulgate rules establishing the maximum amount that a county department of social services, an individual, or a child placement agency may charge a prospective adoptive family for the investigation, criminal records check, and home study report required pursuant to section 19-5-207.

(III) The county department of social services may waive the fee established pursuant to this subsection (4) if the fee poses a barrier to the adoption of a child for whom a county department of social services has financial responsibility.

(b) (I) In addition to the fee specified in paragraph (a) of this subsection (4), if the county department of social services has not placed a child available for a public adoption with a family who is the subject of an investigation and home study report after six months, then the county shall refer the family and the home study report for such family to the adoptive family resource registry established pursuant to subsection (5) of this section if there is written consent pursuant to subparagraph (I) of paragraph (c) of subsection (5) of this section. Prior to referral of a prospective adoptive family to the adoptive family resource registry, the prospective adoptive family shall be assessed and shall pay a nonrefundable administrative fee in an amount to be determined by rule of the state board of human services. A family shall not be assessed the fee

described in this paragraph (b) if the family is not referred to the adoptive family resource registry.

(II) The department or the contractor selected by the department to administer the adoptive family resource registry shall collect the administrative fee established by rule of the state board of human services pursuant to subparagraph (I) of this paragraph (b) and apply the revenue from said fees to offset the costs incurred for the administration of the adoptive family resource registry.

(III) Nothing in this paragraph (b) shall be construed to prevent a county from referring a family to the adoptive family resource registry before the six month period has lapsed.

(5) **Adoptive family resource registry.** (a) Subject to available funds as specified in subparagraph (III) of paragraph (b) of this subsection (5), the department shall establish a statewide adoptive family resource registry that county departments of social services may access to determine the availability of qualified families seeking to adopt a child in the custody of a county department of social services. The department is authorized to contract with a public or private entity for the provision of this service.

(b) (I) The executive director of the department is authorized to accept and expend on behalf of the state any funds, grants, gifts, or donations from any private or public source for the purpose of establishing the statewide adoptive family resource registry; except that no gift, grant, or donation shall be accepted if the conditions attached thereto require the expenditure thereof in a manner contrary to law.

(II) The executive director of the department is authorized to apply for a federal waiver, if necessary, to authorize the use of federal grant moneys to implement this section.

(III) No general fund moneys shall be expended for the establishment of the adoptive family resource registry. The adoptive family resource registry shall be established only upon the receipt of sufficient grants, gifts, and donations pursuant to subparagraph (I) of this paragraph (b).

(c) (I) No home study report, or any other information concerning a person interested in a public adoption shall be submitted to the adoptive family resource registry without such person's written consent.

(II) The state board of human services shall promulgate rules specifying the limited amount of nonidentifying data concerning a person interested in a public adoption that shall be available to county departments of social services on the internet through the adoptive family resource registry.

(III) The state board of human services shall promulgate rules identifying the standards and procedures with which the department or the contractor selected by the department to administer the adoptive family resource registry shall comply in order to preserve the confidentiality and privacy of the prospective adoptive family as much as possible.

Source: L. 99: Entire section added, p. 1019, § 2, effective May 29.

19-5-208. Petition for adoption. (1) The petition for adoption shall be filed not later than thirty-five days after the date on which the child is first placed in the home of the adoptive applicants for the purpose of adoption unless the court finds that there was reasonable cause or excusable neglect for not filing the petition. The court shall then fix a date for the hearing.

(2) Every petition for adoption of a child shall be verified by the petitioner and shall be entitled substantially as follows: "In the matter of the petition of ..... for the adoption of a child." It shall contain:

(a) The name, date and place of birth, race, and place of residence of each petitioner, including the maiden name of the adopting mother, and the date of marriage, if any, of the petitioners;

(b) The name, date and place of birth, and place of residence, if known by the petitioner, of the child to be adopted;

(c) The relationship, if any, of the child to the petitioner;

(d) The full name by which the child shall be known after adoption;

(e) The full description of the property, if any, of the child;

(f) The names of the parents of the child, and the address of each living parent, if known to the petitioner;

(g) The names and addresses of the guardian of the person and the guardian of the estate of the child, if any have been appointed;

(h) The name of the agency or person to whom the custody of the child has been given by proper order of court;

(i) The length of time the child has been in the care and custody of the petitioner;

(j) Names of other children, both natural and adopted and both living and dead, of the adopting parents;

(k) The residence and occupation of each petitioner at or about the time of the birth of the child.

(2.5) (a) Pursuant to the provisions of section 19-1-126, the petition for adoption shall:

(I) Include a statement indicating what continuing inquiries the county department of social services or child placement agency has made in determining whether the child who is the subject of the proceeding is an Indian child;

(II) Identify whether the child is an Indian child; and

(III) Include the identity of the Indian child's tribe, if the child is identified as an Indian child.

(b) If notices were sent to the parent or Indian custodian of the child and to the Indian child's tribe, pursuant to section 19-1-126, the postal receipts, or copies thereof, shall be attached to the petition for adoption and filed with the court or filed within ten days after the filing of the petition for adoption, as specified in section 19-1-126 (1)(c).

(3) If the adoption placement is made by the county department of social services or a child placement agency, the information required in paragraphs (b) and (f) of subsection (2) of this section shall not be included in the petition but shall be transmitted to the court as part of the home study report required in section 19-5-207.

(4) The petition shall be accompanied by a standardized affidavit form prescribed by the judicial department disclosing any and all fees, costs, or expenses charged or to be charged by any person or agency in connection with the adoption.

(5) In all stepparent, second parent, custodial, and kinship adoptions, the petition shall contain a statement informing the court whether the prospective adoptive parent was convicted at any time by a court of competent jurisdiction of a felony or misdemeanor in one of the following areas: Child abuse or neglect; spousal abuse; any crime against a child; any crime, the underlying factual basis of which has been found by the court on the record to include an act of

domestic violence, as defined in section 18-6-800.3, C.R.S.; violation of a protection order, as described in section 18-6-803.5, C.R.S.; any crime involving violence, rape, sexual assault, or homicide; or any felony physical assault or battery. In addition, the petitioner shall attach to the petition a current criminal history records check paid for by the petitioner.

(6) In all custodial and kinship adoptions, the petition shall contain a statement that the petitioner has consulted with the appropriate local county department of social services concerning the possible eligibility of the petitioner and the child for temporary assistance for needy families (TANF), medicaid, subsidized adoption and other services or public assistance administered by the county department of social services.

Source: L. 87: Entire title R&RE, p. 808, § 1, effective October 1. **L. 97:** (4) amended, p. 1165, § 9, effective July 1. **L. 99:** (3) amended, p. 1025, § 8, effective May 29; (5) and (6) added, p. 1063, § 5, effective June 1. **L. 2002:** (2.5) added, p. 788, § 9, effective May 30. **L. 2004:** (5) amended, p. 328, § 1, effective July 1. **L. 2007:** (5) amended, p. 838, § 2, effective August 3. **L. 2012:** (1) amended, (SB 12-175), ch. 208, p. 880, § 141, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-4-110 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 2002 act enacting subsection (2.5), see section 1 of chapter 217, Session Laws of Colorado 2002.

19-5-209. Petition - written home study reports. (1) Except for stepparent adoptions, kinship adoptions, custodial adoptions, and those cases in which placement for adoption has been made by the court, if a petition for the adoption of a child is not accompanied by the written consent and home study report of the qualified county department of social services, individual, or a licensed child placement agency approved by the state department of human services pursuant to section 19-5-207.5 (2), the court shall order the county department of social services, individual, or licensed child placement agency to make an investigation and file a written home study report substantially in the form outlined in section 19-5-207 (2), including a recommendation as to whether the adoption should be decreed.

(2) In adoptions where a child placement agency or county department has legal guardianship during the interval between initial placement and the final order of adoption, the child placement agency or county department shall supervise the placement with prospective adoptive parents and the child. The court, after notice to all parties in interest and hearing thereon, may, for good cause, terminate said placement if, at any time prior to the final decree of adoption, it appears to the court that said adoption is not in the best interest of the child.

Source: L. 87: Entire title R&RE, p. 809, § 1, effective October 1. **L. 99:** (1) amended, p. 1023, § 3, effective May 29; (1) amended, p. 1064, § 6, effective June 1.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-4-111 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments to subsection (1) by House Bill 99-1218 and House Bill 99-1299 were harmonized.

19-5-210. Hearing on petition. (1) A hearing on the petition for adoption shall be held on the date set or the date to which the matter has been regularly continued.

(1.5) Except in stepparent, second parent, custodial, or kinship adoptions, the court shall issue a certificate of approval of placement, placing the child's custodial care with prospective adoptive parents pending final hearing on the petition for adoption, if it appears to the court that the placement for adoption is in the best interest of the child.

(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 one hundred eighty-two days after the date 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:

(a) The availability of the child for adoption;

(b) The good moral character, the ability to support and educate the child, and the suitableness of the home of the person adopting such child;

(b.5) The criminal records check of the prospective adoptive parent as reported to the court by the county department of social services or the child placement agency pursuant to section 19-5-207 (2.5) or the information provided to the court pursuant to section 19-5-208 (5) does not reveal a criminal history described in 19-5-207 (2.5)(a);

(c) The mental and physical condition of the child as a proper subject for adoption in said home;

(d) The fact that the best interests of the child will be served by the adoption; and

(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.

(3) The former name of the child shall not be stated in the final decree of adoption.

(4) If, after the hearing, the court is not satisfied as to the matters listed in subsection (2) of this section, the petition for adoption may be either continued or dismissed in the discretion of the court. The court shall not grant the decree of final adoption if it determines that the prospective adoptive parent was convicted at any time by a court of competent jurisdiction of a felony in one of the following areas: Child abuse or neglect; spousal abuse; any crime against a child; or any crime involving violence, rape, sexual assault, or homicide, excluding other physical assault or battery. For stepparent, kinship, or custodial adoptions, in addition to not granting a decree of final adoption in circumstances involving the felony convictions listed in this subsection (4), the court shall not grant the decree of final adoption if it determines that the prospective adoptive parent was convicted of a felony for physical assault or battery that was committed within the past five years.

(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.

(6) In a stepparent adoption, in addition to issuing a final decree of adoption, the court shall enter an order terminating the other parent's parental rights. In a custodial or kinship adoption, in addition to issuing a final decree of adoption, the court shall enter an order terminating the parental rights of the child's parents.

(7) In cases involving the adoption of a child who is part of a sibling group, but who is not being adopted with his or her siblings, in addition to issuing a final decree of adoption, if the adoptive parents are willing, the court may encourage reasonable visitation among the siblings when visitation is in the best interests of the child or the children. The court shall review the record and inquire as to whether the adoptive parents have received counseling regarding children in sibling groups maintaining or developing ties with each other.

Source: L. 87: Entire title R&RE, p. 809, § 1, effective October 1. **L. 97:** IP(2) amended, p. 1165, § 10, effective July 1. **L. 98:** (2) and (4) amended, p. 1423, § 12, effective July 1. **L. 99:** Entire section amended, p. 1064, § 7, effective June 1. **L. 2000:** (2) amended and (7) added, p. 478, § 8, effective July 1. **L. 2003:** (2)(e) amended, p. 2628, § 11, effective June 5. **L. 2005:** IP(2) and (5) amended, p. 94, § 4, effective March 31. **L. 2007:** (1.5) amended, p. 838, § 3, effective August 3. **L. 2012:** IP(2) amended, (SB 12-175), ch. 208, p. 880, § 142, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-4-112 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-5-211. Legal effects of final decree. (1) After the entry of a final decree of adoption, the person adopted shall be, to all intents and purposes, the child of the petitioner. He shall be entitled to all the rights and privileges and be subject to all the obligations of a child born in lawful wedlock to the petitioner.

(1.5) An employer who permits paternity or maternity time off for biological parents following the birth of a child shall, upon request, make such time off available for individuals adopting a child. If the employer has established a policy providing time off for biological parents, that period of time shall be the minimum period of leave available for adoptive parents. Requests for additional leave due to the adoption of an ill child or a child with a disability shall be considered on the same basis as comparable cases of such complications accompanying the birth of such a child to an employee or employee's spouse. Any other benefits provided by the employer, such as job guarantee or pay, shall be available to both adoptive and biological parents on an equal basis. An employer shall not penalize an employee for exercising the rights provided

by this subsection (1.5). The provisions of this subsection (1.5) shall not apply to an adoption by the spouse of a custodial parent or to a second-parent adoption.

(2) The parents shall be divested of all legal rights and obligations with respect to the child, and the adopted child shall be free from all legal obligations of obedience and maintenance with respect to the parents.

(2.5) The child shall be eligible for enrollment and coverage by any medical or dental insurance held by the prospective adoptive parents if, and on such a basis as, such coverage would be available to a child naturally born to the prospective adoptive parents.

(3) Nothing in this part 2 shall be construed to divest any natural parent or child of any legal right or obligation where the adopting parent is a stepparent and is married to said natural parent.

Source: L. 87: Entire title R&RE, p. 810, § 1, effective October 1. **L. 88:** (1.5) added, p. 759, § 1, effective April 13. **L. 93:** (1.5) amended, p. 1638, § 26, effective July 1. **L. 97:** (2.5) added, p. 1165, § 11, effective July 1. **L. 99:** (2) amended, p. 1065, § 8, effective June 1. **L. 2007:** (1.5) amended, p. 838, § 4, effective August 3.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in § 19-4-113 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-5-212. Copies of order of adoption - to whom given. (1) If the court enters an order of adoption, certified copies shall be given to the adopting parents, the person or agency consenting to the adoption, and the state registrar.

(2) The court or the adopting parents or their legal representative shall send to the state registrar an application for a birth certificate, signed by the adoptive parents. The state registrar shall thereupon issue a new birth certificate to the child, as provided in section 25-2-113, C.R.S.

(3) If the child was born outside of Colorado, copies of the order of adoption and application for birth certificate shall be sent to the state registrar of the state of birth and to the registrar of vital statistics in this state. If the application for a birth certificate is denied by the state registrar in the state of birth, the adopting parents may return to the registrar in this state and apply to him to issue a new certificate of birth. The state registrar shall issue a birth certificate upon satisfactory evidence that the adopting parents, after good-faith effort, were unable to obtain a new certificate of birth from the state of birth.

Source: L. 87: Entire title R&RE, p. 810, § 1, effective October 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-4-114 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-5-213. Compensation for placing child prohibited. (1) (a) No person shall offer, give, charge, or receive any money or other consideration or thing of value in connection with the relinquishment and adoption, except attorney fees and such other charges and fees as may be approved by the court.

(b) No person, other than an adoption exchange whose membership includes county departments and child placement agencies, a licensed child placement agency, or a county department, shall offer, give, charge, or receive any money or other consideration or thing of value in connection with locating or identifying for purposes of adoption any child, natural parent, expectant natural parent, or prospective adoptive parent; except that physicians and attorneys may charge reasonable fees for professional services customarily performed by such persons.

(c) A child who is placed by a county department in a foster care home operated by a child placement agency shall be deemed, for purposes of payment to the child placement agency, to remain in foster care status for purposes of payment of consideration to the child placement agency until the date that the final decree of adoption is entered or until the date that the child is returned to his or her biological parent's home, unless otherwise negotiated in the contract between the child placement agency and the county department.

(2) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for ninety days in the county jail, or by both such fine and imprisonment.

Source: L. 87: Entire title R&RE, p. 811, § 1, effective October 1. **L. 2005:** (1) amended, p. 970, § 4, effective June 2.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-4-115 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-5-213.5. Unauthorized advertising for adoption purposes - exceptions - penalty - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Advertise through a public medium" means to communicate by any public medium, including by newspaper, periodical, telephone book listing, outdoor advertising sign, radio, or television or by computerized communication system, which includes an internet site, an internet profile, or any similar medium of communication provided via the internet. "Advertising through a public medium" does not include communicating through personal or work electronic mail, text, or telephone.

(b) "Another jurisdiction" means the District of Columbia, the Commonwealth of Puerto Rico, any territory or insular possession subject to the jurisdiction of the United States, an Indian tribe, or a state of the United States other than Colorado.

(c) "Child" means a person less than eighteen years of age.

(2) Except as described in subsection (3) of this section, it is unlawful to advertise through a public medium for one of the following purposes:

(a) To find a child to adopt or to otherwise take permanent physical custody of a child;

(b) To find an adoptive home or any other permanent physical placement for a child or to arrange for or assist in the adoption, adoptive placement, or any other permanent physical placement of a child; or

(c) To offer to place a child for adoption or in any other permanent physical placement with another person.

(3) Subsection (2) of this section does not apply to:

(a) An employee of the state department of human services, a county department of social services, or a child placement agency that is licensed pursuant to part 1 of article 6 of title 26, C.R.S., who is acting within the scope of his or her employment to place a child for adoption or in foster care;

(b) An individual or agency that provides adoption information through the statewide adoption resource registry as provided in section 26-1-111 (4), C.R.S.;

(c) An adoption exchange whose membership includes county departments and licensed child placement agencies that provide information and referral services to find adoptive homes and to promote adoption;

(d) An individual who contacts and has entered into an agreement with or is actively working with any of the agencies or entities described in paragraph (a), (b), or (c) of this subsection (3) to place his or her child for adoption;

(e) A person who advertises fertility-related services;

(f) An individual who has received a favorable recommendation regarding his or her fitness to be an adoptive parent in this state from the state department of human services, a county department of social services, or a child placement agency licensed in this state or in another jurisdiction from an entity authorized by that jurisdiction to conduct studies of potential adoptive homes; or

(g) An attorney who is licensed to practice in Colorado who advertises his or her availability to practice or provide services relating to the adoption of children.

(4) Unauthorized advertising of a child, as described in subsection (2) of this section, is a class 6 felony.

Source: L. 2014: Entire section added, (HB 14-1372), ch. 262, p. 1053, § 1, effective July 1.

19-5-214. Limitation on annulment of adoption - best interests standard. (1) No final decree of adoption shall be attacked by reason of any jurisdictional or procedural defect after the expiration of ninety-one days following the entry of the final decree; except that, in cases of stepparent adoption, no final decree of adoption shall be attacked by reason of fraud upon the court or fraud upon a party, whether or not there is a jurisdictional or procedural defect, after the expiration of one year following the entry of the final decree of adoption.

(2) When a final decree of adoption is attacked on any basis at any time, the court shall consider the best interests of the child, taking into account the factors set forth in section 14-10-124, C.R.S. The court shall sustain the decree unless there is clear and convincing evidence that the decree is not in the best interests of the child.

Source: L. 87: Entire title R&RE, p. 811, § 1, effective October 1. **L. 94:** Entire section amended, p. 752, § 5, effective April 20; entire section amended, p. 1198, § 2, effective May 19. **L. 2012:** (1) amended, (SB 12-175), ch. 208, p. 880, § 143, effective July 1.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-4-116 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Amendments to this section in House Bill 94-1042 and Senate Bill 94-5 were harmonized.

19-5-215. Records. (Repealed)

Source: L. 87: Entire title R&RE, p. 811, § 1, effective October 1. **L. 89:** Entire section amended, p. 943, § 4, effective March 27. **L. 90:** Entire section repealed, p. 1012, § 8, effective July 1.

19-5-216. Increased access for adoption - study. (1) (a) The department shall examine and evaluate the process of adoptive placements of children in the legal custody of the county departments of social services and identify those aspects of the process that may be improved to achieve the ultimate goal of permanency for the greatest number of children in safe and healthy adoptive homes. In conducting this analysis, the department should consider, but need not be limited to, the following:

(I) The best means by which to increase county accessibility to qualified families seeking to adopt and the best means by which to achieve placement of children available for adoption with such families;

(II) Whether further automation would be conducive to the achievement of permanency of children;

(III) The need for centralization of information;

(IV) The benefits of additional standardization;

(V) The resources of other interested entities or foundations that may be available to support public adoptions;

(VI) The programs and systems developed by other states to achieve maximum access and expedited permanency for children in safe and healthy adoptive homes; and

(VII) The methods used to reduce the number of disruptions in adoptive homes.

(b) (I) The executive director of the department is authorized to accept and expend on behalf of the state any funds, grants, gifts, or donations from any private or public source for the purpose of implementing this section; except that no gift, grant, or donation shall be accepted if the conditions attached thereto require the expenditure thereof in a manner contrary to law.

(II) The executive director of the department is authorized to apply for a federal waiver, if necessary, to authorize the use of federal grant moneys to implement this section.

(2) Repealed.

Source: L. 99: Entire section added, p. 1024, § 4, effective May 29. **L. 2002:** (2) repealed, p. 882, § 20, effective August 7.

PART 3

ACCESS TO ADOPTION INFORMATION

19-5-301. Legislative declaration. (1) The general assembly hereby finds and declares that adult adoptees, adoptive parents, biological parents, and biological siblings should have a right of access to certain records regarding their or their child's adoption or the adoption of their

offspring or siblings as outlined in section 19-5-305 and that such a right must coexist with the right of such parties to privacy and confidentiality. The general assembly also finds that an adult adoptee, his biological or adoptive parent, or his biological sibling may desire to obtain information about each other at different points in time. Furthermore, the general assembly finds that confidentiality from the general public is essential to the adoption process and that any procedure to access information which relates to an adoption to search for unknown relatives through a confidential intermediary or a licensed child placement agency must be designed to maintain confidentiality and to respect the wishes of all involved parties.

(2) (a) It is the purpose of this part 3 to establish a confidential process whereby adult adoptees and adoptive parents who desire information concerning their or their child's adoption and biological parents and siblings who desire information concerning an adult adoptee may pursue access to such information.

(b) The general assembly further finds and declares that the purpose of establishing the confidential process set forth in this part 3 is to create a pool of individuals who the courts and interested parties may call upon to initiate a search for a biological relative. It is not the intent of the general assembly that such process shall be construed as the regulation of an occupation or profession.

Source: L. 89: Entire part added, p. 940, § 1, effective March 27. **L. 2014:** (1) amended, (SB 14-051), ch. 260, p. 1048, § 4, effective July 1.

19-5-302. Definitions. (Repealed)

Source: L. 89: Entire part added, p. 941, § 1, effective March 27. **L. 96:** Entire section repealed, p. 85, § 11, effective March 20.

Cross references: For current applicable definitions, see § 19-1-103.

19-5-303. Commission created - duties. (1) There is hereby created in the department the adoption intermediary commission, referred to in this section as the "commission", that shall consist of thirteen members. The commission shall exercise its powers and perform the duties and functions specified by this part 3 as if the same were transferred to the department by a **type 1** transfer, as such transfer is defined in article 1 of title 24, C.R.S. Representation and appointment of such members shall be as follows:

(a) Three members shall represent the judicial department and shall be appointed by the chief justice or his or her designee;

(b) Two members shall represent the department and shall be appointed by the executive director of such department or his or her designee;

(c) Three members shall represent licensed adoption agencies and shall be appointed by a representative of a private adoption agency. Such representative shall be selected by the executive director of the department.

(d) Three members shall represent either adoptees, adoptive parents, biological parents of adoptees, or biological siblings of adoptees and shall be selected by the executive director of the department;

(e) Two members shall represent confidential intermediaries and shall have completed training as confidential intermediaries. Such members shall be appointed by the executive director of the department.

(2) The commission shall have responsibility for:

(a) Drafting a manual of standards for training confidential intermediaries and licensed child placement agencies that perform searches and contact persons pursuant to section 19-5-305 (3)(b)(III);

(b) Monitoring confidential intermediary training programs and child placement agencies with search and consent programs to ensure compliance with the standards set forth in the manual, with authority to approve or deny such programs based upon compliance with such standards;

(c) Maintaining an up-to-date list of persons who have completed training as confidential intermediaries or as persons who conduct searches for child placement agencies and communicating such list to the judicial department.

(3) The commission shall adopt its own rules of procedure, shall select a chairman, a vice-chairman, and such other officers as it deems necessary, and shall keep a record of its proceedings. The commission shall meet as often as necessary to carry out its duties, but in no instance shall it meet less than annually. The commission may seek input from confidential intermediary organizations in carrying out its duties.

(4) The commission shall be voluntary and shall not receive per diem payments.

Source: L. 89: Entire part added, p. 941, § 1, effective March 27. **L. 91:** IP(1) amended, p. 890, § 14, effective June 5. **L. 93:** (4) amended, p. 657, § 3, effective July 1. **L. 94:** IP(1) and (1)(b) to (1)(d) amended, p. 2689, § 213, effective July 1. **L. 97:** (1) amended, p. 1166, § 12, effective July 1. **L. 2000:** (1) and (2) amended, p. 1373, § 5, effective July 1. **L. 2005:** (2)(c) amended, p. 767, § 31, effective June 1; (2)(c) amended, p. 993, § 5, effective July 1.

19-5-304. Confidential intermediaries - confidential intermediary services. (1) (a) Any person who has completed a confidential intermediary training program that meets the standards set forth by the commission shall be responsible for notifying the commission that his or her name should be included on the list of confidential intermediaries to be maintained by the commission and made available to the judicial department. The commission shall adopt rules to determine when and under what conditions the name of a confidential intermediary shall be removed from the list available to the judicial department.

(b) Once a person is included on the list of confidential intermediaries, he or she shall be:

(I) Authorized to inspect confidential relinquishment and adoption records, post-adoption records, and dependency and neglect records, including but not limited to court files, within forty-five days after a motion to the court is filed by the following persons:

(A) An adult adoptee;

(B) An adoptive parent, custodial grandparent, or legal guardian of a minor adoptee;

(C) A biological parent or an adult biological sibling or half-sibling of an adult adoptee;

(D) An adult descendant of the adoptee or the adoptive parent, spouse of an adoptee, adult stepchild, or adopted adult sibling of an adoptee with the notarized written consent of the adult adoptee;

(E) A biological grandparent of an adoptee with the notarized written consent of the biological parent. No written consent is required if the biological parent is deceased.

(F) The legal representative of any of the individuals listed in sub-subparagraphs (A) to (E) of this subparagraph (I);

(G) A former foster child who may or may not have been adopted, who is eighteen years of age or older, and who is searching for a birth sibling who is also eighteen years of age or older, who may or may not have been adopted, and who may or may not have been in the foster care system;

(II) Available, subject to time constraints, for appointment by the court to act as a confidential intermediary for any of the parties listed in subparagraph (I) of this paragraph (b).

(2) (a) Any of the parties listed in subparagraph (I) of paragraph (b) of subsection (1) of this section, any of whom are eighteen years of age or older, may file a motion, with supporting affidavit, in the court where the adoption took place, to appoint one or more confidential intermediaries for the purpose of determining the whereabouts of such individual's unknown relative or relatives; except that no one shall seek to determine the whereabouts of a relative who is younger than eighteen years of age. The court may rule on said motion and affidavit without hearing and may appoint a trained confidential intermediary.

(b) The court-appointed confidential intermediary shall make a diligent search of the adoption records and post-adoption records in an effort to find the sought-after relative. If the confidential intermediary successfully locates the relative sought, the confidential intermediary shall provide that relative with the opportunity to:

(I) Consent to or to refuse to allow contact by the person seeking contact;

(II) Fill out a contact preference form and updated medical history statement as prescribed in section 19-5-305 (1.5);

(III) Repealed.

(2.5) For purposes of paragraph (b) of subsection (1) of this section and subsection (2) of this section, "legal guardian" shall not include a governmental entity of any foreign country from which a child has been adopted or any representative of such governmental entity.

(3) Any information obtained by the confidential intermediary during the course of his or her investigation shall be kept strictly confidential and shall be utilized only for the purpose of arranging a contact between the individual who initiated the search and the sought-after biological relative or for the purpose of obtaining consent for the release of adoption records.

(4) (a) When a sought-after biological relative is located by a confidential intermediary on behalf of the individual who initiated the search, the confidential intermediary shall obtain consent from both parties that they wish to personally communicate with one another.

(b) Contact shall be made between the parties involved in the investigation only when consent for such contact has been received by the court.

(c) If consent for personal communication is not obtained from both parties, all relinquishment and adoption records and any information obtained by any confidential intermediary during the course of his or her investigation shall be returned to the court and shall remain confidential.

(5) All confidential intermediaries shall inform both the requesting biological relative and the sought-after biological relative of the existence of the voluntary adoption registry set forth in section 25-2-113.5, C.R.S.

(6) Any person acting as a confidential intermediary who knowingly fails to comply with the provisions of subsections (3) and (4) of this section commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of five hundred dollars.

Source: L. 89: Entire part added, p. 942, § 1, effective March 27. **L. 97:** (1) and (2) amended, p. 1166, § 13, effective July 1. **L. 99:** (1)(b), (2), (3), and (4)(c) amended and (2.5) added, p. 1131, § 3, effective July 1. **L. 2000:** (1) and (2) amended, p. 1368, § 2, effective July 1. **L. 2005:** (2) amended, p. 984, § 1, effective July 1. **L. 2009:** IP(1)(b) and IP(1)(b)(I) amended and (1)(b)(I)(G) added, (SB 09-079), ch. 59, p. 214, § 1, effective March 25. **L. 2014:** (2)(b)(III) repealed, (SB 14-051), ch. 260, p. 1049, § 5, effective July 1.

19-5-305. Access to adoption records - contact with parties to adoption - contact preference form and updated medical history statement - definitions. (1) **Confidentiality.** All adoption records are confidential from the general public and must remain confidential except as described in subsections (1.5) and (2) of this section or upon demonstration of good cause pursuant to section 19-1-309 or as otherwise provided by law.

(1.5) **Contact preference forms and updated medical history statements from birth parents.** (a) The state registrar shall prescribe and make available to a birth parent named on an original birth certificate in the records of the state registrar a contact preference form on which the birth parent may indicate a preference regarding contact by the adult adoptee, an adult descendant of the adoptee, or a legal representative of the adoptee or descendant. The purpose of the contact preference form is to allow the birth parent the opportunity to indicate a preference to be contacted directly, to be contacted through a third party, or not to be contacted by other parties.

(b) The form must also include space for a written statement by the birth parent, which may include updated medical history about the birth parent or other biological relatives, an explanation for the stated contact preference, or other information for the party seeking records. The medical history statement form must indicate that the birth parent is waiving confidentiality of any medical information supplied in the statement with respect to the adoptee, an adult descendant of the adoptee, or a legal representative of such individual, and to the state registrar or his or her designees.

(c) The state registrar shall maintain the contact preference form and the medical history statements, if any, and make them accessible to an individual who is an eligible party allowed to receive adoption records as described in subparagraph (I) of paragraph (b) of subsection (2) of this section and who submits a written application form, proof of identity, and an explanation of the individual's relationship to the adoptee, if applicable. The state registrar is authorized to verify the submission of a contact preference form or an updated medical history statement and to provide a copy of a contact preference form to a confidential intermediary appointed pursuant to section 19-5-304 or to a designated employee of a child placement agency who is searching pursuant to subparagraph (III) of paragraph (b) of subsection (3) of this section. The state registrar shall maintain and make available to the public accurate statistics about the number of contact preference forms on file with the state registrar and how many of the forms state a preference for contact, no contact, or contact through a third party.

(d) (I) As used in this section, "eligible party" means a person who is eligible under subparagraph (I) of paragraph (b) of subsection (2) of this section to have access to adoption records.

(II) The option on the contact preference form that allows a birth parent to authorize or not authorize the release of the original birth certificate to eligible parties expires on January 1, 2016. The state registrar shall revise the contact preference form to eliminate this option, effective January 1, 2016, and shall neither distribute nor accept contact preference forms on or after January 1, 2016, that contain an option regarding such release. On and after January 1, 2016, contact preference forms shall only address a birth parent's preferences regarding contact and the ability to submit an explanation for the stated contact preference and to submit or update medical history. A child placement agency is not liable to any person for the failure of a birth parent to submit a contact preference form to the state registrar. On and after July 1, 2014, the state registrar shall post a notice on the website of the office of the state registrar of vital statistics stating that the contact preference form will be revised to eliminate the option to authorize or object to the release of the original birth certificate and that birth parents may exercise this option prior to January 1, 2016.

(III) Prior to allowing access to and providing a copy of an original birth certificate to an eligible party, the state registrar must perform a diligent search for a contact preference form executed prior to January 1, 2016, to ascertain if either birth parent had stated a preference authorizing or not authorizing the release of the original birth certificate to eligible parties. If both birth parents have filed a contact preference form executed prior to January 1, 2016, stating a preference to authorize the release of the original birth certificate, then the state registrar must release the original birth certificate to the eligible party. If there is no contact preference form on file prior to January 1, 2016, from a birth parent named on the original birth certificate, or if a contact preference form executed prior to January 1, 2016, is on file that states a preference that the original birth certificate not be released, then the state registrar may not release the original birth certificate to the eligible party prior to January 1, 2016, unless the birth parent rescinds the contact preference form, upon mutual consent of two or more reunited parties, the birth parent is deceased, or the eligible party obtains a court order pursuant to section 19-1-309. When one birth parent has authorized the release of the birth certificate and the other birth parent has filed a contact preference form prior to January 1, 2016, not authorizing release, the state registrar shall issue the original birth certificate to the eligible party with the name of the nonconsenting parent redacted.

(2) **Legislative declaration - access to adoption records.** (a) The general assembly takes note that the law in Colorado regarding access to adoption records has treated persons differently depending upon the law in effect upon the date of the adoption of the adoptee and that the statutory scheme has been confusing, complicated, and ambiguous. By repealing and reenacting provisions of this section to remove those varying time periods and varying levels of access or nonaccess to adoption records by an adult adoptee or by a birth parent, it is the intent of the general assembly that access to adoption records no longer be dependent upon the law in effect on the date of the finalization of adoption. The general assembly declares that the purpose of the revision of this subsection (2) is to make the access to adoption records by members of the adoption triad more uniform as outlined in this subsection (2). The general assembly further declares that it is the intent of the general assembly to not abrogate, limit, or change the holding in or affect any rights created under *In re J.N.H.*, 209 P.3d 1221 (Colo. App. 2009) with respect

to access by an adult adoptee to the names of his or her birth parents and to all court records and papers regarding the adoption of the adult adoptee. The general assembly further declares that in construing this section, the courts should liberally construe this section in favor of releasing the records.

(b) Subject to the provisions of subsection (4) of this section and in addition to information exchanged in a designated adoption or inspection authorized by a court upon good cause shown pursuant to section 19-1-309, access to adoption records by certain parties is governed by the following provisions:

(I) (A) **Adult adoptees, their descendants, and adoptive family members.** Upon request, the custodian of records shall provide direct access, without redaction, to all adoption records, as defined in section 19-1-103 (6.5)(a.5), for inspection and copying by an adult adoptee, an adoptive parent of a minor adoptee, a custodial grandparent of a minor adoptee, or the legal representative of any such individual. In addition, the custodian of records shall provide direct access to adoption records for inspection and copying by a spouse of an adult adoptee, an adult descendant of an adoptee, an adult sibling or half-sibling of an adult adoptee, an adoptive parent or grandparent of an adult adoptee, or the legal representative of any such individual, if the individual requesting access has the notarized written consent of the adult adoptee or if the adult adoptee is deceased.

(B) **Access by an adult adoptee or descendant to the original birth certificate and amended birth certificate of a sibling with a common birth parent.** Upon proof of evidence of at least one common birth parent between an adult adoptee and a sibling or half-sibling, the custodian of records shall provide, without redaction, to an adult adoptee, a descendant of the adult adoptee, or a legal representative of the adult adoptee or descendant direct access to a noncertified copy of the unaltered original birth certificate and the amended birth certificate of an adult sibling or half-sibling who was born, relinquished, or adopted in the state of Colorado, subject to the provisions of subsection (4) of this section.

(II) **Access by a birth parent to the original birth certificate.** A birth parent who relinquished a child for adoption, whose termination of the parent-child legal relationship was not the result of a dependency and neglect action, and who signed or is named on the original birth certificate may apply to the state registrar for and obtain a noncertified copy of the unaltered original birth certificate of the child he or she relinquished if the child was born in this state, or if the child's adoption was finalized in this state, or both.

(III) (A) **Access to death certificates of deceased parties.** Upon request of an eligible party or a birth parent as described in subparagraph (II) of this paragraph (b), the state registrar shall conduct a search of death certificates to determine whether an adoptee or a birth parent is deceased. If the state registrar finds a death certificate for the adult adoptee or the birth parent, then the state registrar shall provide a copy to the eligible party. The state registrar may collect a fee for conducting a search and for making a copy of the death certificate.

(B) **Access to records pertaining to a deceased party.** If an eligible party or a birth parent as described in subparagraph (II) of this paragraph (b) applies to a custodian of records for access to records about an adult adoptee or a birth parent and the custodian of records determines that the person whose records are being sought is deceased or can reasonably be presumed to be deceased based on the known or estimated date of birth of the sought party, the custodian of records shall provide direct access to the records for inspection and copying by the eligible party.

(IV) **Proof of identification and fees.** Prior to releasing any records to any eligible party allowed to receive records pursuant to this subsection (2), the custodian of records must require the eligible party requesting access to provide proof of identification. The custodian of records may charge reasonable fees for providing copies of records. The state registrar shall transmit all moneys collected pursuant to subparagraph (III) of this paragraph (b) and this subparagraph (IV) to the state treasurer, who shall credit the same to the vital statistics records cash fund created in section 25-2-121, C.R.S.

(V) **Release of records by child placement agencies and prior written statements of birth parents.** Notwithstanding the provisions of subparagraph (I) of this paragraph (b), the adoption records, as defined in section 19-1-103 (6.5)(a), in the possession of a child placement agency may not be open for inspection or made available for copying with respect to any identifying information concerning a birth parent if the birth parent has previously provided the court and the child placement agency, if applicable, with a signed and notarized written statement, within three years after the final order of relinquishment or termination of the parent-child legal relationship, specifying that such parent wishes the identifying information concerning that parent to remain confidential; except that the adoption records in the possession of a child placement agency may be open for inspection and made available for copying with respect to identifying information concerning a birth parent if a birth parent provides a consent form, as defined in section 19-1-103 (28.5), to the child placement agency consenting to the release of identifying information and the release of identifying information is consistent with the provisions of subsection (3) of this section. A written statement specifying that a birth parent wishes the identifying information concerning that parent on file with a child placement agency to remain confidential must remain in the court's and the child placement agency's relinquishment or termination file unless later withdrawn by the parent or superceded by a consent form. A child placement agency is not liable to any individual for the failure of a birth parent to submit such a written statement to the court. In addition to such a statement, the birth parent may also submit to the court and to the child placement agency a letter of explanation that the court and the child placement agency must release to the adoptee at the time that the adoptee makes a request for inspection of the adoption records. This subparagraph (V) applies only to adoption records in the possession of child placement agencies and does not apply to adoption records in the possession of the court or any other agency, entity, or person.

(3) **Access to identifying information through child placement agencies.** (a) Upon proof of identity of the person submitting the consent form, a licensed child placement agency shall accept and may seek a consent form, as that term is defined in section 19-1-103 (28.5), from an adult adoptee or from either adult adoptee's birth parent or from an adoptive parent of a minor adoptee or from the legal representative of a minor adoptee authorizing the release of identifying information, as that term is defined in section 19-1-103 (63.5), concerning the person submitting the consent form, to the extent such information is available to the child placement agency. If only one birth parent has filed a consent form with the child placement agency, the child placement agency or any succeeding custodian of the records shall provide a copy of the identifying information without the name of and without identifying information about the nonconsenting birth parent.

(b) (I) Upon inquiry by an adult adoptee or an adult adoptee's birth parent or an adoptive parent of a minor adoptee seeking information about another party from a licensed child placement agency, the child placement agency shall be authorized to release identifying

information to the inquiring person, upon proof of identity by the inquiring person, if the licensed child placement agency is in possession of a consent form from the party about whom information is sought authorizing such release.

(II) In those circumstances in which a child placement agency has released identifying information pursuant to paragraph (a) of this subsection (3), the child placement agency may attempt to locate at the last known address the person who had originally submitted the consent form and, upon locating such person, advise him or her of the release and provide him or her with the opportunity to fill out a contact preference form and updated medical history statement as prescribed in subsection (1.5) of this section. If the inquiring person also submitted a consent form authorizing the release of identifying information about him or her, the child placement agency may provide such identifying information to the person located.

(III) A child placement agency that accepts a consent form may perform a search for the sought party, subject to the requirement that an employee designated by the child placement agency to perform a search and to contact the sought party shall have completed training that meets the standards set forth by the adoption intermediary commission.

(c) A licensed child placement agency that accepts a consent form may charge a reasonable fee to cover the direct and indirect costs associated with the services provided pursuant to this subsection (3), if a written fee agreement has been signed by the agency and the party submitting the consent form prior to the provision of any service. If a child placement agency charges a fee, then the child placement agency shall make reasonable efforts to locate the person being sought and to release the information the child placement agency obtained to the person located. The licensed child placement agency shall be required to provide a list of names, addresses, and telephone numbers of organizations performing similar services prior to signing any fee agreement with any party submitting a consent form. Information in the post-adoption record is confidential and shall not be disclosed by a licensed child placement agency or any succeeding custodian of the records, or a court except as specifically permitted in this part 3, or as otherwise permitted by law.

(d) The release of any information by a licensed child placement agency pursuant to this subsection (3) shall be subject to the provisions of subsection (4) of this section.

(4) **Access to information and contact concerning sibling groups.** Notwithstanding the provisions set forth in subsections (1.5), (2), and (3) of this section authorizing access to adoption records and contact with an adoptee, in those circumstances in which one family has adopted two or more siblings, access to the adoption records concerning an adoptee and contact with an adoptee shall not occur until all of the siblings adopted by the family have attained eighteen years of age.

(5) **Adult adoptee's restriction on access to records.** Notwithstanding the provisions of subsection (2) of this section, an adult adoptee may, at any time, provide the court that finalized the adoption and the child placement agency with a signed and notarized written statement specifying that such adult adoptee wishes to maintain identifying information concerning that adoptee, other than the original birth certificate, confidential. The written statement shall remain in the court's adoption file unless later withdrawn by the adoptee. Nothing in this subsection (5) shall be construed to affect access to records through the confidential intermediary process.

(6) **Contact between the parties.** Subject to the provisions of subsection (2) of this section, any party may seek to make direct contact with another party or to use the services of a confidential intermediary as provided in section 19-5-304, a licensed child placement agency as

provided in subsection (3) of this section, or the voluntary adoption registry maintained by the state registrar as provided in section 25-2-113.5, C.R.S.

Source: L. 99: Entire section added, p. 1132, § 4, effective July 1. **L. 2000:** (2)(a)(I)(A), (2)(a)(I)(B), (2)(b)(I)(A), (2)(b)(I)(B), (2)(b)(I)(C), (2)(b)(II), (2)(c), (3), and (5) amended, p. 1369, § 3, effective July 1. **L. 2005:** Entire section amended, p. 985, § 2, effective July 1. **L. 2014:** (1), (1.5), and (2) R&RE and (6) added, (SB 14-051), ch. 260, p. 1043, § 1, effective July 1. **L. 2015:** (2)(b)(I) amended, (HB 15-1106), ch. 59, p. 142, § 2, effective March 30; (2)(b)(I) amended, (HB 15-1355), ch. 311, p. 1273, § 2, effective June 5.

Cross references: (1) For the provisions referring to confidential intermediaries formerly found in subsection (2)(a)(II), see § 19-5-304 (2)(b). (See L. 2005, p. 984.)

(2) For the short title ("Heritage Act") and the legislative declaration in HB 15-1355, see section 1 of chapter 311, Session Laws of Colorado 2015.

19-5-305.5. Access to personal records relating to a former ward of the state home for dependent and neglected children - other eligible parties - definitions. (1) As used in this section:

(a) "Eligible party" means:

(I) A former ward, regardless of adoption status;

(II) A spouse of a former ward;

(III) An adult descendant of a former ward;

(IV) An adult sibling or half-sibling of a former ward; or

(V) The legal representative of any individual described in subparagraphs (I) to (IV) of this paragraph (a), if the individual requesting access has the notarized written consent of the former ward or if the former ward is deceased.

(b) "Former ward" means a person who as a minor child was in the custody of the state home for dependent and neglected children, regardless of the person's adoption status.

(c) (I) "Personal records" means the following documents and information pertaining to the custody, relinquishment, or adoption of a former ward, without redaction:

(A) The original birth certificate;

(B) The amended birth certificate;

(C) The temporary waiver of custody;

(D) The final order of relinquishment;

(E) The order of termination of parental rights;

(F) The final decree of adoption;

(G) The name of the former ward before placement in adoption; the name and address of each birth parent as they appear in the birth records or other documents, including other information that might personally identify a birth parent; and the name and address of each adoptive parent; and

(H) The physical description of the birth parents; the educational background of the birth parents; the occupation of the birth parents; genetic information about the birth family; medical information about the former ward's birth; social information about the birth parents; whether the former ward has siblings or half-siblings, and, if so, the names and addresses of the siblings and half-siblings; and the placement history of the former ward.

(II) "Personal records" does not include prerelinquishment counseling records, which records shall remain confidential.

(2) Upon proof of identification and upon request, the custodian of records, as defined in section 19-1-103 (35.3)(a), shall provide direct access, without redaction, to all personal records for inspection and copying by an eligible party relating to a former ward who, regardless of adoption status, as a minor was in the custody of the state home for dependent and neglected children.

(3) Prior to releasing any personal records to an eligible party allowed to receive personal records pursuant to this section, the custodian of records must require the eligible party requesting access to provide proof of identification. The custodian of records may charge reasonable fees for providing copies of records.

Source: L. 2015: Entire section added, (HB 15-1355), ch. 311, p. 1273, § 3, effective June 5.

Cross references: For the short title ("Heritage Act") and the legislative declaration in HB 15-1355, see section 1 of chapter 311, Session Laws of Colorado 2015.

19-5-306. Public information campaign. The executive directors of the department of human services and the department of public health and environment, or such executive directors' designees, shall work together to design and implement efforts within existing appropriations to assist in informing the public about the existence and availability of the confidential intermediary process established in this part 3 and the voluntary adoption registry established pursuant to section 25-2-113.5, C.R.S., to inform the public about the change in the availability of adoption records, including birth certificates, and other records related to the adoption process as set forth in section 19-5-305, and to inform birth parents about the opportunity to complete contact preference forms and submit updated medical history statements as set forth in section 19-5-305. Such efforts shall be implemented within existing appropriations on and after July 1, 2005, by disseminating information to the public through child placement agencies and through the use of public service announcements and such other additional means of communication as the executive directors or their designees determine appropriate. The public information campaign shall also provide referral information on community resources that may be available to the adoption triad to assist them in dealing with issues that arise in searches and reunifications with relatives or in deciding not to seek contact or information about relatives. Such resources shall include a variety of sources, including child placement agencies, social workers, therapists and faith-based counselors, and organizations designed to provide support to members of the adoption triad.

Source: L. 99: Entire section added, p. 1132, § 4, effective July 1. **L. 2005:** Entire section amended, p. 993, § 6, effective July 1.

19-5-307. Child placement agency - transfer of records. If a child placement agency terminates its child placement activities, prior to termination of services, the child placement agency shall microfilm or preserve with state-of-the-art record storage methods as prescribed by the department of human services any relevant files on adoptions and transfer them to the

division in the department of human services responsible for child care licensing. The state board of human services shall promulgate rules to require child placement agencies to scan adoption records for purposes of transferring them upon termination of child placement activities to the division in the department of human services responsible for child care licensing.

Source: L. 2000: Entire section added, p. 1372, § 4, effective July 1. **L. 2005:** Entire section amended, p. 970, § 5, effective June 2.

PART 4

ACCESS TO NONIDENTIFYING ADOPTION INFORMATION

19-5-401. Definitions. (Repealed)

Source: L. 93: Entire part added, p. 655, § 1, effective July 1. **L. 94:** (4) amended, p. 2689, § 214, effective July 1. **L. 96:** Entire section repealed, p. 85, § 11, effective March 20.

Cross references: For current applicable definitions, see § 19-1-103.

19-5-402. Access to nonidentifying information. Any adult adoptee or any adoptive parent may request nonidentifying information about the adoptee or the birth parents of the adoptee from the department. The department shall provide directly to the inquiring adult adoptee or adoptive parent or to the qualified agency selected pursuant to section 19-5-403 the nonidentifying information which is available to the department. The department shall adopt rules governing the disclosure of nonidentifying information.

Source: L. 93: Entire part added, p. 656, § 1, effective July 1.

19-5-403. Authority for department to select agencies. The department is authorized to select private, licensed child placement agencies authorized to handle adoptions for the disclosure of nonidentifying information pursuant to this part 4. The department shall, by rule, establish qualifying criteria by which the licensed child placement agencies authorized to handle adoptions shall be selected, which criteria shall include, but shall not be limited to, a requirement that the agencies maintain all information which identifies members of the birth family strictly confidential.

Source: L. 93: Entire part added, p. 656, § 1, effective July 1.

ARTICLE 6

Support Proceedings

Editor's note: This title was repealed and reenacted in 1987. For historical information concerning the repeal and reenactment, see the editor's note following the title heading.

19-6-101. Initiation of proceedings - support - repayment of birth-related debt. (1) (a) Proceedings to compel parents, or other legally responsible persons, to support a child or children may be commenced by any person filing a verified petition in the court of the county where the child resides or is physically present, or in the county where the obligor parent resides, or in any county where public assistance is or was being paid on behalf of the child.

(b) Repealed.

(2) A petition under this article may be filed at any time prior to the twenty-first birthday of the child.

(3) Once the court has acquired jurisdiction, such jurisdiction shall be retained regardless of the child's place of residence or physical presence.

(4) The minority of the petitioner or of the respondent shall in no way affect the validity of the proceedings.

(5) Actions brought under this article shall be entitled, "The People of the State of Colorado in the Interest of ....., children, upon the Petition of ....., petitioner, and concerning ....., respondent."

(6) A petition filed pursuant to this article shall contain the following advisements:

(a) That a request for genetic tests shall not prejudice the requesting party in matters concerning allocation of parental responsibilities pursuant to section 14-10-124 (1.5), C.R.S.; and

(b) That, if genetic tests are not obtained prior to a legal establishment of paternity and submitted into evidence prior to the entry of the final order establishing paternity, the genetic tests may not be allowed into evidence at a later date.

Source: L. 87: Entire title R&RE, p. 811, § 1, effective October 1. **L. 89:** (1) and (2) amended, p. 795, § 22, effective July 1. **L. 91:** (1) amended, p. 254, § 14, effective July 1. **L. 95:** (1) amended, p. 1398, § 3, effective July 1. **L. 2005:** (6) added, p. 379, § 6, effective January 1, 2006. **L. 2006:** (6)(b) amended, p. 516, § 3, effective August 7.

Editor's note: (1) This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-7-101 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

(2) Subsection (1)(b)(II) provided for the repeal of subsection (1)(b), effective June 30, 1999. (See L. 95, p. 1398.)

19-6-101.5. Amendments of proceedings - adding children. (1) In any existing case commenced under this article, if it is alleged that another child has been conceived of the parents named in the existing case, that child shall be added to the existing case if at least one of the presumptions of paternity specified in section 19-4-105 applies for the purpose of establishing paternity and child support. The caption shall be amended to include the added child.

(2) The party amending the petition pursuant to subsection (1) of this section shall serve the amended petition with the new caption upon the other parties in the manner set forth in section 19-6-103 (2).

(3) Once the court has acquired jurisdiction over the proceedings, such jurisdiction shall be retained regardless of the added child's physical presence or place of residence.

(4) An amended petition filed pursuant to this article shall comply with the requirements set forth in section 19-6-101.

(5) Notwithstanding the provisions of subsection (1) of this section, in any case where there exists more than one alleged or presumed father for a child pursuant to section 19-4-105, a new case shall be commenced for that child to determine the child's paternity, establish child support, and address any other related issues. If it is determined that the child is the child of parents named in an existing case, the cases shall be consolidated into the initial action pursuant to rule 42 of the Colorado rules of civil procedure.

Source: L. 2008: Entire section added, p. 1349, § 5, effective January 1, 2009.

19-6-102. Venue. A petition filed under this section shall be brought in the county in which the child resides or is physically present, or in any county where the obligor parent resides, or in any county where public assistance is or was being paid on behalf of the child.

Source: L. 87: Entire title R&RE, p. 811, § 1, effective October 1. **L. 89:** Entire section amended, p. 795, § 23, effective July 1. **L. 91:** Entire section amended, p. 255, § 15, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-1-105 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-6-103. Summons. (1) Upon filing of the petition, the clerk of the court or the attorney for the petitioner or the delegate child support enforcement unit shall issue a summons stating the substance of the petition and requiring the respondent to appear at the time and place set for hearing on the petition.

(2) Service of the summons shall be by personal service as provided in the Colorado rules of civil procedure. In addition to any other method provided by rule or statute, including rule 4(e) of the Colorado rules of civil procedure, when there is a basis for personal jurisdiction over an individual living outside this state pursuant to section 14-5-201, C.R.S., service may be accomplished by delivering a copy of the summons, together with a copy of the petition upon which it was issued, to the individual served. Such service may be by private process server or by sending such copies to such individual by certified mail with proof of actual receipt by such individual.

(3) The hearing shall be set for a day not less than ten days after service is completed or on such later date as the court may order.

Source: L. 87: Entire title R&RE, p. 812, § 1, effective October 1. **L. 89:** (1) amended, p. 795, § 24, effective July 1. **L. 93:** (2) amended, p. 1564, § 15, effective September 1. **L. 96:** (1) amended, p. 613, § 16, effective July 1. **L. 2005:** (2) amended, p. 379, § 7, effective April 22.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-7-102 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-6-104. Hearing - orders. (1) If the court or delegate child support enforcement unit finds that the respondent has an obligation to support the child or children mentioned in the petition or notice, the court or delegate child support enforcement unit may enter an order directing the respondent to pay such sums for support as may be reasonable under the circumstances, taking into consideration the factors found in section 19-4-116 (6). The court or delegate child support enforcement unit may also enter an order directing the appropriate party to pay for support of the child, in an amount as may be determined by the court or delegate child support enforcement unit to be reasonable under the circumstances, for a time period which occurred prior to the entry of the support order established under this article.

(1.5) At the hearing, the court shall give a verbal advisement to the parties that a request for genetic tests shall not prejudice the requesting party in matters concerning allocation of parental responsibilities pursuant to section 14-10-124 (1.5), C.R.S. The judge or magistrate shall further advise the parties that, if genetic tests are not obtained prior to the legal establishment of paternity and submitted into evidence prior to the entry of the final order establishing paternity, the genetic tests may not be allowed into evidence at a later date.

(2) If, at or before the hearing, the respondent waives his right to a hearing and stipulates to the entry of a support order, such stipulation may be presented to the court. If the court finds that the amount stipulated is reasonable under the circumstances, it may enter an order of support in accordance with the stipulation.

(3) The court may enter a temporary support order to remain effective pending a final disposition of the proceeding.

(3.5) Upon the filing of a proceeding under this article or upon the filing of a proceeding originating under article 13.5 of title 26, C.R.S., the court may enter an order allocating parental responsibilities pursuant to section 14-10-124 (1.5), C.R.S., except that, in matters involving a nonresident party, the court shall first determine whether it has authority to issue an order allocating parental responsibilities pursuant to article 13 of title 14, C.R.S. Nothing in this subsection (3.5) shall be construed to authorize a delegate child support enforcement unit to negotiate or mediate the allocation of parental responsibilities in any proceeding initiated under this article or article 13.5 of title 26, C.R.S.

(4) The court may modify an order of support only in accordance with the provisions of and the standard for modification in section 14-10-122, C.R.S.

(5) The court may order that the respondent initiate the inclusion of the child or children under a medical insurance policy currently in effect for the benefit of the respondent, purchase medical insurance for the child or children, or, in some other manner, provide for the current or future medical needs of the child or children. At the same time, the court may make a determination of whose responsibility it shall be to pay required medical insurance deductibles and copayments.

(5.5) All child support orders entered pursuant to this article shall include the social security account numbers and dates of birth of the parties and of the children who are the subjects of the order and the parties' residential and mailing addresses.

(6) Any order made pursuant to this article shall not be exclusive.

(7) The court may assess the costs of the action as part of its order.

Source: L. 87: Entire title R&RE, p. 812, § 1, effective October 1. **L. 89:** (4) amended, p. 795, § 25, effective July 1. **L. 93:** (5.5) added, p. 1564, § 16, effective September 1. **L. 94:** (1)

amended, p. 1542, § 17, effective May 31. **L. 97:** (5.5) amended, p. 1277, § 18, effective July 1. **L. 99:** (5.5) amended, p. 1087, § 6, effective July 1. **L. 2005:** (3.5) added, p. 379, § 9, effective July 1; (1.5) added, p. 379, § 8, effective January 1, 2006.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-7-103 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

Cross references: For the legislative declaration contained in the 1997 act amending subsection (5.5), see section 1 of chapter 236, Session Laws of Colorado 1997.

19-6-105. Failure to comply. (1) A person failing to comply with an order of the court entered under this article shall be found in contempt of court in accordance with section 14-14-110, C.R.S.

(2) The court shall have authority to issue writs of execution for the collection of accrued and unpaid installments of support orders.

Source: L. 87: Entire title R&RE, p. 812, § 1, effective October 1. **L. 89:** (1) amended, p. 796, § 26, effective July 1.

Editor's note: This section was contained in a title that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 19-7-104 as said section existed in 1986, the year prior to the repeal and reenactment of this title.

19-6-106. Child support - guidelines - schedule of basic support obligations. The provisions of section 14-10-115, C.R.S., shall apply to all child support obligations, established or modified, as a part of any proceeding under this article, whether filed on or subsequent to July 1, 1988.

Source: L. 88: Entire section added, p. 746, § 17, effective July 1.

ARTICLE 7

Protections for Youth in Foster Care

19-7-101. Legislative declaration. (1) The general assembly hereby finds and declares that youth in foster care, excluding those in the custody of the division of youth services or a state mental hospital, should enjoy the following:

(a) Receiving appropriate and reasonable adult guidance, support, and supervision in a safe, healthy, and comfortable environment where he or she is treated with respect and dignity;

(b) Being free from physical, sexual, emotional, or other abuse or corporal punishment;

(c) Receiving adequate and healthy food, adequate clothing, and an adequate allowance, as appropriate;

(d) Receiving medical, dental, vision, and mental health services as needed;

(e) Being free of the administration of prescription medication or other chemical substances, unless authorized by a physician;

(f) Being free to contact those persons working on his or her behalf, including but not limited to, case workers, attorneys, foster youth advocates and supporters, court-appointed special advocates, and probation officers;

(g) Being free to contact the child protection ombudsman, county department of social services, or the department of human services regarding any questions, concerns, or violations of the rights set forth in this article, and to speak to representatives of those offices privately, and being free from threats or punishment for making complaints;

(h) As appropriate, making and receiving confidential telephone calls and sending and receiving unopened mail in accordance with his or her permanency goals;

(i) Being free to attend religious services and activities;

(j) Being allowed to maintain an emancipation bank account and manage personal income, consistent with the youth's age and developmental level, unless prohibited by his or her case plan;

(k) Being free from being abandoned or locked in a room;

(l) Receiving an appropriate education, having access to transportation, and participating in extracurricular, cultural, and personal enrichment activities consistent with the youth's age and developmental level;

(m) As appropriate, being free to work and develop job skills that are in accordance with his or her permanency goals;

(n) As appropriate, being free to have social contacts with people outside the foster care system, such as teachers, church members, mentors, and friends in accordance with his or her permanency goals;

(o) Being free to attend independent living classes if he or she meets program and age requirements;

(p) Consulting with the court conducting the youth's permanency hearing, in an age-appropriate manner, regarding the youth's permanency plan, pursuant to section 19-3-702 (3.7);

(q) Having a safe place to store personal belongings;

(r) As appropriate to his or her age and developmental level, being allowed to participate in and review his or her own case plan, if he or she is twelve years of age or older, and to receive information about his or her out-of-home placement and case plan, including being informed of any changes to the case plan;

(s) Confidentiality of all juvenile court records, consistent with existing law;

(t) Having fair and equal access to available services, placement, care, treatment, and benefits based on his or her treatment plan and not being subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group, national origin, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status;

(u) At sixteen years of age or older, having access to existing information regarding the educational options available to him or her, including, but not limited to, the course work necessary for vocational and postsecondary educational programs, and information regarding financial aid available for postsecondary education;

(v) Having school stability that presumes the youth will remain in the school in which he or she is enrolled at the time of placement, unless remaining in that school is not in his or her best interests;

(w) Remaining in the custody of his or her parent or legal guardian unless his or her welfare and safety or the protection of the public would be otherwise endangered and, in either case, the right that the court proceed with all possible speed to a legal determination that will serve his or her best interests pursuant to section 19-1-102;

(x) Being placed in a home where the foster caregiver is aware of and understands the youth's unique history as it relates to his or her care;

(y) Receiving effective case management and planning that will prioritize the safe return of the youth to his or her family or move the youth on to other forms of permanent placement;

(z) As appropriate to the youth's developmental level and if he or she is twelve years of age or older, being involved in meetings at which decisions are made about his or her future and having the child welfare agency bring together his or her family group and other supporters to decision-making meetings at which the group creates a plan for the youth's future;

(aa) Placement in the least restrictive setting appropriate to the youth's needs;

(bb) Having a guardian ad litem appointed to represent the youth's best interests; and

(cc) Living with or being visited by his or her siblings.

(2) The general assembly further declares that subsection (1) of this section represents guidelines to promote the physical, mental, social, and emotional development of youth in foster care and to prepare them for a successful transition back into their families or the community. The application of these guidelines may be limited to reasonable periods during the day or restricted according to the routine of foster care homes to ensure the protection of children and foster families.

Source: L. 2011: Entire article added, (SB 11-120), ch. 102, p. 319, § 1, effective August 10. **L. 2013:** (1) amended, (HB 13-1300), ch. 316, p. 1677, § 41, effective August 7. **L. 2015:** (2) amended, (SB 15-087), ch. 263, p. 1020, § 14, effective June 2. **L. 2017:** IP(1) amended, (HB 17-1329), ch. 381, p. 1978, § 44, effective June 6.

19-7-102. Protection against identity theft. (1) The court shall ensure that each youth in foster care who is in the legal custody of a county department of human or social services or the department of human services and who is at least sixteen years of age obtains or receives free annual credit reports from the department of human services or a county department of human or social services. The county department of human or social services or the department of human services shall inform the court with jurisdiction over the youth, if any, of any inaccuracies in a report and refer the matter to a governmental or nonprofit entity on the referral list developed pursuant to subsection (2) of this section for assistance in interpreting and resolving any inaccuracies in a report if the credit report shows evidence of possible identity theft. The child's guardian ad litem shall advise the youth of possible consequences of and options to address the possible identity theft, including the right to report the matter to law enforcement and seek possible prosecution of the offender.

(2) (a) On or before July 31, 2012, the department of human services shall develop, in consultation with county departments of human or social services, a referral list of governmental and nonprofit entities that are authorized to assist a youth in foster care who has found evidence of possible identity theft on his or her credit report. An entity on the referral list developed pursuant to this subsection (2) is authorized to take any necessary remedial actions to clear the

youth's credit record and shall report the results of its actions to the department of human services or the county department of human or social services with legal custody of the youth.

(b) In compiling the referral list pursuant to paragraph (a) of this subsection (2), the department of human services, and any county departments of social services consulted therein, shall not be subject to liability pursuant to the extent provided by article 10 of title 24, C.R.S.

Source: L. 2011: Entire article added, (SB 11-120), ch. 102, p. 322, § 1, effective August 10. **L. 2013:** (1) and (2)(a) amended, (SB 13-047), ch. 359, p. 2107, § 1, effective May 28.

19-7-103. Access to extracurricular activities - legislative declaration - rules. (1) The general assembly finds and declares that it is important for youth in foster care, excluding those in the custody of the division of youth services or a state mental hospital, to have increased access to normative, developmentally appropriate extracurricular activities to help prepare them for independence. Foster parents and group home parents or group center administrators shall make a reasonable effort to allow a youth in their care to participate in extracurricular, cultural, educational, work-related, and personal enrichment activities. The department of human services shall promulgate rules for the implementation of this section. The rules must address policies, including but not limited to waiver of any fingerprint-based criminal history records checks for community entities, excluding all individuals required to obtain a fingerprint-based criminal history records check pursuant to section 26-6-107, providing extracurricular activities and guidelines for determining in what situations it is appropriate to waive fingerprint-based criminal history records checks, to allow youth in foster care, excluding those in the custody of the division of youth services or a state mental hospital, who are twelve years of age and older to participate in age-appropriate extracurricular enrichment, social activities, and activities designed to assist those youth to make the transition to independence, build life skills, and enhance opportunities to make positive connections.

(2) If the department of human services or a county department of social services waives a fingerprint-based criminal history records check pursuant to subsection (1) of this section, the department of human services or county department of social services shall not be subject to liability pursuant to the extent provided by article 10 of title 24, C.R.S.

Source: L. 2011: Entire article added, (SB 11-120), ch. 102, p. 322, § 1, effective August 10. **L. 2017:** (1) amended, (HB 17-1329), ch. 381, p. 1979, § 45, effective June 6.