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**Legislative Oversight
Committee for the
Recodification of
the Children's Code**

**Report to the
COLORADO
GENERAL ASSEMBLY**

**Colorado Legislative Council
Research Publication No. 412
December 1995**

RECOMMENDATIONS FOR 1996

**LEGISLATIVE OVERSIGHT COMMITTEE
FOR THE RECODIFICATION OF THE
COLORADO CHILDREN'S CODE**

**Report to the
Colorado General Assembly**

**Research Publication No. 412
November 1995**

COLORADO GENERAL ASSEMBLY

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November 30, 1995

To Members of the Sixtieth General Assembly:

Submitted herewith is the final report of the Legislative Oversight Committee for the Recodification of the Colorado Children's Code. This committee is a statutory committee established under Section 19-1.5-101 through 19-1.5-106, C.R.S.

At its meeting on November 15, 1995, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 1996 session was approved.

Respectfully submitted,

/s/ Senator Tom Norton
Chairman
Legislative Council

TN/CJ/eg

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**LEGISLATIVE OVERSIGHT COMMITTEE
FOR THE RECODIFICATION OF THE
COLORADO CHILDREN'S CODE**

Members of the Committee

**Representative Jeanne Adkins,
Chairman
Representative Russell George
Representative Jeannie Reeser**

**Senator Sally Hopper,
Vice Chairman
Senator Gloria Tanner
Senator Dottie Wham**

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BACKGROUND

Pursuant to the recommendations of the 1993 Interim Committee on Youth Violence, Senate Bill 94-21, *Concerning a Task Force Study for the Recodification of the "Colorado Children's Code,"* was introduced during the 1994 legislative session and adopted by the General Assembly. The code had previously been reviewed and recodified in 1988; however, those changes were not comprehensive. In addition, the Interim Committee on Youth Violence noted the following:

- the strain on the human services and judicial systems due to increased needs of children and families;
- an imbalance of treatment and aftercare services for children currently receiving services and an increased need for intervention and prevention services;
- the duplication, fragmentation, and lack of documentation of the effectiveness of services to families and children; and
- the inconsistency of legal outcomes for families and children with similar circumstances.

Statutory duties. Pursuant to Section 19-1.5-101 et seq., Colorado Revised Statutes (C.R.S.), a twenty-four member Task Force was created along with a six member Legislative Oversight Committee. The statutory duties of the Oversight Committee were as follows:

The members of the *[oversight]* committee shall be responsible for consulting with members of the recodification task force created in section 19-1.5-103 and developing a legislative proposal for the recodification of the code.

The statutory duties of the Task Force were as follows:

- to evaluate the overall effectiveness of the "Colorado Children's Code," identify areas of the code in need of revision, and provide guidance and make recommendations to the Legislative Oversight Committee established pursuant to Section 19-1.5-102 in its *[the oversight committee's]* development of a legislative proposal for the recodification of the children's code;
- to communicate with and obtain input from groups throughout the state affected by the recodification of the code;

- to create subcommittees as necessary which may include individuals not serving on the Task Force in order to aid in the completion of the Task Force study and development of a legislative proposal; and
- to report at least monthly to the members of the Legislative Oversight Committee.

Statutory charges. Senate Bill 94-21 listed the issues to be addressed by the Task Force as follows:

- an effective method of identifying and responding to child protection issues such as abuse and neglect;
- an effective juvenile justice system which addresses the needs of children and families and preserves the safety of the community while providing early intervention and prevention services;
- an appropriate method for establishing paternity and appropriate child support, relinquishment, and adoption proceedings;
- appropriate legal and administrative procedures and programs that are family-focused, rather than focusing on specific family members, except to preserve family and community safety;
- appropriate legal and administrative procedures and service programs for homeless youth;
- appropriate performance-based standards for service providers including client monitoring and tracking requirements; and
- a single, uniform assessment instrument for evaluating children's needs.

Schedule of meetings. The Legislative Oversight Committee held its first meeting in August 1994. During the first meetings, the Oversight Committee developed a list of charges based on the statutory charges to the Task Force. The Task Force held its first meeting in September 1994. In December 1994, the Task Force formed eight subcommittees in the following areas:

- Juvenile Justice;
- Child Protection, Relinquishment and Adoption;
- Paternity and Child Support;
- Single Uniform Assessment Instrument;
- Family-Focused Legal/Administrative Procedures;
- Performance-Based Standards for Service Providers;
- Homeless Youth; and
- Parental Rights and Responsibilities.

The Task Force and Oversight Committee work schedules were as follows:

- January - May 1995 — subcommittees met to consider the charges given by the Legislative Oversight Committee.
- June-- August — subcommittee reports were made to the Task Force and the Task Force held public hearings throughout the state.
- August - September — the Task Force considered the subcommittee recommendations and voted on recommendations which would be submitted to the Legislative Oversight Committee. The Task Force continued to hold public hearings.
- September — the Task Force presented its final report to the Legislative Oversight Committee.
- October - November — the Legislative Oversight Committee considered the Task Force recommendations and developed bill drafts for proposed legislation to be presented to the Legislative Council.

TABLES OF RECOMMENDATIONS

The final report of the Legislative Oversight Committee consists of a series of tables that follow. There is one table for each of the following areas of study by the subcommittees:

- Child Protection, Relinquishment, and Adoption;
- Homeless Youth;
- Paternity and Child Support;
- Parental Rights and Responsibilities;
- Family-Focused Legal and Administrative Procedures;
- Performance-Based Standards for Service Providers;
- Single Uniform Assessment Instrument; and
- Juvenile Justice.

The first column in each table lists the specific issue. The numbering system in the first column corresponds to the numbering system of the recommendations in the Final Report of the Task Force for the Recodification of the Children's Code published September 1995. Also in the first column is the page on which the recommendation can be found in the Task Force Report. For instance, in the first row of the first column on page 1 of the tables, "I. A., Indian Child Welfare Act, TFR. p. 52" means that if you look on page 52 of the Task Force Final Report, you will find, under the number I. A., the recommendation from the Task Force regarding the Indian Child Welfare Act. Non-numbered issues in the first column are generally responses to specific questions by the Oversight Committee which did not necessarily require a recommendation. The second column describes current law, if any, and lists the current C.R.S. statutory citation. The third column lists the Task Force's recommendations. The fourth column describes the action and vote of the Legislative Oversight Committee. Included in the fourth column is an acronym indicating the specific bill, and the page number on which the draft language can be found in that proposed bill which is located at the end of this report. (Although there were eight areas of study by subcommittees, there are only five draft bills. Some of the bills contain more than one subject area.) Also included in this column is, for those votes that were moot because of prior votes, the item number and page on which that prior vote can be found in the tables. The fifth column contains a synopsis of the Legislative Oversight Committee's discussion, if any, on that particular recommendation and vote.

There were other areas in which the Legislative Oversight Committee made recommendations which are not reflected in the tables. Those recommendations are on page 61.

Several acronyms appear throughout the tables. Below is a listing of the acronyms and their meaning.

| | | |
|---------|---|-----------------------------------------------|
| CCTF | — | Colorado Children's Trust Fund |
| CRCP | — | Colorado Rules of Civil Procedure |
| C.R.S. | — | Colorado Revised Statutes |
| CRT | — | Community Review Team |
| CW | — | Child Welfare |
| D&N | — | Dependency and Neglect |
| DHS | — | Department of Human Services |
| FSR | — | Family Support Registry |
| GAL | — | Guardian Ad Litem |
| HB | — | House Bill |
| HCR | — | House Concurrent Resolution |
| JAIT | — | Juvenile Assessment and Intake Team |
| JBC | — | Joint Budget Committee |
| JJ | — | Juvenile Justice |
| LCS | — | Legislative Council Staff |
| LOC | — | Legislative Oversight Committee |
| OLLS or | | |
| LLS | — | Office of Legislative Legal Services |
| OYS | — | Office of Youth Services |
| PSI | — | Presentence Investigation |
| SAO | — | State Auditor's Office |
| SB | — | Senate Bill |
| TF | — | Task Force |
| TFR | — | Task Force Report |
| UDMA | — | Uniform Dissolution of Marriage Act |
| UIFSA | — | Uniform Interstate Family Support Act |
| URES | — | Uniform Reciprocal Enforcement of Support Act |

In the section on Homeless Youth (or Emancipated Minors), the term "unofficial draft" is used several times. The unofficial draft was a bill draft which was written by the OLLS based solely on the recommendations of the Task Force. It did not reflect any input, recommendations, or votes of the Legislative Oversight Committee and was, therefore, "unofficial." The Oversight Committee used the unofficial draft as a starting point to make its recommendations and take votes.

CHILD WELFARE

| Topic | Current Law | Task Force Recommendations | Legislative Oversight Committee Action/Vote | Discussion |
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| I. A. Indian Child Welfare Act TFR, p. 52 | Applies under theory of preemption of federal law. | Adopt language referring to Indian Child Welfare Act 25 USCS 1901, et seq. | The recommendation was adopted by the LOC and carried with no objection. CW p. 69 | |
| B. Reporting Requirements TFR, p. 52 | §19-3-312 (l) requires the court to make investigation upon request of county or law enforcement report. | Allow courts discretion to require reports. Amend §19-4-312 (1). | The recommendation was adopted by the LOC and carried with no objection. CW p. 142 | |
| II. A. Prevention and Early Intervention TFR, pp. 52, 53 | See Colorado Children's Trust Fund, article 3.5 of title 19. | <p>Enable appropriate agencies or community organizations to provide early intervention services to at-risk families without being a party to D&N proceeding.</p> <p>Administrative review for voluntary, noncourt involvement to ensure accountability.</p> <p>Increase funding to provide prevention services.</p> <p>Make prevention a funding priority. (Treated as nonstatutory recommendation; budgetary function.)</p> | <p>The recommendation regarding intervention services to families without filing court actions was moot because of a prior vote in the Parental Rights and Responsibilities area to establish such procedures. (See recommendation V.B on p. 37.)</p> <p>This recommendation regarding funding for prevention services was moot because of a prior vote in the Juvenile Justice area to perform audits of programs serving juveniles. (See recommendation XIV on p. 51.)</p> <p>CW pp. 70, 108</p> | |
| B. Diversion From D&N Process and Redesign System to be Non-Adversarial TFR, p. 53 | §§19-3-310 and 19-3-310.5: Many cases are diverted now. | <p>Divert more referrals from D&N process and reform system to be non-adversarial.</p> <p>Pilot statewide programs and make courts the last resort. Consider dual-track provisions, homebuilders, family preservation programs, the Scottish plan.</p> <p>Same priority given to provision of services under voluntary program as with cases of filing of D&N.</p> | These recommendations were moot because of prior votes in the Parental Rights and Responsibilities area to use alternative conflict resolution instead of the adversarial court setting. (See recommendation V.B on p. 37.) CW pp. 108, 139 | |

| Topic | Current Law | Task Force Recommendations | Legislative Oversight Committee Action/Vote | Discussion |
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| III. A. Central Registry 1. Hearing Prior to Entry of Name TFR, p. 54 | §19-3-313: No prior hearing. See §19-3-313(7) that allows for hearing to expunge, seal, and amend. See §19-3-313(6) for the notice of being placed on central registry. | Individual be notified prior to his/her name being listed on registry and include a provision for appeals to district court to occur prior to the listing. Newly discovered evidence may be used to compel an additional hearing regarding expungement. | These recommendations were moot because of prior votes in the Parental Rights and Responsibilities area regarding the placement and removal of names from the central registry. (See recommendation VII on p. 38.) CW pp. 143-146 | |
| 2. Use of Child Protection Teams TFR, p. 55 | §19-3-308. | County child protection team be used to provide recommendations regarding placement of names on central registry as part of the due process hearing procedure available before names are placed on the registry. | This recommendation was moot because of a prior vote in the Parental Rights and Responsibilities area regarding the placement and removal of names from the central registry. (See recommendation VII on p. 38.) CW pp. 134, 143-146 | |
| 3. Automatic Placement on Central Registry TFR, p. 55 | §19-3-313: No such "automatic" placement. | Person's name automatically be in central registry if his or her child is adjudicated D/N or person is convicted of a crime against a child. | This recommendation was moot because of a prior vote in the Parental Rights and Responsibilities area regarding the placement and removal of names from the central registry. (See recommendation VII on p. 38.) CW p. 144 | |
| 4. Automatic Removal From Central Registry TFR, p. 56 | §19-3-313: No such "automatic" removal. | If a person is acquitted of criminal child abuse or a petition in D/N is not sustained, the person's name is automatically removed from registry. | This recommendation was moot because of a prior vote in the Parental Rights and Responsibilities area regarding the placement and removal of names from the central registry. (See recommendation VII on p. 38.) CW p. 146 | |
| B. Clarity Regarding Mandatory Reporters of Child Abuse TFR, p. 56 | §19-3-304: Mandatory reporters. | Mandatory reporters shall include "social workers." | This recommendation was rejected by the LOC on a 4-1 roll call vote Current law: CW p. 126 | The LOC rejected this recommendation because of confusion over the definition of "social worker" and who would be covered under that definition. |

| Topic | Current Law | Task Force Recommendations | Legislative Oversight Committee Action/Vote | Discussion |
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| C. Validity of Child Abuse Report TFR, p. 56 | §19-3-308. | Require investigation of report to include an assessment of the validity of the source, §19-4-308. | This recommendation, as amended, was adopted by the LOC and carried on a 3-2 roll call vote. CW p. 129 | After adopting language requiring an investigation of a report of child abuse to consider the validity of the source of the report before any action is taken, the LOC reconsidered its vote and instead amended the list of items to be performed in the investigation of the report to include an investigation of the validity of the source of the report. Some members, however, were concerned that any investigation of a report of child abuse would slow down the response to the situation and could possibly result in dismissing the report if the source of the report was found to be unreliable. |
| D. Self-Abusive Children TFR, p. 57 | No provisions regarding self-abusive children. | Require the department to establish rules for parents to report on the incidence of self-abusive children, §19-4-307. | This recommendation was adopted by the LOC and carried with no objection. CW pp. 128-129 | The original draft language for this recommendation contained a definition of "self-abusive child" which included, among others, a child who suffers from a developmental disability and causes or attempts to cause injury to himself or herself. LOC members were uncomfortable with including developmentally disabled children in this definition and so amended the definition to mean any child who causes or attempts to cause injury to himself or herself. |
| E. Training of Persons Required to Report Abuse TFR, p. 57 | Non statutory recommendation | Training of school personnel and others required to report child abuse should emphasize the definition of abuse. | This non-statutory recommendation was adopted by the LOC and carried with no objection. | |
| F. Child Fatality Review TFR, pp. 57-58 | §19-3-305: Required report for postmortem investigation. | Comprehensive review of all child fatalities in which child abuse or neglect is alleged in §19-4-308. | This recommendation was adopted by the LOC and carried with no objection. CW p. 135 | The LOC clarified that the review called for in this recommendation is to focus attention on each agency's response to a child's death as opposed to affixing blame or focusing on the death itself. |
| G. Offenses by Children Under 10 TFR, p. 58 | §19-3-102. | Allow law enforcement to report to the department of social services children under 10 who commit acts that would be delinquent. | This recommendation was adopted by the LOC and carried with no objection. CW p. 109 (NOTE: See item XII on p. 50 for the corresponding recommendation and vote.) | The LOC discussed the kinds of acts for which a police officer could be called when the acts are committed by a child under 10. The committee viewed this recommendation as an intervention measure. |
| IV. A. Statewide Grievance Process TFR, p. 59 | §19-3-211: Optional grievance process. | Make grievance process county-based and statewide; amend definition of governing body; make the recommendations binding unless contrary to law. | This recommendation was moot because of a prior vote in the parental rights and responsibilities area regarding mandatory county-wide grievance procedures. (See recommendation 1 on p. 26.) CW p. 118 | |

| Topic | Current Law | Task Force Recommendations | Legislative Oversight Committee Action/Vote | Discussion |
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| B. Standards for GAL's TFR, p. 59 | §19-1-103: GAL's in D&N must be attorneys. | Make the standards for GAL's developed by the CBA mandatory and establish an oversight process to enforce them. Impose a maximum caseload standard. | This recommendation was moot because of a prior vote in the Parental Rights and Responsibilities area regarding establishment of standards for GAL's. (See recommendation VI on p. 37.) CW p. 82 | |
| C. Attorney's Fees TFR, p. 59 | §13-17-102(8). | Court may award attorney fees to any party in D&N except the state or county. | This recommendation was adopted by the LOC and carried with no objection. CW p. 209 | The draft language was amended to clarify that attorney fees may not be recovered by or on behalf of any state, local, or county government agency. |
| D. Evaluation Forms TFR, p. 60 | No provision for such forms. | Require that evaluation forms be given to persons investigated in mid-term and at the conclusion of a case. | This recommendation was adopted by the LOC and carried with no objection. CW p. 122 | The draft language directed that the evaluation forms were to be distributed to, among others, members of the General Assembly. The LOC amended the language to require that summaries of the forms be made available to the General Assembly. |
| V. A. Corporal Punishment TFR, p. 60 | §19-3-303 (1) (b). | Defines reasonable corporal punishment. | The recommendation regarding shaking a child, as amended, was adopted by the LOC with no objection. The recommendation, regarding minor bruising, as amended, was adopted by the LOC on a 4-1 roll call vote. CW p. 123 | Regarding the shaking of a child, the LOC tried to decide whether the original draft language prohibiting the shaking of any child resulting in injury needed to, instead, refer to children in a specific age group. The LOC decided to amend that language to prohibit shaking of an infant under the age of 2. Regarding minor bruising, which was allowed under the definition of "reasonable corporal punishment", the LOC voted to strike that language. In general, the discussion around this recommendation centered on the need to define "reasonable corporal punishment" at all. While some thought that the statutes should be specific about what kinds of discipline parents can inflict on their children, others worried that including a list in statute could be read as exclusive, thereby condoning any kind of discipline that is not included in the list. |
| B. 1. Emotional Abuse TFR, p. 61 | <u>See In re: D.A.K.</u> , 596 P.2d 747 (Colorado, 79). | Defines emotional abuse. | This recommendation, as amended, carried with no objection. CW p. 123 | The LOC thought the original draft language defining "emotional abuse" was difficult, confusing, and without meaning. The LOC instead adopted language from the Montana statutes that was thought to be more clear and understandable. |

| Topic | Current Law | Task Force Recommendations | Legislative Oversight Committee Action/Vote | Discussion |
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| 2. Investigations of Cases of Child Abuse Predicated Solely Upon Emotional Abuse TFR, p. 61 | No special provision for such investigations. | In such investigations, the court may order independent mental health evaluation | The recommendation was adopted by the LOC and carried on a 3-2 roll call vote. CW p. 143 | LOC members were somewhat split on whether the court should be required to order the independent evaluation or have discretion to order the evaluation. The vote was to give the court the discretion. The majority of LOC members were reluctant to mandate this requirement to the court |
| C. Best Interests of the Child TFR, pp. 61-63 | Not defined in statute in children's code. (But see §14-10-124.) | Defines best interests of the child. | This recommendation was adopted by the LOC and carried on a 4-1 roll call vote. CW p. 74 | |
| VI. A. Venue TFR, p. 63 | §19-3-201. | Make written findings re: Change in venue; allow changes in venue to "original" county; eliminate financial incentives for transfers; allow inter-county service agreements. | This recommendation was adopted by the LOC and carried with no objection. CW pp. 110-114 | |
| B. Allow Child Custody and Guardianship Filings in D&N Cases TFR, p. 64 | §19-1-104. | Allow custody filing in a D&N case. | This recommendation was adopted by the LOC and carried with no objection. CW p. 77 | |
| C. 1. Stability in Placement TFR, pp. 64-65 | §19-1-102: Legislative intent recognizes need for stability. | Establishes placement criteria. See existing legislative intent provisions. | This recommendation was adopted by the LOC and carried with no objection. CW p. 121 | |
| 2. "Concurrent Planning" TFR, p. 66 | Not currently defined. | Defines "concurrent planning." | This recommendation was adopted by the LOC and carried with no objection. CW p. 70 | |
| 3. Notice re: Adoption TFR, p. 66 | | Relatives shall give notice on a timely basis if interested in adoption. | This recommendation was moot because of a prior vote in the Adoption and Relinquishment area requiring relatives to give timely notice of the intent to adopt. (See recommendation XVIII.C on p. 21.) CW pp. 184, 191 | |
| D. Jury Trials in D&N's TFR, p. 67 | §19-3-202: Provides for a right to a jury trial in D&N. | The provision for a jury trial is eliminated. | This recommendation was rejected by the LOC on a 5-1 roll call vote. Current law: CW p. 111 | LOC members, acknowledging that the right to a jury trial in D&N proceedings is statutory and not constitutional, still felt uncomfortable eliminating this right |

| Topic | Current Law | Task Force Recommendations | Legislative Oversight Committee Action/Vote | Discussion |
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| E. Appeals TFR, p. 67 | §19-1-109. | Expedite appeals. Establish an "appeals" workgroup. Establish what shall be "final and appealable orders." | This recommendation, as amended, was adopted by the LOC and carried with no objection. CW pp. 80-81 | The LOC amended this recommendation to require that the workgroup be created in the Judicial Department and that the workgroup be required to submit a report to the General Assembly by January 1, 1997. |
| F. Right to Intervene TFR, p. 68 | §19-3-507. | §19-3-507: Broaden possible intervenors. | This recommendation was moot because of a prior vote in the Parental Rights and Responsibilities area to allow relatives and other interested parties to intervene. (See recommendation VIII on p. 39.) CW p. 164 | |
| VII. A. Putative Father Registry TFR, p. 68 | No putative father registry exists. | Create a putative father registry. | This recommendation was moot because of a prior vote in the Adoption and Relinquishment area to reject establishment of a putative father registry. (See recommendation VII on p. 16.) | |
| B. Shorten Time Constituting Abandonment TFR, p. 69 | §19-3-604. | Shorten the time necessary to constitute abandonment from 6 months to 3 months. | This recommendation was adopted by the LOC and carried with no objection. CW p. 168 | |
| C. Speedy Termination of the Parent Child Relationship TFR, p. 69 | §19-3-604. | Facilitate termination of relationship. Clarify manifestation of intention. | This recommendation was adopted by the LOC and carried with no objection. CW p. 169 | |
| D. No Appropriate Treatment Plan TFR, p. 70 | §19-3-604. | Clarify "no appropriate treatment plan" circumstances. | This recommendation was adopted by the LOC and carried with no objection. CW p. 170 | |
| E. Relative Initiated Termination Petition TFR, p. 71 | | Allow for court to order a D&N where evidence of abandonment. | This recommendation was adopted by the LOC and carried with no objection. CW pp. 69, 156 | |



| Topic | Current Law | Task Force Recommendations | Legislative Oversight Committee Action/Vote | Discussion |
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| VIII. Continuing Committee in the Legislature for Children, Youth, and Families TFR, p. 72 | Nonstatutory recommendation | Establish a continuing committee in the legislature for children, youth, and families that will be responsible for continually looking at issues in the children's code. | This non-statutory recommendation was adopted by the LOC on a 5-1 vote. (This item was inadvertently not voted on by the LOC at any of its meetings and the vote was conducted by telephone.) | Although not voted on, the LOC did discuss this item intending to vote on a later date. Members expressed concern for the cost of a continuing committee as well as for the resources to staff such a committee. However, most members agreed on the need for a committee whose sole focus is families and children. |
| Definition of Sexual Abuse Addendum to TFR, p. 61 | §19-3-303 (1) (a) (I) | Amend the definition of sexual abuse to provide that the offenses of sexual assault or molestation against a child, or sexual exploitation of a child, or child prostitution be the same as in title 18. | This recommendation was amended and adopted by the LOC and carried with no objection. The recommendation was amended to include the offense of aggravated incest against a child. CW p. 123 | |
| Training TFR, pp. 94-96 | Non-statutory recommendation | Enforce child welfare settlement agreement. Have communication between education and child welfare. Continue to include educational neglect in D&N. Continue to allow courts to require parenting classes. Alternative schools should be available in the community. Require training for judges and magistrates. | These non-statutory recommendations were adopted by the LOC and carried with no objection except for the recommendation regarding enforcement of the child welfare settlement agreement which failed on a 2-4 vote. (NOTE: The recommendation regarding educational neglect and D&N is dependent on the recommendation regarding compulsory education on page 49, item V.B.) | |

ADOPTION AND RELINQUISHMENT

| Topic | Current Law | Task Force Recommendations | Legislative Oversight Committee Action/Vote | Discussion |
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| I. Information from Birth Parents TFR, p. 73 | §19-5-103: Sets forth the relinquishment procedure and what information must be provided in the petition. | Amend §19-5-103 to add requirement that relinquishing parent provide certain factual nonidentifying information concerning the birth parents and child. | All of the recommendations, except recommendation VII regarding the putative father registry, were adopted as a package in a single vote by the LOC and carried with no objection. In addition, the LOC voted to change the ages in recommendation XXI from 19 to 18. | See recommendation VII for the discussion on the rejection of the putative father registry recommendations. |
| II. Disclosure of Information Re: Birth or Presumed Parent TFR, pp. 73-74 | <p>§19-5-105(1) provides:</p> <p>Agency or person with custody of the child shall file petition to terminate the parent-child relationship with the other parent.</p> <p>No statutory sanctions or penalty for failure of a relinquishing parent to provide information re: a birth or presumed parent</p> <p>No statutory requirements on department to provide information re: the birth parents and child.</p> | <p>Amend §19-5-105(1) to add:</p> <p>Require petition to terminate parent-child relationship with respect to all presumed parents</p> <p>Add (2.5) creating class 1 misdemeanor for any known parent who fails or refuses to provide information about a birth or presumed parent.</p> <p>Require county department of social services to provide adequate information concerning the birth parents and history of the child.</p> | <p>CW p. 186</p> <p>CW p. 187</p> <p>CW p. 181</p> | |
| III. Uniform Adoption Act TFR, p. 74 | Not adopted in Colorado. [See adoption provisions as §§19-4-201, et seq.] | Recommends Colorado not adopt the Uniform Adoption Act. | The LOC agreed with the TF that the Uniform Adoption Act not be adopted. No vote was taken. | |
| IV. Copy of Birth Certificate TFR, p. 74 | No current statutory provisions. | §19-5-103(1)(b)(II): Amended to require that affidavit of relinquishment counseling include a copy of the original birth certificate or application therefor. | CW p. 180 | |

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| V. Notice TFR, pp. 74-75 | §19-5-105(5): Notice requires absent parent to file an answer within 20 days after service or file claim of paternity within 30 days after service. | Amend section to require absent parent to file answer OR claim of paternity within 30 days after service (including those on putative father registry). | CW p. 190 (NOTE: The putative father registry issue is moot since the LOC voted to reject that recommendation. See item VII below.) | |
| VI. 30-Day Response TFR, p. 75 | §19-5-105(3.1)(c)(f): Allows court to terminate parental rights if by clear and convincing evidence the court finds that the parent has not promptly taken substantial parental responsibility for the child, considering whether the parent is served with notice and fails to file an answer pursuant to CRCP 12 or file a paternity action within 30 days. | Amend section to allow parent 30 days to file an answer after service or file paternity action. | CW p. 188 | |
| VII. Putative Father Registry TFR, p. 76 | No current statutory provision. | Recommends adding registration on the putative father registry as a consideration in determining whether a relationship has been established or attempted with a child. | This recommendation was rejected by the LOC with no objection. | While LOC members understood the purposes of the putative father registry, they expressed concern over how it would work and whether it would work. Members expressed considerable skepticism that men who had engaged in sex would register their names acknowledging the possibility that the woman had conceived. |
| VIII. Adequacy of Relinquishment Counseling TFR, p. 76 | §19-5-103(4): Requires relinquishing parent and child, 12 or over, to obtain counseling before court issues order of relinquishment. | Amend section to require children age 3 or older to obtain relinquishment counseling and to advise of the consequences of the parent's act. Allow court to order counseling for a child younger than 3. | CW pp. 181-182 | |

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| IX. Adoption and Relinquishment Counseling and GAL Appointment TFR, pp. 76-77 | <p>§19-5-103(4): Requires relinquishment counseling for parent and child 12 or over. No statutory requirements for adoption counseling.</p> <p>§19-5-103(8): Allows court to appoint a GAL to protect interests of child if there is a conflict of interest between the child and parents/guardian/legal custodian or child is 12 or older and welfare mandates it.</p> | <p>Relinquishment counseling must be face-to-face and last at least 4 hours over 3 weeks.</p> <p>Must have at least 6 hours of face-to-face adoption counseling.</p> <p>Allow that court may order more counseling.</p> <p>Relinquishment counseling requirements currently specified by regulation be included in the statutory requirements.</p> | <p>CW p. 180</p> <p>CW p. 196</p> <p>CW p. 180</p> <p>CW pp. 180-181</p> | |
| X. Financial Inducements TFR, p. 77 | <p>§19-5-213 prohibits any person from offering, giving, charging, or receiving any money or other consideration in connection with relinquishment or adoption except attorney fees and court-approved costs.</p> <p>No statutory requirement for affidavit of disclosure.</p> <p>§19-5-213(2): penalty for providing compensation for placement of child is unclassified misdemeanor.</p> | <p>Prohibit direct payments by potential adoptive parents to prospective relinquishing parents except for prenatal care expenses and pregnancy-related medical costs or prenatal housing costs that are medically necessary in the 7th, 8th, and 9th months of pregnancy.</p> <p>Require an affidavit of disclosure re: all gifts, assistance, goods, services, and payments received, promised, or offered to the parent in connection with the pregnancy, birth, and relinquishment.</p> <p>Raise penalty for providing compensation for placement of a child to class 4 felony.</p> | <p>CW p. 201</p> <p>CW p. 180</p> <p>CW p. 201</p> | |
| XI. Standardized Forms TFR, p. 77 | No statutory requirements for use of standardized forms. | Recommends that standardized forms be adopted and mandated for relinquishment and adoption. | CW pp. 180, 197 | |

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| Use of Terms Assessment and Homestudy TFR, p. 98 | §19-5-205.5(2)(b)(1): Uses the term "homestudy". §19-5-206(2)(a) and (b): Uses the term "assessment". | Subcommittee indicates its intent that the terms "assessment" and "homestudy" mean the same thing, and recommends the term assessment be used. | CW p. 194 | |
| XII. Continuity of Care for Adopted Children TFR, p. 78 | No current statutory provisions. No current statutory provisions. §19-5-210(1.5): Provides court may issue a certificate of approval of placement if in best interests of child. Also, allows court to enter decree 6 months after hearing. | Allow foster family who has known the child in a family situation for a period of 6 months or more to participate in the adoption decision. Allow for ongoing contact between child and former foster parent after adoptive placement, if in child's best interests. Certificate of approval, based on documents and assessment filed pursuant to §19-5-207 and 19-5-208. No sooner than 6 months after the date of placement, the court is required to hold a hearing on the petition and enter a decree. | CW p. 195 CW p. 184 CW p. 199 | |

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| <p>XIII. Clarity of Circumstances for Relinquishment TFR, pp. 78-79</p> | <p>§19-5-103(5): If court believes after the hearing that it is in the best interests of the parties, including the child, that no relinquishment be granted, the court shall dismiss the action.</p> <p>§19-5-103(6): If court is satisfied after the hearing that the relinquishing parent(s) and the child, 12 or older, have been counseled and relinquishment would serve the best interests of all parties, including the child, it shall enter the order.</p> <p>No statutory language requiring court to find parent's decision to relinquish is knowing and voluntary and not result of threats, etc.</p> | <p>Amend section to provide that if it is not in the best interests of the <i>child</i>, the court shall dismiss.</p> <p>Amend section to provide that if the court is satisfied that relinquishment would serve the best interests of the child, it shall order relinquishment. Also provide that it is a rebuttable presumption that the best interests of the child would not be served if the child is 12 or older and objects to the relinquishment.</p> <p>Add to §19-5-103(6) that court must find parent's relinquishment decision is knowing, voluntary, and not the result of threats, coercion, or undue influence or inducements.</p> | <p>CW p. 182</p> <p>CW p. 182</p> <p>CW p. 182</p> | |
| <p>XIV. Child Placement Agencies TFR, p. 79</p> | <p>§§26-6-101, et seq., the Colorado Child Care Act provides for licensing of all child placement agencies.</p> | <p>Adoption agencies should be licensed separately from licensed child placement agencies and state department should set standards in rules re: minimum requirements for receiving a license including training and continuing education requirements and more frequent review.</p> <p>Licensing should be for specific types of adoptions with criteria and qualification requirements for each specialty.</p> | <p>CW pp. 210-216</p> | |

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| XIV. B. Adoption Agencies TFR, p. 80 | No current statutory provision. | Require licensed adoption agency to file verified statement with court that agency's license is in good standing with state and notify court of any suspension, revocation, denial, or disciplinary action. Failure to do so is fineable class 1 misdemeanor. DHS adopt mechanism for immediately notifying courts of disciplinary actions re: adoption agency. | CW p. 197 CW p. 197 | |
| XV. Out-of-State Adoptions TFR, p. 80 | No current statutory provision. | Add provision that a child who resides in Colorado or a child whose home state is Colorado being adopted out-of-state shall be relinquished only pursuant to Colorado law. | CW p. 183 | |
| XVI. Stepparent Adoptions TFR, p. 80 | §19-5-203(1)(d)(II): Allows for a child to be available for adoption by a stepparent upon written and verified consent that the other parent has abandoned the child for 1 year or more and failed to provide reasonable support for the child. | Amend section to require written and verified consent or sworn testimony to be accompanied by an affidavit. | CW p. 192 | |
| XVII. Legal Effects: Certificate of Approval TFR, p. 81 | No statutory provisions indicating legal effects of certificate of approval. See §19-5-210(1.5)] | Add new §19-5-210.5 concerning the legal effects of a certificate of approval of placement, including child's eligibility for enrollment and coverage by any medical insurance held by petitioner and employer-sponsored maternity or paternity leave. | CW p. 199 | |



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| XVIII. A. Open Adoption TFR, pp: 81-82 | No current statutory provisions. | <p>Require agreements between relinquishing parent and adoptive parent be in writing.</p> <p>Agreements to provide information to birth parents are enforceable as part of adoption decree; remedy is contempt; noncompliance is not grounds to invalidate the adoption; modifiable.</p> | CW pp. 183-184 | |
| XVIII. B. Ongoing Contact TFR, p. 82 | No current statutory provisions. | <p>Ongoing contact not intended to diminish adoptive parents' right to raise child.</p> <p>Court has discretion to receive evidence on whether contact with birth parents is in best interests of child.</p> | <p>CW p. 183</p> <p>CW pp. 183-184</p> | |
| XVIII. C. Relative Adoptions TFR, p. 83 | <p>§19-3-605: Requires court to consider a request to place child with relative after an order terminating the parent-child relationship.</p> <p>§19-5-104: Requires court to consider, but not be bound by, a request that custody of a child, with option of applying for adoption, be placed with grandparent, aunt, uncle, brother, or sister of child.</p> | <p>Require relatives to give notice on a timely basis that they are interested in adopting a dependent child, should the child become free for adoption. Notice to be given within 6 months of child's initial placement out of the home. Failure to give notice creates a preference for allowing the foster family who has cared for the child for 90 days or more to be the adoptive family.</p> | <p>CW pp. 185, 191</p> <p>CW pp. 180, 196 (preliminary investigation)</p> | |

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| <p>XIX. Adoption Records TFR, p. 84</p> | <p>§§19-5-301, et seq., allows for access to adoption information through confidential intermediaries and §19-5-401, et seq., allows for access to nonidentifying adoption information directly.</p> <p>Non-statutory recommendation.</p> | <p>Provide that, for adoptions and relinquishments occurring after a date certain adoption records be open to adoptees 18 or older, including original birth certificate. The relinquishing parent may choose to be exempt at the time of relinquishment leaving the confidential intermediary process in place.</p> <p>Continue the confidential intermediary process and make it more effective by requiring the court to immediately forward a request for a confidential intermediary to the chief confidential intermediary.</p> | <p>CW pp. 206-207</p> <p>This non-statutory recommendation was adopted by the LOC on a 5-1 vote. (This item was inadvertently not voted on by the LOC at any of its meetings and the vote was conducted by telephone.)</p> | |
| <p>XX. Adoption Disruptions TFR, p. 84</p> | <p>No current statutory provisions.</p> | <p>In adoption disruption cases, the birth family may be contacted and considered as a possible home for the child. Contact shall be completed before another adoption.</p> | <p>CW p. 191</p> | |
| <p>XXI. A. Confidential Intermediaries TFR, p. 85</p> | <p>§19-5-304(2): Allows adoptees age 21 or older to petition court for appointment of confidential intermediary.</p> <p>§19-5-302(3): Defines "adult" as person 21 or older.</p> | <p>Lower age to 19.</p> <p>No one shall seek to determine whereabouts of a relative who is younger than 19.</p> | <p>The LOC voted to lower these ages to 18. CW p. 204</p> | |

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| XXI. B. Access to Medical Information TFR, p. 85 | <p>§19-5-401: Allows adult adoptee access to nonidentifying information, including but not limited to, medical information about the adult adoptee's birth.</p> <p>§§19-5-301, et seq., allows adoptee to use confidential intermediary process to seek out information about family.</p> | Add specific provision to permit birth parent or adoptive parent of child under 18 to petition court for access to medical information that affects the child or birth parent. | CW p. 206 | |
| Access to Relinquishment Records Addendum #2 to TFR | No statutory provisions. | Recommends that children who have been relinquished but not adopted be permitted access to their records and to search for their biological family at the age of 18. | CW p. 207 | |
| XXI. C. Birth Certificates TFR, p. 85 | §19-5-304(1)(b): Authorizes confidential intermediary to access confidential adoption and relinquishment records. | Add access to original birth certificate of adoptee. | CW p. 204 | |
| XXI. D. Biological Siblings Defined TFR, p. 86 | §19-5-302(5): Defines "biological sibling" as a sibling, by birth, or an adopted person. | Include "half-siblings" of the adoptee through either biological parent whether older or younger than the adoptee, so long as at least 18 years old. | CW p. 202 | |

HOMELESS YOUTH

Emancipation of Minors

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| I. Definitions of "Runaway Youth" and "Homeless Youth" TFR, p. 28 | Section 18-6-601 (2) (c) defines "runaway child" as an unmarried minor who has run away from home or is otherwise beyond the control of the parents. Section 22-1-102.5 defines a "homeless child" as a child who lacks a fixed, regular, and adequate nighttime residence or whose primary nighttime residence is a shelter. | Runaway Youth: Person under 18 who leaves home without permission. Homeless Youth: Person under 18 in need of services and without shelter. | Presumed adopted by LOC with no action taken. | Terms not defined in the unofficial draft legislation because terms not used in the unofficial draft. |
| II. Age for Emancipation TFR, p. 28 | §13-22-101: Person is competent at age 18 (does not include procedures for emancipation at an earlier age). | Statutory procedures should allow emancipation for youth age 16 or 17. | An attempt was made to lower the age to 15. That motion failed for lack of a second. Age in unofficial draft remains at 16 and 17. CW p. 104 | |
| III. Requirements for Emancipation TFR, p. 29 | No current statutory process for emancipation. | Youth age 16 or 17 may petition the district court. Specifies the factors the youth must demonstrate. The court may require family reunification. The court may appoint independent investigator who may be a guardian ad litem. Court may revoke emancipation if achieved through fraud. | The LOC voted to allow, as an alternative to a GAL, the court to appoint an independent visitor. The motion carried with no objection. CW p. 104 Regarding revocation of emancipation for fraud, the LOC voted to amend the recommendation allowing any public entity that was a party to the original action to file a petition to void the original declaration of emancipation, and to allow any interested person or public entity with knowledge of reasons for voiding the original emancipation action to file a petition. The motion carried on a 4-1 roll call vote. CW pp. 105-106 | Regarding revocation of emancipation for fraud, the LOC was uncomfortable with limiting the ability to bring an action to persons who were a party to the original action. In addition, the LOC felt it was difficult to determine who would be a party to the original action. |

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| IV. Effects of Emancipation TFR, pp. 29-30 | No current statutes concerning effects of emancipation. | Generally, emancipated youth may make decisions concerning his/her body and may enter into legal agreements. Emancipation terminates rights/liabilities between youth and parent | Presumed adopted by LOC with no action taken. CW pp. 106-107 | |
| V. Presumption of Emancipation TFR, p. 30 | §13-22-103: Youth may consent to medical, dental, and related care if he/she is: at least 15 years old, living apart from parents, and financially independent; or lawfully married. | Emancipation presumed if minor is married or a member of the armed services. | Presumed adopted by LOC with no action taken. CW p. 104 | |
| VI. Alternatives to Emancipation or Homelessness TFR, p. 30 | No current statutes. | Statutory programs should provide services for older youth to assist them in becoming self-sufficient, including residential and nonresidential options. A coordinated system of care should be used, including transitional housing. | References to these provisions were stricken from the unofficial draft. The motion carried with no objection. | The committee decided its sole focus should be on providing a procedure for a juvenile to become emancipated and saw these issues as separate from the issue of emancipation. The committee was also concerned about the costs associated with alternatives to emancipation and programs for homeless youth recognizing that there are already programs which provide services to homeless youth. |
| VII. Support Services TFR, p. 31 | No current statutes. | The state should develop staff secure facilities and staff secure residential child care facilities to deal with runaway and beyond-control children in a dependency and neglect context. Support systems should be funded. | This issue dealt with in the Juvenile Justice recommendations. (See recommendation XVII. 1. on p. 57.) | |
| In addition, the committee took action on the following issues related to the emancipation of juveniles not specifically addressed by the TF but contained in the unofficial draft legislation. | | | | |
| Standard of Proof Minor is to Present to Court | No current statute. | N/A | Add the language "OPPORTUNITY OR ABILITY TO ACHIEVE" to the unofficial draft legislation in places where reference is made to the factors that the minor must prove to the court in order to be emancipated. The motion carried on a 6-0 roll call vote. CW pp. 104-105 | The LOC felt that requiring a minor to prove financial independence or have adequate housing and living arrangements before being granted emancipation by the court was too restrictive. The amendment adopted by the LOC would require a minor to prove the opportunity or ability to achieve financial independence and the opportunity or ability to obtain adequate housing and living arrangements in order to be granted emancipation. |

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| Notice to Parent, Guardian, or Custodian of Hearing on Petition to Grant Emancipation to Minor | No current statute | Notice required to be sent to last known address of parents and published in a newspaper of general circulation within 30 days of petition to court. An affidavit stating the notice attempts to be submitted to court. | Instead of notice of hearing being delivered by certified mail, the LOC voted that notice be delivered by regular mail. The motion carried on a 5-1 roll call vote. The LOC also voted to broaden the reasons for not sending notice to include if the parent, guardian, or custodian has appeared as a party or has waived notice. Last, the LOC voted to provide that notice of the hearing is to be published only if the court has been unable to contact the parent by other means. CW p. 105 | The committee heard testimony that the C.R.S. increasingly allows regular mail to be used to give notice and that if certified mail is required, it would be very easy for a parent, custodian, or guardian to refuse to sign for the notice and thereby stall the emancipation hearing process. |
| Independent Corroboration of Facts Forming the Basis for the Minor's Emancipation Petition | No current statute. | Court to require independent corroboration of facts forming basis for emancipation of juvenile. | The LOC voted to strike proposed language in the unofficial draft which would have required the court to seek independent corroboration of the facts forming the basis for the minor's petition for emancipation. The motion carried on a 4-2 vote. | LOC members considered the requirement for independent corroboration of the facts of the minor's claim for emancipation to be an additional and unnecessary step. Members expressed the opinion that the court could require additional information from independent sources, if needed, without mandating it in statute. |
| Rights of Emancipated Minor – Crimes | No current statute | N/A | The LOC voted to delete a reference in the unofficial draft that says an emancipated minor can be charged with a crime as an adult. The motion carried with no objection. The LOC also took a vote to include an affirmative statement that emancipated juveniles who commit a crime are to be treated no differently from other juveniles who commit crimes. That motion carried with no objection. CW p. 107 | The LOC thought including the provision in the unofficial draft was redundant and unnecessary. They agreed that to leave the issue in the bill would possibly cause confusion as to the status of emancipated juveniles who are charged with crimes and that leaving the issue silent in this unofficial draft would make it clear that current law prevails |
| Rights of Emancipated Minor – Social Services | No current statute | Emancipated juveniles to be considered adults for purposes of the welfare and institutions (social services) code. | The LOC voted to delete language from the unofficial draft which would have entitled an emancipated juvenile to the same social services afforded adults. The motion carried on a 4-1 roll call vote. | The LOC thought that if a juvenile becomes emancipated, that juvenile should not be a ward of the state. The LOC thought that juveniles should not be granted emancipation only to then be awarded AFDC or any other social services benefits. An unresolved question was whether a juvenile who is emancipated and then becomes ill will be eligible for social services. Testimony from the DHS indicated that eligibility for public assistance would be based on the emancipated minor's income and not the income of the minor's parents. |

PATERNITY AND CHILD SUPPORT

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| I. A. Paternity Presumptions TFR, p. 15 | §19-4-105(1)(c): After child's birth, father marries (or attempts to marry) mother and I. Has provided written acknowledgment; II. With his consent, his name on child's birth certificate; or III. Obligated to pay support. | §19-4-105(1)(c): Merge I and II, so that both are required OR there is an obligation to pay support | ... of the recommendations, except recommendation XI, were adopted in a single vote block by the LOC and carried with no objection. CW p. 219 | See recommendation XI for the only discussion on these recommendations. |
| I. B. Psychological Paternity TFR, pp. 15-16 | §19-4-105(2): Paternity presumption rebutted by court decree establishing paternity of child by another man. | Strike presumption rebutted by court decree and add considering the best interests of the child and include consideration of child's age, established relationships, and the child's physical, emotional, and developmental needs. | CW p. 220 | |
| I. C. Genetic Test Evidence TFR, p. 16 | §13-25-126(1)(d): Requires objections to blood/tissue tests to be made prior to trial, while §13-25-126(2) more specifically requires objections to be in writing and filed within a certain period before first hearing. | Delete §13-25-126(1)(d). | CW p. 327 | |
| I. C. Genetic Test Evidence TFR, p. 16 | §13-25-126(1)(e)(I): If court finds that the test results show alleged parent is not the parent of the child, parentage shall be resolved accordingly. §13-25-126(1)(e)(IV): Presumption of paternity for child born in wedlock is overcome if test results show husband or wife is not the parent. | Change "shall" to "may" so that genetic tests are not always the last word in parentage. Also, change "is" to "may be" and add language added to §19-4-105(2), above, re: child's age, established relationships, physical, emotional, and developmental needs. | CW p. 327 CW p. 327 | |

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| II. A. Birth Certificates Voluntarily Acknowledge TFR, pp. 17-18 | §19-4-105(1): Man presumed father if (e): He acknowledges in writing and mother does not dispute in reasonable time. | (e) He and mother acknowledge paternity on a state registrar form; OR (g) He and the (married) mother acknowledge paternity and the mother's husband and the mother execute a form attesting that husband is not the father. | CW p. 219 | |
| II. C. Vital Records TFR, p. 18 | §25-2-112(3)(a): If the mother was married either at the time of conception or birth, the husband's name shall be entered on the birth certificate as the child's father. | Add: Or if the child was born within 300 days after the mother's 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. | CW p. 327 | |
| III Custody Presumptions TFR, p. 19 | §19-4-130: Requires court, as soon as practicable, to enter a temporary or permanent custody order. | Add sub§ (2) as follows: (a) Absent a custody order, mother of child born out of wedlock has legal custody; (b) When petition for custody or paternity is filed, parent who has had physical custody for majority of time during prior 60 days has legal custody until court orders otherwise. Allows court to enter emergency orders to restore physical custody of child to such parent. (c) These provisions shall not prejudice either parent in custody proceeding. Court required to give primary consideration to best interests of child. (d) Provisions shall not preclude either parent from exercising parenting time. | CW pp. 229-230 | |

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| IV. Confidentiality of Paternity Proceedings TFR, p. 20 | §19-1-121: Provides that all papers and records in court's record are subject to inspection by parties and their attorneys, all of whom are subject to automatic court order from disclosing the genetic testing information contained therein. Court papers and records subject to inspection by others only upon consent of court and all parties. | Deletes this provision and adds language allowing court, if it deems it necessary to protect the child's welfare, to order any record, interview, report, pleading, etc, be kept confidential and may seal the record. [applies only to paternity proceedings] | CW p. 217 | |
| V. Summons in Juvenile Support Proceedings TFR, p. 21 | §19-6-103: Provides for issuance of summons by court clerk and service to be personal as provided in CRCP. Allows for private service of process out of state. Requires hearing to be set for a day not less than ten days after service is completed or on later date set by court. | Replace §19-6-103 to provide that all juvenile support proceedings be commenced and service be accomplished in the manner provided by CRCP or as otherwise provided in §26-13.5-105. | CW p. 287 | |
| VI. Child Support in Paternity Proceedings TFR, pp.21- 22 | §19-4-116(6): Lists 10 factors, in addition to the child support guidelines, for calculating child support in paternity cases, while child support guidelines identified in §19-4-129 apply to all child support proceedings. | Remove §19-4-116(6) so that child support guidelines become sole determinant of support. (Worded as removing all paragraphs under §19-4-129(6) other than the child support guidelines factor paragraph.) | CW pp. 226-227 | |

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| VII. Multi-District Child Support Cases TFR, pp. 22-23 | No current statutory provisions. | Propose adding language that cases involving the issuance of multiple child support orders in different judicial districts for the same parent and child may be consolidated into one case to eliminate duplicate case numbers and resulting confusion. Not intended to affect validity of any of the orders nor any accrued arrears. Add a prioritization list, absent compelling circumstances, for consolidating the following child support issues pursuant to the venue provisions set out by rule: <ol style="list-style-type: none"> 1. Juvenile paternity case 2. Dissolution of marriage 3. UIFSA (or URESA) | CW pp. 217-218 | |
| VIII. Welfare Fraud Allegations TFR, p. 23-24 | No current statutory provisions. | Recommends a procedure that would not forestall the entry of a child support order while at the same time allowing the responding parent to pursue welfare fraud allegations. | The LOC clarified this recommendation to authorize an entry of an order for current child support and to prohibit calculating a child support debt for the period of the alleged fraud only. CW pp. 278-280 | |



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| IX. Relocation of Statutory Provisions TFR, pp. 24-25 | Current sections: Uniform Parentage Act §§19-4-101 et seq. Child Support Enforcement Act §§26-13-101 et seq. Child Support Enforcement Procedures §§14-14-101 et seq. Administrative Procedure for CSE §§26-13.5-101 et seq. Juvenile Support Proceedings §§19-6-101 et seq. Child Support Guidelines (UDMA) §14-10-115 Child Support Modification/Termination (UDMA) §14-10-122 Uniform Interstate Family Support Act §§14-5-101 et seq. Criminal Nonsupport Proceedings §§14-5-101 et seq. | New sections: §§14-15-101 et seq. §§14-15-201 et seq. §§14-15-301 et seq. §§14-15-401 et seq. §§14-15-501 et seq. §14-15-601 §14-15-602 §§14-15.5-101 et seq. §§14-15-701 et seq. | CW pp. 217-230 CW pp. 230-250 CW pp. 250-273 CW pp. 273-286 CW pp. 286-288 CW pp. 288-305 CW pp. 305-307 CW pp. 308-327 CW pp. 307-308 | |

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| X. Payment of Collection Fees TFR, p. 26 | No specific statutory provision, but see UDMA §14-10-119 that allows the court to order attorney fees and costs to a party for maintaining or defending any proceeding under the UDMA. | Add specific statutory language allowing the obligee to recover collection costs from obligors, limited to a reasonable amount based on what is customary fee charged by collection agencies. Total amount to be added to obligor's total support arrearage | CW p. 263 | |
| XII Child Support Central Payment Registry TFR p. 26 | §26-13-114 contains family support registry provisions | <p>Repeal of sunset provision of family support registry (FSR) found at §26-13-114(12).</p> <p>Examine feasibility of transferring payment processing responsibilities in ALL child support cases (not just Title IV-D cases) to the FSR.</p> <p>Make payment record information in custody of FSR easily available to obligors, obligees, attorneys of record, and court personnel.</p> | <p>The LOC voted to reject the recommendation regarding transferring payment processing responsibilities in all child support cases with no objection. (The recommendations regarding the repeal of the sunset of the FSR and the information in the FSR were adopted as part of the single vote block.)</p> <p>Repeal FSR sunset, CW pp. 242, 250</p> <p>FSR payment information, CW p. 242</p> | The TF considered the recommendation regarding transferring payment processing responsibilities in all child support cases informational in nature and felt this issue was beyond their scope. The LOC agreed with the TF that this recommendation fell outside the scope of the duties of the TF and instead falls in the scope of duties of the Governor's Child Support Commission. |



PARENTAL RIGHTS AND RESPONSIBILITIES

| Topic | Current Law | Task Force Recommendations | Legislative Oversight Committee Action/Vote | Discussion |
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| I. Effective System of Accountability TFR, p. 88 | §19-3-211: Creates an optional conflict resolution process to provide a forum for grievances against a participating county department concerning that department's response to reports of child abuse and neglect or performance of its duties. | Approved a mandatory county-wide grievance procedure in each county that is independent of the county department of social services. Recommendations and findings of the county grievance board shall be binding unless contrary to a court order. | The LOC adopted the recommendations as amended which carried with no objection. CW p. 118 | The LOC amended this recommendation to provide that the recommendation made by the citizen review board and presented to the county not be binding on the county. The LOC expressed discomfort with the idea that a citizen board could have the power to terminate a county employee without ensuring all the due process guarantees allowed any employee facing adverse personnel action. |
| Removal of Immunity | §§24-10-101, et seq., the "Colorado Governmental Immunity Act" provides for limited actions against public employees. See also §19-3-309, "immunity from liability." | Failed. | This recommendation failed at the TF level and was therefore moot. | |

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| Adjustment to Standard of Proof in Child Protection Proceedings. TFR, p. 102 | <p>§19-3-505(1), (6), (7): Requires court to find allegations in petition supported by a preponderance of the evidence. [Other references to preponderance of evidence: §§ 19-3-303(2.5), (10); 19-3-313(4); 19-3-508(2), (6)]</p> <p>§19-5-105: Requires clear and convincing evidence for termination of parent-child relationship.</p> <p>§19-1-120: Provides that reports of abuse and neglect shall be confidential and not public information. Allows disclosure in certain circumstances.</p> | <p>Failed.</p> <p>Failed for lack of second.</p> | <p>These recommendations failed at the TF level and therefore were moot.</p> | |
| II. Adequate Parenting Time TFR, p. 88 | <p>No current statutory provision. [But see §§19-3-101(2), 19-3-702(2.5), and (5)(a)(I).]</p> | <p>An increase in parenting time and enhancement of the quality and atmosphere of the site to maintain and promote familial bonds.</p> <p>See new §19-4-212 placement criteria.</p> | <p>This recommendation was adopted by the LOC and carried with no objection. CW</p> | |
| III. Visitation Centers TFR, p. 89 | <p>No current statutory provisions.</p> | <p>Visitation centers be established as a priority in every county with accessible hours such as during non-work and non-school hours. (Treated as nonstatutory recommendation.)</p> | <p>This recommendation was a nonstatutory recommendation and was rejected by the LOC with no objection.</p> | <p>LOC members were unclear as to how the visitations were to be set up, where they were to be set up, and for what purpose they were to be set up. The LOC was also unclear as to whether visitation centers were to be set up for parents who work during the day or whether the setting was to be for supervised visitation</p> |



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| V. A. Early Screening TFR, p. 89 | No current statutory provisions. §19-3-304(3.5): Prohibits any person from making a false report of abuse or neglect. | Sections of titles 14 and 19 concerning paternity and child custody cases be amended to allow where allegations of abuse are made that the court finds are unfounded and knowingly falsified, court can order accusing party to "make whole" the accused. Includes payment of attorney fees, evaluation costs, costs of supervised visitation, therapy and other costs. Make such false allegations a felony. (Class of felony to be determined by LOC). | The recommendation as amended was adopted by the LOC and carried with no objection. CW p. 127 | The LOC amended this recommendation to leave the offense of making false allegations a class 3 misdemeanor (current law) instead of a felony with a requirement that the court report the offense to the district attorney for further consideration of charges. |
| V. B. Non-Adversarial Screening Mechanism TFR, p. 89 | No current statutory provisions. | Use of alternative conflict resolution other than adversarial setting. (ie: two-track system where services can be voluntarily offered to families without a court filing in abuse/neglect for cases that are less serious.) | The recommendation as amended was adopted by the LOC and carried with no objection. CW pp. 108, 139-142 | |
| VI. Standards for GALs TFR, p. 90 | No current statutory provisions. | The guardian <i>ad litem</i> standards developed by the Colorado Bar Association be legislatively mandated and that an oversight process be established to enforce them. Include a maximum caseload standard for GALs. | The recommendations as amended were adopted by the LOC and carried with no objection. CW p. 82 | The LOC amended this recommendation to provide that the Chief Justice of the Colorado Supreme Court is encouraged to implement standards for GALs and other professionals by January 1, 1997. If the Chief Justice does not do so, the General Assembly will mandate such standards legislatively. The LOC was hesitant to legislate such standards as recommended because of concerns that the legislature would be regulating the practice of law, a responsibility of the Judicial Branch of government. |

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| <p>VII Central Registry TFR, pp. 90-91</p> | <p>§19-3-313(6). Requires director of central registry to send notice to each subject placed on central registry.</p> <p>§19-3-313(7). Establishes procedure by which subject of report to the central registry may request the director to amend, seal, or expunge the record of the report.</p> | <p>Amend §19-3-313(6)(a) to provide a procedure by which parties are notified and given an opportunity for a hearing prior to the entry of that party's name on the central registry.</p> <p>Process administered at the county department level with state administration with recommended standard of proof to be "preponderance of the evidence."</p> <p>Newly discovered evidence may be used to compel an additional hearing.</p> <p>County child protection team be used to provide recommendations regarding the placement of name on the central registry.</p> <p>Prospectively, an acquittal in a criminal case, or an unsustained D&N will automatically remove a person's name from the registry when that person's name was placed on the registry for the first time as the result of either a criminal case or a civil D&N.</p> <p>Retrospectively, for the above policy to apply, a person whose name is on the central registry must apply for removal of his or her name.</p> | <p>The recommendation was adopted by the LOC and carried with no objection. CW pp. 143-147</p> | <p>The LOC amended the recommendation allowing county child protection teams to make recommendations regarding placing a name on the central registry to provide that such teams are advisory in nature only.</p> |



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| VIII. Grandparents TFR, p. 92 | No current statutory provision. (But see §§19-1-117 and following re grandparents' rights.) | Amend §19-3-507 to allow grandparents, relatives, foster parents, and other interested parties with information regarding the care and treatment of the child to intervene as a matter of right, with or without counsel, following an adjudication. | This recommendation was adopted by the LOC and carried with no objection CW p. 164 | |
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FAMILY-FOCUSED LEGAL AND ADMINISTRATIVE PROCEDURES

| Topic | Current Law | Task Force Recommendations | Legislative Oversight Committee Action/Vote | Discussion |
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| I.A. CO Children's Trust Fund TFR, p. 7 | Article 3.5 of title 19: CO Children's Trust Fund codified | Retain CO Children's Trust Fund; expand parent representatives to at least 25% of the Board of Directors. | Increase the membership of the CCTF to 10 (from nine) members, 7 (from six) to be appointed by the Governor two (from one) of whom shall be parents. CW p. 148 | The original proposal was for four of the Governor's appointees to be representatives of a parent organization. There was concern among LOC members regarding the definition of "parent organization." LOC members opted to reduce the size of the CCTF from what was proposed by the TF but to increase the membership from current law. This motion carried with no objection. |
| B. Family Development Centers TFR, p. 7 | §§26-18-103 - 26-18-106: Provisions relating to centers. | Retain Family Development Centers. | This issue was moot because of a previous vote in the Parental Rights and Responsibilities area to provide early intervention services to at-risk families without having a dependency and neglect action filed. (See recommendation V.B on p. 37.) CW p. 108 | |
| C. Prevention TFR, p. 7 | State funds certain prevention programs. | Develop and fund prevention programs. | See above. | |
| D. Notice TFR, p. 7 | §19-3-212: Notice to parents of rights and remedies. | Retain the notice. | This recommendation was adopted by the LOC and carried with little or no discussion and with no objection. CW p. 120 | |
| II. A. Standards for GAL's TFR, p. 8 | No statutorily mandated standards except that GALs in D&Ns must be attorneys. | Mandate standards and accountability mechanisms. | This issue was moot because of a previous vote in the Parental Rights and Responsibilities area to reject the TF recommendation and instead statutorily request that the Chief Justice adopt GAL standards on its own by January 1, 1997. (See recommendation VI on p. 37.) CW p. 82 | If the Chief Justice does not adopt such standards, the General Assembly will adopt such standards in statute. |
| B. Standards for Other Professionals TFR, p. 8. | Non-statutory recommendation. | Mandate standards and accountability mechanisms. | See above. | |

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| C. Adversarial Nature of D&N's TFR, p. 8 | Part 3 of article 3 of title 19. | Establish a dual track system for D&N's. | This issue was moot because of a previous vote in the Parental Rights and Responsibilities area to adopt a two-track system where voluntary services without a court filing can be offered to families facing less serious abuse or neglect actions. (See recommendation V.B on p. 37.) | |



PERFORMANCE-BASED STANDARDS AND UNIFORM ASSESSMENTS

Information Management/Audit Review and Evaluation

| Topic | Current Law | Task Force Recommendations | Legislative Oversight Committee Action/Vote | Discussion |
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| Performance-Based Standards for Service Providers I. Evaluation TFR, p. 3 | No existing statutes | Specify in the legislative declaration that all state agencies and contracted agencies shall collect information to measure outcomes for the children, youth, and families they serve. | <p>The LOC did not vote on each TF recommendation individually. The committee voted to set up the minimum system necessary to keep a list of all providers of services to children. The providers are to collect information upon contact with a child. The minimum information to be collected includes the child's name, address, the agency, the nature of the contact, and the dates of contact. Access to the information is to be granted only to persons who will report to the office which is to be located in the Department of Human Services. This motion carried on a 5-1 roll call vote.</p> <p>Next, the LOC voted to require all service providers who use state funds to provide services to children to use a state-approved accounting system. In addition, the LOC voted that state-funded prevention/intervention programs be subject to a performance audit conducted by the SAO in conjunction with the JBC and the LCS. This motion carried on a 6-0 roll call vote.</p> <p>Finally, the LOC voted to require a planning team comprised of the executive directors of certain state departments to develop a strategic plan for a centralized integrated data base system for children and families. This motion carried on a 5-0 roll call vote. Info. Mgt., pp. 330-333</p> | <p>While the LOC generally agreed with the goals of the recommendations from the TF, there was disagreement with the specific recommendations submitted by the TF to accomplish those goals. LOC members were concerned that the TF did not recommend a single form to be used by all agencies for assessing a juvenile's needs. TF members explained that because agencies already collect the information desired, and because different professionals use the information differently (probation officers, therapists, social workers), it is not desirable to have a single form. LOC members stressed the need for adequate assessment and treatment of juveniles and the need to treat juveniles who have similar backgrounds and histories similarly. The LOC wanted to insure that information on a child's movement through the system and his or her previous treatment history follow that child wherever the child goes in the system. Committee members expressed hesitation to spend the additional money required to implement the TF's recommendations because the current system cannot be or has not been evaluated or assessed. LOC members were also hesitant to provide funding in light of the prohibitive cost of the system recommended by the TF. The LOC's recommendations reflect a desire to 1) hold service providers accountable; 2) ensure that a child can be tracked as he or she receives services from different parts of the system; and 3) require that services provided be subject to some sort of a performance audit.</p> |
| III. Costs of Evaluation TFR, pp. 3-4 | No existing statutes | The General Assembly should appropriate additional financial resources for evaluation activities for all children, youth, and family services. These evaluations should be a high priority for continued state funding. Nonstatutory recommendation. | | |
| IV. Evaluation of Amount and Quality of Services TFR, p. 4 | No existing statutes | Each service provider should measure the number of clients served, the level of intensity of service, the quality, and the cost. | | |
| V. Reporting Requirements TFR, p. 4 | No existing statutes. | At least annually, service providers must report to the state | | |
| VI. Assessing Efficiency of Providers' Performance of Administrative Functions TFR, p. 4 | No existing statutes. | Annual on-site monitoring and a checklist of minimum administrative standards should be a minimum requirement. | | |
| VII. Financial Accountability Standards TFR, p. 5 | No existing statutes. | Service providers should have to meet certain financial accountability standards, including: maintaining an accounting system; keeping supporting documents; keeping financial records for 3 years after the expenditure. | | |

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| VIII. Criteria for Determining a Child's Successful Completion of a Program TFR, p. 5 | No existing statutes. | The service provider must develop individualized objectives for each service recipient and collect data to show whether the objectives are met. Criteria for success would vary from program to program. | | |
| Single Uniform Assessment Instrument I. Is There a Need for a Better and More Unified Assessment Tool to Evaluate a Child for Placement Purposes? TFR, p. 10 | No existing statutes. | The state should develop a means of rapidly and effectively sharing assessment information between agencies. | | |
| II. Is There a Need for a Better and More Unified Tool for Evaluating the Effectiveness of the Service Being Provided for the Benefit of the Child? TFR, p. 10 | No existing statutes. | The Children's Code should mandate the use of approved outcome measures for gauging program effectiveness. The costs associated with professional, validated, and reliable quality measurement should be funded as a required portion of each agency's costs and budget. | | |
| III. There Should NOT be One Overall Assessment Tool for All Areas Affecting Children's Issues TFR, p. 10 | No existing statutes. | The Children's Code should not require the use of one assessment tool because it would be too cumbersome. The Code should, however, require agencies to ensure that their assessment instruments cover specified areas of concern. | | |



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| V Different Philosophies and Different Expectations of Child Protection v. Juvenile Delinquency Drive the Need for Differing Assessment Tools TFR, pp. 11-12 | No existing statutes. | The Children's Code should require assessment in areas that apply across human service systems. The methods by which the systems share assessment information about the children, youth, and families that they serve should be improved. | | |
| VII. Development of Adequate Outcome Measures TFR, p. 12 | No existing statutes. | Existing departments and existing data collection systems should be surveyed and analyzed for adding "program accountability" as a new responsibility. | | |

JUVENILE JUSTICE

| Topic | Current Law | Task Force Recommendations | Legislative Oversight Committee Action/Vote | Discussion |
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| I. Legislative Declaration TFR, p. 32 | §19-1-101: No language concerning public safety interest, community involvement, and prevention of juvenile violence and crime. | <p>Incorporate language into legislative declaration as to the following three purposes of the Children's Code:</p> <p>Public Safety and juvenile accountability; Community involvement; and Significance of strategies for preventing juvenile violence and crime.</p> | This recommendation was rejected by the LOC with no objection. | The LOC discussed at length what the legislative declaration would contain. They agreed that the primary goal of the juvenile delinquency provisions of the Children's Code is to protect the public safety and to ensure that juveniles are held accountable for their actions. LOC members also agreed that the legislative declaration should reflect a desire to consider the best interests of the juvenile and the community while also considering how to foster the juvenile's becoming a productive member of society. The LOC disagreed on how best to articulate those goals without making them sound mutually exclusive of each other, so the LOC rejected the idea of a legislative declaration. |
| II. Office of Youth Services TFR, p. 32 | The Division of Youth Services is administratively created. | Statutorily create the Office of Youth Services. | This recommendation was adopted by the LOC and carried with no objection. JJ p 365 | The committee discussed transferring the OYS to the DOC. A subcommittee member indicated that that option was discussed at the subcommittee level but the vote to keep OYS in the DHS was unanimous. The subcommittee member also indicated that the subcommittee's main goal was to give entities the discretion to treat juveniles in the community with an emphasis on public safety. |
| III. A. Financing for Commitment and Detention TFR, p. 32 | §19-2-11 and §19-2- 1601 et seq.: State finances both detention and commitment; community receives SB94 moneys for alternatives to out of home placement. | <p>Set aside a portion of state moneys for the commitment of juveniles adjudicated for acts that, if committed by an adult, would be a felony.</p> <p>Provide remainder of funds to judicial districts as part of SB94 moneys to be combined with community dollars for community plans (developed by Community Review Teams) for detained juveniles and juveniles adjudicated for non-felonious acts.</p> | This recommendation was rejected by the LOC on a 6-0 roll call vote. | Among other concerns, the LOC was concerned that since treatment decisions would now be made at the community level on a "first come first served basis," the dollars might run out before the end of the funding period, leaving no options for services for juveniles entering the system after the funding ran out. The LOC was also concerned that this approach would localize how juveniles are treated after adjudication. LOC members felt this concept was a good one but that there needed to be a single oversight group to oversee the effort on a long term (6-10 years) basis. There was further concern that implementing the system on a judicial district basis would be good for rural counties but divisive for metropolitan areas that encompass more than one judicial district. |

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| III. B. Community Supervision Pilots TFR, p. 33 | Part 13 of article 2 of title 19. Community residential programs are used for some juveniles committed to the department of human services. Community Review Teams review the juvenile's case file and approve placement of juvenile in community residential program. | Allow up to 5 pilots where communities within judicial districts assume responsibility for community supervision of adjudicated juveniles sentenced to community residential programs (including as a condition of probation or juveniles under supervision of juvenile parole board) to such programs. (Combines probation and parole for these counties). | This recommendation was amended and adopted by the LOC on a 4-2 roll call vote. The LOC amended the recommendation by repealing the pilot in 3 years and requiring annual reports on the pilot program. JJ pp. 375-376 | LOC members questioned prior attempts to combine parole and probation services but agreed to attempt the pilot program in five counties at the juvenile offender level with a repealer on the program and a provision for annual progress reports. |
| IV. Municipal Court TFR, p. 33 | Municipal courts may sentence juveniles to detention. | Encourage the municipal courts to rely on appropriate community services for juveniles as the alternative to detention. | This recommendation was amended and adopted by the LOC on a 6-0 roll call vote. The recommendation was amended to require instead of encourage the municipal court to sentence juveniles to appropriate community programs when available as an alternative to detention. JJ p. 447 | The LOC's main concern was providing appropriate alternatives to detention. |
| V. A. Education School Records TFR, p. 33 | Title 22 Schools are not required to release a juvenile's records to the court or other agencies involved in the juvenile justice system. §19-2-119: Requires reporting of certain information to schools but not from schools. | Requires schools to release a juvenile's record, within 15 days after receiving a court order from the court, to the Office of Youth Services, Youthful Offender System in the Department of Corrections, and other juvenile justice agencies | This recommendation was amended and adopted by the LOC with no objection. The LOC amended the recommendation to allow the exchange of information between a school and state agencies by court order within 15 days of the court order. JJ p. 448 | |
| V. B. Education Truancy TFR, p. 34 | §22-33-108: Little, if any, responsibility on parents to ensure a juvenile's school attendance; no sanction against parents for juvenile's failure to attend. | Places primary responsibility for a juvenile's attendance at school with parents. Holds parents accountable for failing to make good faith effort to ensure that the juvenile attends school. Imposes a penalty of up to six months in the county jail. | The LOC rejected this recommendation on a 5-1 roll call vote. | Committee members agreed that while parents should share some responsibility for a truant child, that parents often have no control over their child. Even when a parent delivers a child to school, the child will leave and the parent could still face a sentence to jail. |



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| V. Education B. Truancy TFR, p. 34 | §19-2-203: Peace officer has authority to release a juvenile taken into custody to a parent but not to the school. | Allow a peace officer to return a truant to school - requires probable cause. Alternative: Make appointment of counsel in school cases discretionary. | The LOC rejected this recommendation on a 6-0 roll call vote. The LOC instead voted to repeal the compulsory school attendance law on a 4-2 roll call vote. JJ pp. 448-449 | The LOC rejected this and the above truancy recommendations because they seem to put the responsibility for corrective action on parents and law enforcement. The LOC agreed that students who do not want to attend school will not attend school. Some members questioned the state law which requires the attendance of disruptive students who don't want to be in school. Some committee members saw the compulsory education law as rendering schools as houses of detention. |
| VI. Denver Juvenile Court TFR, p. 34 | Section 9(3) of article VI of the Colorado constitution: District Courts have exclusive jurisdiction over probate matters, except that the Denver Probate Court has exclusive jurisdiction in the City and County of Denver. | Constitutional amendment to transfer jurisdiction of certain juvenile probate issues from the Denver Probate Court to the Denver Juvenile Court. | This recommendation was adopted by the LOC with no objection. HCR, LLS 0234, pp. 467-468 | |
| VII. Expungement of Juvenile Records TFR, p. 34 | §19-2-902: Miscellaneous provisions concerning the expungement of juvenile records. | Miscellaneous recommendations, as follows: 1. Prohibits expungement of records for special offenders; 2. Establishes a schedule for all other juveniles to petition the court for expungement; 3. Gives the court discretion in granting a petition for expungement rather than making expungement mandatory; 4. Adds as a standard for expungement a finding by the court that expungement of a juvenile's record is in the best interest of the juvenile and the community; 5. Allows a person to petition the court for an expungement only once per year. | This recommendation was adopted by the LOC with no objection. Info. Mgt. pp. 339-340 | |
| VIII. Special Offenders TFR, p. 35 | §19-2-804: Definition of Aggravated Juvenile Offender. | Add juveniles who commit a sexual assault on a child or aggravated incest. | This recommendation was adopted by the LOC with no objection. JJ p. 406 | |

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| IX. Custodial Interrogation TFR, p. 35 | §19-2-210: Requires the presence of a juvenile's parent during questioning of a juvenile even when the questioning is consensual. | 1. Allow for parent and juvenile to waive parent's presence during questioning. 2. Repeal definition of "physical custodian." | The recommendation was adopted by the LOC on a 6-0 roll call vote. JJ pp 401-402 | The LOC discussed the reasoning for the requirement that both parent and juvenile waive the parent's presence during questioning, and a motion was made to allow either the parent or the juvenile to waive the parent's presence during questioning. After a discussion of the various scenarios in which a parent or juvenile could waive the parent's presence, including the instance in which the parent or juvenile has committed a crime against the other, the motion failed on a 3-3 roll call vote and the original recommendation was adopted. |
| X. Restitution TFR, p. 36 | §19-2-703(4): Limits the maximum amount that the court can order a parent to contribute for restitution. | 1. Remove the cap and allow the court to order reasonable amount for restitution based on a parent's ability to pay. 2. Expand to district court the same procedure used in county court for collecting restitution, using restitution officers. | The recommendation was adopted by the LOC on a 5-1 roll call vote. JJ p. 430 | Discussion centered on previous attempts to lift the cap. Previous attempts have raised concern for foster parents who could bear the liability for the actions of a juvenile in their care. In addition, an argument was made that since juveniles in foster care are legally wards of the state, the state could bear liability. |
| XI. Offenders with Special Needs TFR, p. 36 | No specific statutory provisions other than §19-2-1601, et seq., placement criteria. | Place with the Community Review Team the responsibility for identifying and handling special needs of juveniles such as mental health, substance abuse, and sex offender issues. | This issue was moot because of the previous vote which rejected the concept of dollars going to Community Review Teams who would decide which services to provide a juvenile. (See recommendation III.A on p. 47.) | |
| XII. Offenses by Juveniles under 10 TFR, p. 37 | §19-2-102(1)(a): Jurisdiction over juveniles 10 years of age or older. | If peace officer investigates a juvenile act that involves a juvenile under age 10, the peace officer may report the incident to the county department of human services for a dependency and neglect investigation. | The recommendation was adopted by the LOC with no objection. JJ p. 390 (NOTE: See item G on page 9 for the corresponding recommendation and vote.) | The LOC saw this issue as an early intervention issue. The LOC heard testimony that currently, some peace officers think that they can do nothing with juveniles under 10. |
| XIII. Judicial Review of Juvenile Probation TFR, p. 37 | §19-2-705(3): Requires the court to review probation files every 6 months. | Make the court's review permissive and periodic rather than mandatory every 6 months. | The recommendation was adopted by the LOC with no objection. JJ p. 439 | Judges testified that the mandatory review leads to too much paperwork and that judges know best which cases need to be reviewed and which ones do not. |



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| XIV. Prevention TFR, p. 37 | No specific prevention strategy in statute. | <p>1. Create a cabinet level position to coordinate prevention strategies for the state.</p> <p>2. Require the cabinet coordinator to work with the Governor's Children Cabinet.</p> <p>3. Plan for prevention.</p> <p>Create family policy council to work with communities in establishing community networks and to provide grants to communities for prevention services.</p> | <p>The recommendation regarding the cabinet level prevention position was rejected by the LOC on a 5-1 roll call vote. Instead, the LOC voted to establish a function in the Auditor's Office to coordinate and evaluate prevention and intervention strategies and programs in the state and to identify duplicated efforts. The motion carried on a 6-0 roll call vote. Info. Mgt. pp. 330-332</p> <p>The recommendation regarding the family policy council was adopted as a non-statutory recommendation on a 6-0 roll call vote.</p> | <p>The LOC saw the need to coordinate prevention strategies but disagreed that a cabinet level position would carry much weight or have much power. The LOC instead agreed that current prevention and intervention efforts should be evaluated and coordinated and that the State Auditor would be the best office to perform this duty.</p> |
| XV. Entry Into Juvenile Justice System A. Intake TFR, p. 38 | §19-2-203(1.5): Law enforcement officer or court makes detention determination based on criteria established in accordance with §19-2-1602. | <p>1. Establish a community interdisciplinary team made up of juvenile justice professionals to conduct intake assessment of juveniles, using placement criteria that is now codified in statute; team is available for intake screening on a 24-hour basis.</p> <p>2. Assessment is used to develop a treatment plan for juvenile and both are submitted to the court when petition is filed (within 3 days).</p> | <p>The recommendations were adopted by the LOC and carried with no objection. JJ pp. 365-366</p> | |
| XV. Entry Into Juvenile Justice System B. Placement Criteria TFR, p. 38 | §19-2-1602: Required a working group made up of executive agency directors to establish placement criteria. | <p>Codify placement criteria, including specific recommendations concerning placement criteria for detention and post-adjudication purposes.</p> | <p>The recommendation was adopted by the LOC and carried with no objection. Detention criteria, JJ pp. 398-399 Post-adjudication criteria, JJ pp. 431-434</p> | |
| XV. Entry Into Juvenile Justice System C. Release on Personal Recognizance TFR, p. 38 | §§19-2-203, 19-2-204, and 19-2-205: Sets forth detention requirements, including authority to release juveniles and the procedure for setting bail. | <p>Authorize the Juvenile Assessment and Intake Team (JAIT) to release juveniles according to a bond schedule that is similar to the bond schedule used for adults.</p> | <p>The recommendation was adopted by the LOC and carried with no objection. JJ pp. 366, 400</p> | |

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| XV. Entry Into Juvenile Justice System D. Truants and Runaways TFR, p. 39 | §19-2-203: Makes no distinction between juveniles taken into custody | Makes the JAIT responsible for dealing with truants and runaways but see also recommendation V. Education B. Truancy on p. 38, which allows peace officers to return truants to the school. | This issue was moot for truants because of the prior vote to reject the TF recommendations regarding truants and failed for runaways on a 3-3 roll call vote. (See recommendation V.B on pp. 48 & 49.) | Committee members acknowledged the need for the intake team to deal with runaways and possibly divert them from the juvenile justice system. On the other hand, members thought that runaways should not be dealt with in the juvenile delinquency arena at all. |
| XV. Entry Into Juvenile Justice System E. Filing of Petition TFR, p. 39 | §19-2-204: Limits the requirement that petition be filed within 3 days to only certain juvenile acts. | Expand the 3-day filing requirement to all juvenile acts, but continue to allow the court to extend filing time for good cause. | The recommendation was adopted by the LOC and carried with no objection. JJ pp. 395, 402 | |
| XV. Entry Into Juvenile Justice System F., G. Detention Duty of Peace Officers and Juvenile Assessment and Intake Team (JAIT) TFR, p. 39 | §19-2-203: Requires the peace officer to notify the juvenile's parent or other responsible adult that juvenile has been taken into custody. §19-2-204: Requires the peace officer to notify the juvenile's parent or guardian that juvenile has been placed in detention facility. | F-1. Require the peace officer to notify the JAIT and makes the JAIT responsible for notifying the juvenile's parent or responsible adult; F-2. Requires the JAIT to conduct assessment of juvenile and to make detention determination based on placement criteria, now codified; F-3. Makes a juvenile's guardian subject to contempt for violation of a court order. G-1. Make the JAIT responsible for notifying parent or guardian that a juvenile has been placed in detention; G-2. Requires JAIT to submit initial assessment of family and community resources available for a juvenile; G-3. Allows the court to order the juvenile and family to follow case plan recommendations made by the JAIT. | The recommendation was adopted by the LOC and carried with no objection. F-1 JJ p. 392 F-2 JJ pp. 365-366, 392 F-3 JJ p. 393 G-1 JJ pp. 393-394 G-2 JJ p. 394 G-3 JJ p. 394 | |



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| XV. H. Entry Into Juvenile Justice System Preadjudication Program TFR, p. 40 | §19-2-205.5: Provides for the establishment of preadjudication program. | Incorporate JAIT's involvement with respect to preadjudication services. | No motion necessary. Conforming amendment. | |
| XV. I. Entry Into Juvenile Justice System Parental Involvement TFR, p. 40 | Article 2 of title 19: Fragmented provisions concerning parental responsibilities and involvement. 1. §19-2-705.5 Cost of care provisions; 2. §19-2-306: Parents encouraged to attend proceedings and court may issue summons requiring a parents' appearance; 3. §19-1-107: Juvenile treatment plan may or may not address parental involvement; 4. §19-2-307: Gives the court contempt authority over a juvenile's parent. | 1. Assess placement and treatment fees; 2. Require rather than encourage parents to attend hearings; 3. Parent involvement and participation to be specified in juvenile treatment plan; 4. Authorize court to impose contempt sanction against parent for failure to comply with court ordered plan. | The recommendations were adopted by the LOC and carried with no objection 1. JJ p. 364 2. JJ pp. 363, 403-404 3 & 4. JJ pp. 363-364 | Committee members were concerned that parents could stop the court process by not appearing in court, thereby putting the action in jeopardy of dismissal. LOC members were told that current law deals with this issue by allowing a GAL to be appointed when the parent does not appear. Also, current law does not guarantee the juvenile's right to have his or her parent present at the proceeding |
| XVI. A. Adjudication Schedule TFR, p. 41 | Parts 3, 4, and 5 of article 2 of title 19: Set forth applicable timetables. | Amend the timeframes with respect to the adjudicatory process. | The recommendation was adopted by the LOC and carried with no objection. JJ pp. 361-362, 395, 403, 419 | Committee members discussed the ability of the court to grant continuances in these instances, noting that if granted, the effectiveness of the timeframes is weakened but if not granted, the court may unduly bind its docket. |

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| XVI. Adjudication B. TFR, p. 41 | <p>§19-2-404: Preliminary hearings for juveniles accused of committing felonious act.</p> <p>§19-2-501: Right to jury trial of six-person jury upon request of juvenile or district attorney in all cases except class 2 and 3 misdemeanors and petty offenses.</p> | <p>Preliminary hearing within the court's discretion, but probable cause finding is still required for adjudication of juvenile.</p> <p>Right to jury trial eliminated</p> | <p>The recommendation was rejected by the LOC on a 4-2 roll call vote.</p> | <p>Committee members were uncomfortable with eliminating jury trials for juveniles in delinquency actions. Discussion acknowledged that the right to a jury trial for juveniles is statutory and not constitutional. Committee members also acknowledged that jury trials are sometimes requested as a tactical maneuver to delay the trial. However, most members decided that court management issues should not be a driving factor in whether the jury trial is eliminated or not.</p> |
| XVI. Adjudication C. TFR, p. 41 | <p>There is no specific statute of limitation in the juvenile context.</p> <p>§16-5-401: Applies to adults and juveniles, statute of limitations depends on act.</p> | <p>Create statute of limitations specific to juvenile acts: 18 months for offenses other than class 1 and 2 felonies and sex offenses; same as adult statute of limitations.</p> | <p>The recommendation was adopted by the LOC and carried with no objection. JJ pp. 360-361</p> | |
| XVI. Adjudication D. TFR, p. 42 | <p>§19-2-806: Gives juvenile court authority to transfer case to district court.</p> | <p>Repeal transfer statute and amend the direct file statute to fill in gap from the transfer statute.</p> | <p>The committee adopted an amended version of this recommendation which carried with no objection. The committee voted to allow direct filing on juveniles for 12 to 14 year olds only via a transfer and only for class 1 and 2 felonies and to repeal the transfer provisions for all other actions. JJ p. 408</p> | <p>Committee members reached this vote as a compromise between members who were uncomfortable with the idea of a 12 year old being direct filed on and possibly being sentenced to the DOC. The transfer puts the decision in the hands of the judge instead of the DA to charge the child as an adult but still results in the possibility of a 12 year old in the DOC.</p> |



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| XVI. E. Adjudication Direct Filings in District Court TFR, p. 42 | §19-2-805: Specifies juveniles against whom the district attorney may elect to file criminal charges in adult court. | <ol style="list-style-type: none"> 1. Expand acts for which and against whom the district attorney may file charges. Allows direct filings against juveniles 12 years of age or older in class 1 and class 2 felony cases. 2. Close gap between transfers and direct file. 3. Juvenile sentence for juvenile against whom charges are filed in adult court - when appropriate - special finding by court. 4. Court may appoint guardian ad litem for juvenile against whom charges have been filed in adult court. | Regarding the direct file recommendation, see above. Regarding the remaining issues, the recommendations were adopted by the LOC and carried with no objection. JJ pp. 406-408 | |
| XVI. F. Adjudication Diversion TFR, p. 43 | §19-2-303: Authorizes the division of criminal justice in the department of public safety to establish a juvenile diversion program. | Require the establishment of juvenile diversion programs for each judicial district in the state. | The recommendation was not adopted by the LOC failing on a 3-3 roll call vote. | Committee members were concerned with the mandate that judicial districts create diversion programs. |
| XVI. G. Adjudication Jurisdiction - Traffic Issues TFR, p. 43 | §19-2-102: Juvenile court does not have jurisdiction over traffic matters. | Give juvenile court jurisdiction over traffic matters that arise out of the same transaction as a juvenile matter. | The recommendation was adopted by the LOC and carried with no objection. JJ p. 359 | |
| XVI. H. Adjudication Transfer of Venue - Time Limit TFR, p. 43 | §19-2-103: Currently does not impose any time limit for receiving court to set a hearing. | Require the receiving court to set a hearing within 30 days after the date change of venue is. | The recommendation was adopted by the LOC and carried with no objection. JJ p. 360 | |
| XVII. A. Sentencing Schedule TFR, p. 43 | §19-2-703: Includes a number of sentencing options. | List sentencing options in a single statute with reference to substantive statutory provisions. | The recommendation was adopted by the LOC and carried with no objection. JJ pp. 424-431 | |

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| XVII. Sentencing B. Presentence Investigations - Standards TFR, p. 44 | §19-2-701: Court relies on social study and other reports made pursuant to §19-1-107. | <ol style="list-style-type: none"> 1. Codify standards for PSI 2. The extent of the PSI shall relate to the juvenile's involvement in the juvenile justice system. 3. PSI = Presentence assessment and should be compatible with the pretrial or predetention assessment. 4. Make the PSI mandatory in every case. | The recommendation was amended and adopted by the LOC on a 3-2 roll call vote. The LOC amended the motion to strike references to the PSI being compatible with the pretrial assessment to say that the two should build on each other. JJ pp. 422-423 | The committee was uncomfortable with the word "compatible" because it implies that both the PSI and the pretrial assessment should have the same kind of information when the goal is to see a progression with the two assessments. |
| XVII. Sentencing C. Presentence Investigations - Participating Agencies TFR, p. 44 | §19-1-107: Social Study. §19-2-1103: Commitment examination and evaluation. §19-3-507: Treatment Plan. §19-3-701: Placement evaluation, social services. | <ol style="list-style-type: none"> 1. Make presentence procedure an interdisciplinary function. 2. Collapse various evaluations and assessment tools for juveniles. 3. Make the assessment applicable as presentence tool and revocation and resentencing tool. 4. Accomplish these functions through the "Community Review Team" model. | This recommendation was moot because of the previous vote to reject the Community Review Team concept. (See recommendation III.A on p. 47.) | |
| XVII. Sentencing D. Out-of-Home Placement Criteria TFR, p. 45 | §19-2-1602: Establishes a working group to design out-of-home placement criteria. | <ol style="list-style-type: none"> 1. Codify out-of-home placement criteria, including commitment criteria. 2. Require that the criteria be reviewed regularly. 3. Use criteria that conforms with applicable federal law. | This recommendation was moot because of a prior vote to adopt the recommendation to codify placement criteria. (See recommendation XV.B on p. 51.) JJ pp. 431-434 | |
| XVII. Sentencing E. Probation - Supervision TFR, p. 46 | §19-2-1001: Juvenile and adult probation departments may be combined. | Create separate juvenile and adult probation departments in judicial districts with populations greater than 100,000 persons. | This recommendation was rejected by the LOC with no objection. | |



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| XVII. Sentencing F. Probation - Violations TFR, p. 46 | §19-2-705: Allows the court to modify terms and condition of probation, revoke probation, or take other action allowed by article 2 of title 19, including commitment. | 1. Make the Community Review Team responsible for reviewing probation revocation cases. 2. Provide funding to communities for alternatives to commitment upon revocation of probation - Community Review Team should be included in local services plan. | This recommendation was moot because of the previous vote to reject the Community Review Team concept. (See recommendation III.A on p. 47.) | |
| XVII. Sentencing G. Short-term Sanctions TFR, p. 46 | §19-2-1115: Detention services and facilities are to be provided by Department of Human Services. | Provide for less expensive, less restrictive, short-term staff-secure sanctions for juveniles. | This recommendation was moot because of the previous vote to reject the Community Review Team concept. (See recommendation III.A on p. 47.) | |
| XVII. Sentencing H. Boot Camp TFR, p. 46 | §19-2-708: Governs the Regimented Juvenile Training Program. | 1. Make placement in Boot Camp a condition of probation. 2. Prohibit court from combining placement in boot camp with any other secure juvenile placement. 3. Include an aftercare component to the program. | The LOC adopted only parts 1 and 3 of this recommendation on a 5-1 roll call vote. JJ pp. 383-385, 427 | The committee rejected the idea of prohibiting the court from combining a sentence to boot camp with any other placement because of the restriction on the court's decision-making authority. |
| XVII. Sentencing I. Staff-Secure Facilities TFR, p. 47 | §19-2-1101: Department of Human Services operates group care facilities and homes, including halfway house, for committed juveniles (long-term commitments). Article 6 of title 26 governs the operation of residential child care facilities. | 1. Staff-secure facilities be available for short-term sentences in lieu of detention. 2. Give personnel of staff-secure facilities authority to restrain juveniles when necessary in accordance with clearly defined standards. 3. Provide immunity to personnel with respect to the use of restraint. 4. Impose duty on personnel to retrieve runaways. | The recommendation, as amended, was adopted by the LOC and carried with no objection. 1. JJ p. 386 2-4. JJ p. 387 | The committee voted to expand the scope of staff-secure facilities to be available as an option for both pre and post-sentencing and for juveniles in delinquency, dependency and neglect, and child welfare actions. |

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| XVII. Sentencing Commitments to Department of Human Services, OYS Sentences TFR, p. 47 J. | §19-2-1105: Limits the length of commitment to 2 years. §19-2-1202(4): Hearing panels of the juvenile parole board review juvenile's file and determine whether to grant parole. If granted, the hearing panel shall establish a parole period that is equal to the duration of the juvenile's commitment. §19-2-1301, et seq., establishes the Juvenile Community Review Board. | <ol style="list-style-type: none"> 1. Expand length of commitment up to 5 years; 2. Require a mandatory parole period of one year following commitment; 3. Establish maximum terms for sentences to OYS; 4. Require that sentences be indeterminate; 5. Give oversight of juvenile's transition from secure to community placement to the Community Review Teams, repeal the Juvenile Community Review Board. | Recommendations 1-4 were adopted by the LOC and carried with no objection. Recommendation 5 was moot because of a prior vote to reject the Community Review Team concept. (See recommendation III.A on p. 47.) JJ pp 424-425 | The recommendations were adopted despite LOC concerns that a maximum sentence of 5 years could drive bed needs for juveniles. The LOC also discussed the issue of how a juvenile would be sentenced to a five year sentence if that juvenile turned 18 at some point during the sentence. The LOC adopted an amendment to this recommendation to make it clear that the court can hand down a combined sentence. Such sentence would commit the juvenile to the DHS until the juvenile turns 18, followed by a sentence to the DOC so that the combined sentence would be for a total of up to 5 years. The mandatory period of parole provided for is not in addition to the five year sentence. |
| XVII. Sentencing Parole - Supervision TFR, p. 48 K. | No parole period for juveniles sentenced to OYS. §19-2-1201, et seq., creates and describes the duties and functions of the Juvenile Parole Board. | <ol style="list-style-type: none"> 1. Require mandatory 1-year parole for all juveniles sentenced to OYS; 2. Repeal the Juvenile Parole Board; 3. Place parole review and recommendation responsibility with the Community Review Teams with the same immunity given to the Juvenile Parole Board - Requires a face-to-face interview with the juvenile. The appropriate team is the team from the county where the juvenile resides; 4. Makes the teams' parole recommendations binding unless the district attorney or the juvenile requests a review by the court. | Recommendation 1 was moot because of a prior vote to adopt mandatory parole for juveniles. (See recommendation XVII.J above.) Recommendation 2 was rejected by the LOC with no objection. Recommendations 3 and 4 were moot because of the prior vote to reject the Community Review Team concept. (See recommendation III.A on p. 47.) | The LOC declined to adopt the recommendations regarding parole because the recommendations moved many of the responsibilities of the Juvenile Parole Board to the Community Review Teams, which were rejected by the LOC. |



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| XVII. Sentencing L. Community Teams TFR, p. 48-49 | Part 13 - Juvenile Community Review Board. Article 5.5 of title 26: Family Preservation Program Board. §19-2-1402: Local board for Parental Responsibility Training Programs. §19-2-1602.7: Local juvenile services planning committee. | Combine the community boards, committee, etc. into a single body, incorporating the community team model. | The recommendation was moot because of the prior vote to reject the Community Review Team concept. (See recommendation III.A on p. 47.) | |
| XVII. Sentencing M. Placement - Consistency TFR, p. 49 | Part 16 - Governs the establishment of placement criteria; directive that no juvenile will be placed in violation of the criteria, Working group reports changes in criteria to the General Assembly. | 1. Codify placement criteria; 2. Require court to make specific findings when sentence deviates from criteria; 3. Information concerning sentences that deviate from criteria be reported to the Supreme Court and the General Assembly. | The recommendation was moot because of the prior vote to codify out-of-home placement criteria. (See recommendation XVII.D on p. 56.) JJ pp. 431-434 | |
| XVII. Sentencing N. Parental Involvement TFR, p. 49-50 | Miscellaneous provisions concerning parent involvement. §19-2-705.5: Judgment for cost of care; §19-2-703 and §19-2-1401, et seq.: Parental responsibility training programs; §19-2-703: Restitution §19-2-703: Community Service. | Include provisions in the Code concerning parents and parental involvement, as follows: Declaration that family is significant in cause of and cure for delinquency; Requirement that parents cooperate during assessment of juvenile and family and participate in juvenile's treatment plan; Allow the court to impose sanctions for non-cooperation or non-participation by parents; Allow court to issue order pertaining to parents in areas such as public service requirements, cost of care reimbursement, mandatory supervision of the juvenile, parental responsibility training, involvement in treatment plan for the juvenile. Allows court to exempt parents who are victims. | The recommendation was adopted by the LOC and carried with no objection. JJ p 363 | |

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| XVIII. Placement Criteria TFR, p. 50 | Part 16: Working group to establish criteria. | Codify appropriate placement criteria based on age and type of offense committed by juveniles. | The recommendation was moot because of a prior vote to adopt codifying placement criteria for detention and post-adjudication purposes. (See recommendation XV.B p. 51.) This issue was revisited and the recommendation was amended, striking recommendations changing the criteria for entry into the YOS. The amending vote carried with no objection. JJ pp. 431-434 | Upon revisiting this issue, the LOC voted to reject the recommendation which changed the criteria for juveniles sentenced to the YOS. The recommendation changed the age eligibility from 14-19 to 14-21 and would have allowed juveniles adjudicated as juveniles into the YOS. Currently, juveniles must be direct filed on in order to be placed in the YOS. In addition, the crimes for which a juvenile could be placed in the YOS were expanded to possibly include class 1 and 2 felonies. Under current law, those offenses are limited to class 3 through 6 felonies. |
| XIX. Juvenile Records - Basic Identification Information Defined TFR, p. 50 | §19-1-119: Defines basic identification information for the purpose of access to juvenile records. | Expand definition to include photos, fingerprints, signatures, SSN, place of birth, aliases, employment information, and educational information. | The recommendation was adopted by the LOC and carried with no objection. JJ p. 357 | |



OTHER AREAS OF DISCUSSION AND RECOMMENDATIONS

In addition to the specific areas voted on by the Legislative Oversight Committee pursuant to Task Force recommendations, the Oversight Committee adopted provisions regarding a separate statutory section for definitions and a separate statutory section containing all confidentiality provisions.

Definitions. One of the goals of the recodification was to make the Children's Code more "user-friendly." Many committee members, at the subcommittee, Task Force, and Oversight Committee levels, complained about users of the Children's Code having to reference items such as definitions in more than one place in the code. Committee members also complained that certain definitions have different meanings in different purposes (the definitions of "minor" and "juvenile" for instance.) In addition, Oversight Committee members especially were concerned that the Children's Code be "user-friendly" for the general public.

To that end, the Oversight Committee recommended locating all definitions pertaining to the Children's Code in one statutory provision in Part 1 of Article 1 of the Children's Code (Title 19.) In some cases, the definition refers to the section of the Children's Code in which it is used. Definitions which were located in the Children's Code and had a particular meaning for one statutory provision have been deleted and relocated in the new definitions section.

Confidentiality. As the result of recommendations made by the Task Force, the Legislative Oversight Committee voted to relocate all confidentiality provisions in the Children's Code into one statutory part. The new Part 2 of Article 1 outlines confidentiality provisions for records in child abuse, dependency and neglect, and delinquency proceedings; social and clinical study records; law enforcement records; and expungement of records.

This new section also authorizes school personnel to obtain records which are necessary to complete their legal duties and requires that such information remain confidential. This recommendation was reached by compromise. Some Legislative Oversight Committee members were concerned that school personnel may never know, for instance, that as a condition of a student being placed on probation, the student was required to attend school. When the court attempts to check on the student's progress, school personnel do not know what to report anything because they were unaware of the student's probationary status. These members were also concerned that some mechanism be created to let schools know of a student's involvement in the juvenile justice system.

Other members were concerned that some school personnel can more easily use such information to brand or label a student, causing an unnecessary problem. These members were also concerned that teachers would target certain students and that relatively minor information could inappropriately be circulated around a school, violating a student's privacy.

BY REPRESENTATIVES George, Adkins, and Reeser;
also SENATORS Hopper, Tanner, and Wham.

A BILL FOR AN ACT

CONCERNING THE WELFARE OF CHILDREN, AND, IN CONNECTION THEREWITH,
DEPENDENCY AND NEGLECT, TERMINATION AND RELINQUISHMENT OF
PARENTAL RIGHTS, ADOPTION, PROCEDURES FOR EMANCIPATION OF
PERSONS, CHILD SUPPORT, AND PARENTAGE DETERMINATION.

Bill Summary

"Children's Code: Welfare of Children"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Colorado Children's Code Legislative Oversight Committee.

CHILD PROTECTION

Legislative Intent

Adds, as legislative intent in the area of dependency and neglect, prevention and early intervention goals for families and children.

Definitions

- Defines "reasonable corporal punishment" within the definition of "child abuse" and defines "best interests of the child".
- Defines "emotional abuse" and allows the court to order a mental health care provider to report on the allegations if a report of child abuse is based solely on emotional abuse allegations.

- Includes as a "dependent and neglected" child a child 10 years of age or younger who commits a delinquent act. Allows law enforcement to report such a child to the department of human services for investigation.
- Defines "concurrent planning" in the context of planning treatment plans and placement alternatives.
- Defines "abandon".

References the definitions in title 18 for "sexual assault", "molestation", "sexual exploitation", "aggravated incest", and "prostitution" as those terms are used in the child abuse provisions.

Indian Child Welfare Act

Specifically refers to the applicability of the Indian Child Welfare Act, 25 USCS 1901 et seq.

Prevention/Intervention

Authorizes the department of human services to create permanent mediation programs and "dual track" programs in dependency and neglect.

Jurisdiction/Venue

Allows a juvenile court with jurisdiction in a dependency and neglect case to consider an award of permanent sole or joint custody where no custody action is pending.

Requires a court to make written findings that a change in venue is not detrimental to the welfare of the child in a dependency and neglect proceeding. Requires the court to consider the transfer of any dependency and neglect case regarding the same parent to the county in which an original petition was filed or adjudicated, regardless of whether the parent or child still resides in that county.

Eliminates financial incentives to counties when cases are transferred.

Authorizes the department of human services to establish rules and procedures for the county departments to enter into agreements between and

among such county departments for serving clients in contiguous counties when such agreements serve the best interest of the child.

Guardians ad litem (GAL's)

Urges the Colorado Supreme Court to adopt training standards for GAL's and a system of monitoring compliance with the standards. If the Supreme Court has not adopted training standards by January 1, 1997, makes the appointment of a GAL conditional upon certain terms and conditions in a form contract from the state judicial department.

Grievances

Requires that the conflict resolution process in child welfare be changed from a county-option program to a mandatory statewide program in all counties. Establishes that the recommendations of the governing bodies constitute final agency action. Allows for personnel action as a recommended resolution to the grievance pursuant to specified procedures.

Requires that persons who are investigated in a dependency and neglect action complete an "evaluation form" concerning the handling of the case.

Reports/Investigations

Allows for a procedure for reporting "self-abusive" children to the county departments of social services. Defines "self-abusive" child.

Requires an investigation in a dependency and neglect report, to the extent reasonably possible, to include consideration of the validity of the source of the report.

Allows the court to require the county to investigate a report of child abuse in order to determine whether a petition in dependency and neglect should be filed.

Requires the child protection team to conduct a comprehensive case review of all child fatalities in which abuse/neglect is suspected. The child protection team shall evaluate agency responses to the incident in order to protect children who are still in the home, to assess agency involvement prior to the death, and to insure a thorough assessment of the child's death.

Central Registry

Requires due process hearings to be available before a subject's name is placed on the central registry; except that a subject's name shall be automatically placed on the registry if there has been an adjudication regarding the subject or if the subject has been convicted of criminal child abuse. If a subject is acquitted of criminal child abuse or an adjudication is not sustained, the subject's name shall be removed from the central registry without an expungement hearing.

Attorney Fees

Allows for the award of attorney fees in dependency and neglect, adoption, and relinquishment cases.

Appeals

Creates the child welfare appeals workgroup in the judicial department to study and make recommendations concerning how to ensure that appeals in cases concerning relinquishment, dependency and neglect, and adoption are resolved within 6 months of being filed.

Makes an order final and appealable if it terminates or refuses to terminate the legal relationship between a parent or parents and one but not all of the children of that parent or parents, or between a child and one but not both parents of the child.

Makes an order decreeing children to be dependent or neglected a final and appealable order after the entry of the dispositional order. 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 interest of the child.

Placement

Establishes placement criteria and visitation rights for children who are dependent and neglected.

Allows grandparents, relatives, foster parents, or other interested parties who have information or knowledge concerning the care and protection of the child to intervene as a matter of right following adjudication with or without counsel.

Colorado Children's Trust Fund

Adds statement of support for family resource centers and programs geared to prevention of child abuse in the general assembly's legislative declaration concerning the preservation of families in this state.

Increases the number of parents on the Colorado Children's Trust Fund Board from one to 4.

RELINQUISHMENT

Filing of D&N to Free Child for Adoption

Requires the court, upon application of a person in whose care a child has been placed, to order the department of human services to file a petition in dependency and neglect when there is credible evidence that the child has been abandoned for a period of 6 months or more by the child's parent or parents.

Relinquishment Information

Requires the county department of social services and any licensed adoption agency to provide to the court certain nonidentifying information about the parent and the child to be relinquished. Directs that the affidavits of relinquishment counseling include a copy of the original birth certificate or the application therefor.

Relinquishment Counseling

Lowers the age of the child who must have relinquishment counseling prior to an order of relinquishment from 12 to 3. Authorizes the court to order counseling for a child younger than 3 if the court deems it would be in the child's best interests. Mandates that the required relinquishment counseling total at least 4 hours over a 3-week period. Identifies topics that the counseling must address.

Procedure

Makes uniform the time within which a parent responding to a relinquishment must file an answer or a paternity action. Requires all adoption agencies to abide by Colorado relinquishment law when a Colorado child, or a child whose home state is Colorado, is to be sent out of state for

adoption. Requires the agency or person having custody of the child to file a petition to terminate the parent-child relationship with respect to all presumed parents. Makes failure to disclose known information concerning a birth or presumed parent a class 1 misdemeanor.

Best Interests of the Child

Treats "best interests" of the child as the standard by which a court shall approve or disapprove a relinquishment. Creates a rebuttable presumption that if a child 12 years of age or older objects to the relinquishment, such relinquishment would not be in that child's best interests.

Standardized Forms

Mandates standardized forms, to be approved by the court, for relinquishment petitions and counseling affidavits.

ADOPTION

Adoption Counseling

Adds a minimum of 6 hours of face-to-face adoption counseling as a prerequisite to an adoption.

Inducements for Placement of a Child

Prohibits any direct payment by potential adoptive parents to prospective relinquishing birthparents other than for prenatal care, housing costs, and necessary medical expenses in the final trimester. Raises the penalty for providing compensation for the placement of a child from a misdemeanor to a class 4 felony. Requires the parent to file an affidavit disclosing any payments, gifts, assistance, goods, or services received, promised, or offered in connection with the pregnancy, birth, and proposed relinquishment and the source of same.

Foster Care Prior to Adoption

Insures that the foster family who has known a child in a family situation for a period of 6 months or more participates in the adoption decision. Allows for ongoing contact between an adopted child and the child's former foster

parent after the adoptive placement of the child if the court deems it to be in the child's best interests.

Relative Adoptions

Requires relatives who wish to adopt a child to give notice within 6 months of the child's initial placement out of the home that such relative wishes to adopt. Creates a preference in placing a child with a foster family that has cared for the child for 90 days or more if a relative fails to give notice of desire to adopt. Directs that there be a preliminary investigation of a grandparent, aunt, uncle, brother, or sister who wishes to adopt a child.

Allows the birth parent or family to be contacted and considered as a possible home for the child when an adoption proceeding has not been finalized or a child has been placed but no longer lives with adoptive parents due to a dependency and neglect adjudication or a relinquishment proceeding.

Adoption Hearing

Requires a court to wait 6 months after placement prior to holding an adoption hearing.

Agreements and Orders Between Relinquishing and Adopting Parents

Requires that agreements between relinquishing and adopting parents concerning the exchange of information or contact be disclosed to the court in writing at the time of the relinquishment. Provides that such agreements are enforceable as part of the adoption decree if not contrary to the child's best interests. Specifies that such agreements are not intended to diminish the adoptive parents' rights to raise the child. Gives the court discretion to receive evidence and enter orders concerning contact between the birth family and the child in adoptive placement based upon the expectations of the adoptive parents and the wishes of the child, if the court finds that the contact is in the best interests of the child. Allows such orders to be modified in certain circumstances.

Standardized Forms

Mandates standardized forms, to be approved by the court, for petitions in adoption.

Homestudies and Assessments

Makes the use of the term "assessment" uniform and replaces the term "homestudy" with "assessment". Standardizes foster home and adoptive home assessments.

Licensing of Adoption Agencies

Separates licensing provisions for adoption agencies from other child placement agencies and identifies specific training, education, and credentials for adoption agencies. Permits the licensing of agencies for specified types of adoption. Identifies continuing education requirements and provides for more frequent reviews. Requires an adoption agency to file a verified statement with the court that its license is in good standing with the state and to notify the court in writing immediately of any disciplinary action, suspension, revocation, or denial of its license. Makes failure to comply a class 1 misdemeanor.

Stepparent Adoption

Requires written and verified consent of the parent in a stepparent adoption, accompanied by an affidavit or sworn testimony of such parent, that the birth parent has abandoned or failed without cause to provide reasonable support for the child for a period of one year or more.

Legal Effect of Certificate of Approval

States the legal effect of a certificate of approval of placement on medical insurance.

Confidential Intermediary

Lowers from 21 to 18 the age at which an adoptee may petition the court for the appointment of a confidential intermediary. Allows the court to remove a confidential intermediary if the investigation is not proceeding in a timely manner. Allows confidential intermediaries to have access to the original birth certificate of the adoptee. Changes the definition of "biological siblings" to include half-siblings of the adoptee through either biological parent.

Access to Adoption and Relinquishment Records

For adoption and relinquishment proceedings filed after a date certain, opens all adoption records to the adoptee at the time the adoptee attains the age of 18. Authorizes birth and adoptive parents to request access to medical information. Requires the court, upon a showing a good cause, to transmit such request to the other party. Extends the ability of a child who is 18 years of age or older and who was relinquished but never adopted to have access to the child's records and to search for the child's biological family.

EMANCIPATION

Establishes a procedure for a minor who has reached 16 years of age to petition the court for a declaration of emancipation. Allows the court to appoint a guardian ad litem or an independent investigator for the minor under certain circumstances and specifies such appointee's duties. Specifies the contents of a petition for emancipation.

Requires the court to hold a hearing on a minor's petition for emancipation. Requires that a parent, guardian, or custodian of a minor be given 30 days' notice of a hearing for emancipation unless the parent, guardian, or custodian appears as a party, waives notice, or cannot be located. If the minor's parent, guardian, or custodian cannot be located and has not appeared or waived notice, requires publication of the notice of the hearing in a newspaper of general statewide circulation.

Requires the court to enter an order declaring that a minor is emancipated if the court finds that the declaration is in the minor's best interests and certain circumstances exist. Makes a declaration of emancipation voidable if it was obtained by fraud. Specifies the effects of a declaration of emancipation.

PATERNITY

Presumptions of Paternity

Clarifies what is required in order for a man who has married, or attempted to marry, a child's mother to be presumed to be the child's father. Authorizes the court to consider the best interests of the child, including consideration of the child's age and established relationships, and the child's physical, emotional, and developmental needs, when it determines which of 2 competing presumptions of paternity controls. Allows for a presumption other than genetic test results to control. Clarifies procedures to object to genetic test results in paternity actions.

Hospital Based Paternity Acknowledgment Forms and Birth Certificates

Identifies what forms are required when a man, who is not married to the mother of the child, wishes to acknowledge paternity of the child in the hospital at the time of the child's birth. Adds to the list of circumstances in which the mother's husband shall not be listed on the child's birth certificate.

Custody Presumptions

Identifies that, absent an order regarding custody of the child, the mother of a child born out of wedlock has legal custody until an order is entered or the child is emancipated. Makes the parent who has had physical custody of a child for the majority of the time during the 60 days prior to the filing of a petition for custody or paternity the legal custodian of the child.

Confidentiality of Paternity Proceedings

Although maintaining the requirement that paternity proceedings be held in closed court, eliminates the requirement that the records of paternity actions be sealed. Authorizes the court to seal such records if necessary to protect the child's welfare.

CHILD SUPPORT PROCEEDINGS

Summons

Conforms the commencement of support proceedings and the service of process in such cases with the Colorado rules of civil procedure.

Calculation of Child Support

Restricts the factors the court is to use in the calculation of support with those set forth in the Uniform Dissolution of Marriage Act.

Consolidation of Cases

Prioritizes the consolidation of child support issues when multiple actions in support, paternity, or dissolution of marriage are filed in different judicial districts.

CHILD WELFARE

Alleged Welfare Fraud

Identifies a procedure that allows for the entry of a current child support order while allegations of welfare fraud are investigated.

Location of Statutory Provisions

Moves and consolidates all child support statutory provisions into one article outside the "Colorado Children's Code".

Collection Fees

Authorizes the court to allow the obligee to recover from the obligor the costs, in a reasonable amount, associated with the collection of child support.

Family Support Registry

Eliminates the future repeal date for the family support registry used in Title IV-D cases and proposes a study to extend the use of the registry to all child support cases. Opens the payment records maintained by the registry to obligors, obligees, attorneys of record, and courts.

CONFORMING AMENDMENTS

Makes conforming amendments.

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

SECTION 1. Article 1 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended WITH THE RELOCATION OF PROVISIONS to read:

ARTICLE 1

General Provisions

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

19-1-102. [Formerly 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 OR HER own home, as will best serve ~~his~~ THE CHILD's 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~~ THE CHILD's parents only when his OR HER 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 OR HER parents the necessary care, guidance, and discipline to assist ~~him~~ THE CHILD in becoming a responsible and productive member of society.



~~(1.5)~~ (a) (2) The general assembly declares that it is in the best interests of the child who has been removed from ~~his~~ THE CHILD'S own home to have the following guarantees:

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

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

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

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

~~(1.6)~~ (3) 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~~ THAT 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)~~ (4) 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)~~ (5) 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.

19-1-103. Applicability of the Indian Child Welfare Act. THE GENERAL ASSEMBLY RECOGNIZES THE APPLICABILITY OF THE INDIAN CHILD WELFARE ACT, 25 USCS 1901 ET SEQ., TO ACTIONS BROUGHT UNDER THIS TITLE.

19-1-104. [Formerly 19-1-103.] Definitions. As used in this title, unless the context otherwise requires:

(1) "ABANDON" MEANS TO IGNORE OR NEGLECT AS EVIDENCED BY A LACK OF CONTACT WITH AND SUPPORT OF A CHILD.

~~(1)~~ (2) "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition in dependency and neglect are supported by the evidence.

~~(2)~~ (3) "Adjudicatory trial" means a trial to determine whether the allegations of a petition in delinquency are supported by the evidence.

~~(2.5)~~ (4) "Administrative review" means a review conducted by the ~~state~~ department of human services ~~which~~ THAT is open to the participation of the

CHILD WELFARE

parents of the child and conducted by a panel of appropriate persons at least one of whom 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. THIS REVIEW SHALL ALSO APPLY TO THOSE CASES AUTHORIZED BY SECTION 19-4-311, 19-4-312, OR 19-4-313 FOR VOLUNTARY, NONJUDICIAL INVOLVEMENT TO ENSURE ACCOUNTABILITY. IN THE EVENT THAT JUDICIAL INTERVENTION IS NEEDED, THE COUNTY DEPARTMENT MAY FILE A PETITION FOR REVIEW OF NEED FOR PLACEMENT PURSUANT TO SECTION 19-4-701, IF APPROPRIATE, TO LESSEN THE ADVERSARINESS THAT WOULD BE PRESENT IF THE COUNTY FILED A PETITION FOR DEPENDENCY AND NEGLECT PURSUANT TO SECTION ~~19-3-504~~ 19-4-501.

~~(3)~~ (5) "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 his OR HER eighteenth birthday, or concerning whom a petition has been filed for his OR HER adoption other than under this title shall be referred to as a juvenile.

~~(3-5)~~ (6) "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.

~~(4)~~ (7) "Child" means a person under eighteen years of age.

~~(5)~~ (8) "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.

~~(6)~~ (9) "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.

(10) "CONCURRENT PLANNING" MEANS THE SIMULTANEOUS PREPARATION OF PLANS TO:

(a) ASSIST THE CHILD'S PARENTS IN COMPLETING A TREATMENT PLAN WHICH WHEN ADOPTED BY THE COURT AND COMPLETED BY THE PARENTS WILL ALLOW THE CHILD TO RETURN TO THE PARENTS' HOME; AND

(b) PLACE THE CHILD IN A SETTING THAT WILL BECOME THE CHILD'S PERMANENT HOME IF THE PARENTS ARE UNABLE TO COMPLETE THEIR TREATMENT PLAN SUCCESSFULLY.

~~(7)~~ (11) "Counsel" means an attorney-at-law who acts as a person's legal advisor or who represents a person in court.

(12) "COUNTY DEPARTMENT" MEANS THE COUNTY OR DISTRICT DEPARTMENT OF SOCIAL SERVICES.

~~(8)~~ (13) "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.

(14) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES CREATED IN SECTION 24-1-120, C.R.S.

~~(9)~~ (15) "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.

~~(9.5)~~ (16) "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 ~~19-1-122~~ 19-1-125 are waived.

~~(10)~~ (17) "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.

~~(11)~~ (18) "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 ~~which~~ THAT includes the adjudicatory hearing, or it may be held at a time subsequent to the adjudicatory hearing.

~~(11.5)~~ (19) "Diversion" means a decision made by a person with authority or a delegate of that person ~~which~~ 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 19-2-304 or at the postadjudication level as an adjunct to probation services following an adjudicatory hearing pursuant to section ~~19-3-505~~ 19-4-505 or a disposition as a part of sentencing pursuant to section 19-2-703. "Services", as used in this subsection ~~(11.5)~~ (19), 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.

~~(12)~~ (20) "Family care home" means a family 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.

~~(12.3)~~ (21) "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.

~~(12.5)~~ (22) "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.

~~(13)~~ (23) "Group care facilities and homes" means places other than foster family care homes providing care for small groups of children which THAT are licensed as provided in article 6 of title 26, C.R.S., or meet the requirements of section 27-10.5-109, C.R.S.

~~(14)~~ (24) "Guardian ad litem" means a person who is appointed by a court to act in the best interests of a person whom he OR SHE is representing in proceedings under this title and who, if appointed to represent a person in a dependency and neglect proceeding under ~~article 3~~ ARTICLE 4 of this title, shall be an attorney-at-law licensed to practice in Colorado.

~~(15)~~ (25) "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.

~~(15.5)~~ (26) "Identifying" means giving, sharing, or obtaining information.

~~(16)~~ (27) "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 his OR HER emancipation. "Independent living" shall only follow some other form of placement out of the home.

~~(17)~~ (28) "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.

~~(17.5)~~ (29) "Law enforcement officer" means a peace officer, as defined in section 18-1-901 (3) (I) (I), (3) (I) (II), and (3) (I) (III), C.R.S.

~~(18)~~ (30) (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.

~~(18.5)~~ (31) "Locating" means engaging in the process of searching for or seeking out.

~~(19)~~ (32) "Mental health 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 27-10-105 or 27-10-106, C.R.S., and may include consultation with other mental health professionals and review of all available records on the child.

~~(20)~~ (33) "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 who has been authorized by the facility to do mental health prescreenings and who is under the supervision of a person licensed to practice medicine or psychology in this state.

~~(21)~~ (34) "Parent" means either a natural parent of a child, as may be established pursuant to ~~article 4 of this title~~ ARTICLE 15 OF TITLE 14, C.R.S., or a parent by adoption.

~~(22)~~ (35) "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 ~~which~~ 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~~ 19-5-206. "Placement out of the home" may be voluntary or court-ordered. "Placement out of the home" includes independent living.

~~(23)~~ (36) "Protective supervision" means a legal status created by court order under which the child is permitted to remain in his OR HER 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.

~~(24)~~ (37) "Shelter" means the temporary care of a child in physically unrestricting facilities pending court disposition or execution of a court order for placement.

~~(25)~~ (38) "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.

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

(27) (40) "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 or physically secure setting. Such an area must be separated by sight and sound from any area ~~which~~ THAT houses adult offenders.

19-1-105. Best interests of the child. (1) "BEST INTERESTS OF THE CHILD" MEANS THOSE RIGHTS OF CHILDREN THAT APPLY IN MATTERS INVOLVING THEIR OWN PROTECTION. IN DETERMINING THE BEST INTERESTS OF THE CHILD, THE COURT SHALL CONSIDER ALL RELEVANT FACTORS INCLUDING:

- (a) THAT CHILDREN HAVE THE RIGHT TO RESIDE IN A SAFE ENVIRONMENT;
- (b) THAT CHILDREN WHO MUST BE PLACED OUTSIDE OF THEIR OWN HOME SHOULD BE PLACED IN THE LEAST RESTRICTIVE, MOST FAMILY-LIKE SETTING THAT MEETS THEIR INDIVIDUAL NEEDS;
- (c) THAT EXCEPT IN EXCEPTIONAL CIRCUMSTANCES, SIBLINGS SHOULD BE PLACED TOGETHER;
- (d) THAT EXCEPT IN EXTRAORDINARY CIRCUMSTANCES, MOVEMENT OF CHILDREN FROM ONE SETTING TO ANOTHER CAUSES HARM TO THE CHILDREN;

(e) THAT CHILDREN ARE ENTITLED TO BE WITH A PERMANENT FAMILY, PREFERABLY THEIR FAMILY OF ORIGIN;

(f) WHETHER THE LEVEL OF CARE THAT THE CHILD'S PARENTS OR CARETAKERS ARE ABLE TO PROVIDE MEETS A STANDARD WHEREBY THE CHILD IS ABLE TO ACHIEVE GENERALLY RECOGNIZED PHYSICAL, SOCIAL, AND PSYCHOLOGICAL DEVELOPMENTAL MILESTONES IN A TIMELY MANNER. IN APPLYING THIS FACTOR THE COURT SHALL TAKE INTO CONSIDERATION DEVELOPMENTAL DISABILITIES, MENTAL ILLNESS, OR OTHER FACTORS RELATING TO A CHILD THAT LIMIT THE CHILD'S ABILITY TO ACHIEVE SUCH MILESTONES AND OVER WHICH THE CHILD'S PARENTS OR CARETAKERS HAVE NO CONTROL.

- (g) THE WISHES OF THE CHILD'S PARENTS;
- (h) THE WISHES OF THE CHILD;
- (i) THE INTERACTION, ATTACHMENT, AND INTERRELATIONSHIP OF THE CHILD WITH PARENTS, SIBLINGS, OTHER RELATIVES, FOSTER PARENTS, AND ANY OTHER PERSON WHO MAY SIGNIFICANTLY AFFECT THE CHILD'S BEST INTERESTS;
- (j) THE CHILD'S ADJUSTMENT TO HOME, SCHOOL, AND COMMUNITY;
- (k) THE MENTAL AND PHYSICAL HEALTH OF ALL INDIVIDUALS INVOLVED;
- (l) THE ABILITY OF THE CHILD'S CUSTODIAN TO ENCOURAGE THE SHARING OF LOVE, AFFECTION, AND CONTACT BETWEEN THE CHILD AND THE CHILD'S



PARENTS AND OTHER PERSONS WHO MAY SIGNIFICANTLY AFFECT THE CHILD'S BEST INTERESTS;

(m) THE PHYSICAL PROXIMITY OF THE CHILD, THE PARENTS AND OTHER RELATIVES, PARTIES, OR TREATMENT SERVICES TO EACH OTHER AS THIS RELATES TO DECISIONS REGARDING PLACEMENT;

(n) WHETHER ANY OF THE PARTIES OR CARETAKERS OF THE CHILD IS FIT OR UNFIT TO PROVIDE CARE, EITHER TEMPORARY OR PERMANENT, FOR THE CHILD. IN DETERMINING FITNESS OR UNFITNESS THE COURT SHALL CONSIDER BUT SHALL NOT BE LIMITED TO THE FACTORS CONTAINED IN SECTION 19-4-604

(2) (a) TO 19-4-604 (2) (i); AND

(o) WHETHER ANY OF THE PARTIES OR THE CARETAKERS HAS BEEN A PERPETRATOR OF SPOUSAL ABUSE THAT HAS AFFECTED THE CHILD.

(2) IN DETERMINING THE BEST INTERESTS OF THE CHILD, THE COURT SHALL GIVE PRIMARY CONSIDERATION TO THE PHYSICAL, MENTAL, AND EMOTIONAL CONDITIONS AND NEEDS OF THE CHILD.

(3) THE COURT SHALL NOT CONSIDER THE CONDUCT OF ANY PARTY THAT DOES NOT AFFECT THAT PARTY'S RELATIONSHIP TO THE CHILD.

(4) IN CONSIDERING DISPOSITION THE COURT SHALL NOT PRESUME THAT ANY PERSON IS BETTER ABLE TO SERVE THE BEST INTERESTS OF THE CHILD BECAUSE OF THAT PERSON'S SEX.

(5) ANY FACTOR CONSIDERED BY THE COURT IN DETERMINING THE BEST INTERESTS OF THE CHILD SHALL BE SUPPORTED BY CREDIBLE EVIDENCE.

19-1-106. [Formerly 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 19-2-101;

(b) Concerning any child who is neglected or dependent, as set forth in section ~~19-3-102~~ 19-4-103;

(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~~ ARTICLE 15 OF TITLE 14, C.R.S.;

(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 articles 10 to 15 of title 27, C.R.S., of a mentally ill or developmentally disabled child 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.;

(l) To make a determination concerning a petition for review of need for placement in accordance with the provisions of section ~~19-3-701~~ 19-4-701;

(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~~ THE CHILD'S 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 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 is dependent or neglected or otherwise comes within the jurisdiction set forth in this section.

(6) WHEN THE JUVENILE COURT MAINTAINS JURISDICTION IN A CASE INVOLVING A CHILD WHO IS DEPENDENT AND NEGLECTED AND NO CUSTODY ACTION IS PENDING CONCERNING THE SAME CHILD IN THIS STATE, UPON THE

PETITION OF A PARTY TO THE MATTER, THE JUVENILE COURT MAY ENTER AN AWARD OF PERMANENT SOLE OR JOINT CUSTODY AND ADDRESS PARENTING TIME AND CHILD SUPPORT MATTERS AS IF THE CUSTODY PETITION HAD BEEN COMMENCED PURSUANT TO SECTION 14-10-123, C.R.S. SUCH AUTHORITY SHALL NOT ELIMINATE THE COURT'S DUTY, AT THE HEARING ON THE MOTION FOR PERMANENT CUSTODY, TO REQUIRE REASONABLE EFFORTS TO KEEP THE CHILD WITH A PARENT PURSUANT TO OTHER PROVISIONS OF THIS TITLE, NOR SHALL THIS PROVISION AFFECT THE APPLICATION OF THE "UNIFORM CHILD CUSTODY JURISDICTION ACT", ARTICLE 13 OF TITLE 14, C.R.S., OR THE FEDERAL UNIFORM KIDNAPPING ACT, AS AMENDED, TO SUCH AN ACTION. MOTIONS TO MODIFY A PERMANENT CUSTODY ORDER ENTERED PURSUANT TO THIS PROVISION SHALL BE FILED AND HEARD IN THE JUVENILE ACTION UNDER THE STANDARDS SET FORTH IN SECTIONS 14-10-131 AND 14-10-131.5, C.R.S.; BUT THE GUARDIAN AD LITEM AND THE STATE DEPARTMENT SHALL NOT BE REQUIRED TO PARTICIPATE IN SUCH MODIFICATION HEARING UNLESS THE COURT SO ORDERS FOR GOOD CAUSE.

19-1-107. [Formerly 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 shall 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.

19-1-108. [Formerly 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 OR HER parents, guardian, or other custodian may be heard separately when deemed necessary by the court.

19-1-109. [Formerly 19-1-107.] Social study and other reports.

(1) Unless waived by the court, the probation department or other agency designated by the court shall make a social study and report in writing in all children's cases; except that:

(a) No report is necessary in a delinquency case until after an order of adjudication has been entered, unless otherwise ordered by the court; and

(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 THE CHILD'S 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)~~ (3) 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)~~ 19-4-501 (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)~~ (4) In any case where placement out of the home is recommended, the social study required by subsection (1) of this section shall include an evaluation for placement containing the information required by section ~~19-3-701 (5)~~ 19-4-701 (5). 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 19-2-1602 (1) (a). Such criteria shall be used by the probation department or agency designated by the court to determine its recommendation about the need for placement.

~~(4)~~ (5) The court shall inform the child, ~~his~~ THE CHILD'S 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.

19-1-110. [Formerly 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 part 5 of article 2 of this title and in transfer hearings held pursuant to section 19-2-806. 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) 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 he OR SHE has the right to a hearing before the judge in the first instance and that he OR SHE may waive that right but that, by waiving that right, he OR SHE is bound by the findings and recommendations of the magistrate, subject to a request for review as provided in subsection (5) of this section. Unless a request is made by a party at the outset of a hearing that the hearing be held before the judge, such right where applicable shall be deemed waived. 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 19-2-402, detention hearings held pursuant to sections 19-2-203 and 19-2-204, preliminary hearings held pursuant to section 19-2-404, and detention hearings held pursuant to section ~~19-3-403~~ 19-4-403.

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

(a) Advise the parties before ~~him~~ THE MAGISTRATE of his OR HER findings and ruling;

(b) Advise the parties of their right to review by the judge of his OR HER 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) 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) A request for review shall be filed within fifteen days after the parties have received notice of the magistrate's ruling and shall clearly set forth the grounds relied upon. Such review shall be solely upon the record of the hearing before the magistrate and shall be reviewable upon the grounds set

forth in rule 59 of the Colorado rules of civil procedure. A petition for review shall be a prerequisite before an appeal may be filed with the Colorado court of appeals or Colorado supreme court. The judge may, on his OR HER own motion, remand a case to another magistrate after action is taken on a petition for review.

(6) A magistrate may issue a lawful warrant taking a child into custody pursuant to section 19-2-202 and may issue search warrants as provided in sections ~~19-1-112~~ 19-1-114 and 19-2-206.

19-1-111. [Formerly 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 BUT NOT ALL OF THE CHILDREN OF THAT PARENT OR PARENTS ON A PETITION, OR BETWEEN A CHILD

AND ONE BUT NOT BOTH PARENTS OF THE CHILD SHALL BE A FINAL AND APPEALABLE ORDER.

(c) AN ORDER DECREERING CHILDREN TO BE DEPENDENT OR NEGLECTED SHALL BE A FINAL AND APPEALABLE ORDER AFTER THE ENTRY OF THE DISPOSITION PURSUANT TO SECTION 19-4-508. 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 OF BEING FILED SHALL BE ESTABLISHED. THIS WORKGROUP SHALL BE KNOWN AS THE "CHILD WELFARE APPEALS WORKGROUP" AND SHALL BE CREATED IN THE STATE JUDICIAL DEPARTMENT. THE WORKGROUP SHALL SUBMIT A WRITTEN REPORT TO THE GENERAL ASSEMBLY NO LATER THAN JANUARY 1, 1997, THAT SHALL CONTAIN RECOMMENDATIONS FOR STATUTORY, PRACTICE, AND RULE CHANGES TO EXPEDITE APPEALS AND REQUIRE THEIR RESOLUTION WITHIN SIX MONTHS AFTER FILING.

19-1-112. [Formerly 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.

19-1-113. [Formerly 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, 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, relative, stepparent, or spousal equivalent; or

(III) The court finds that the best interests of the child will be served by an appointment;

(b) For a child in proceedings under the "School Attendance Law of 1963", article 33 of title 22, C.R.S.:

(c) For a parent, guardian, legal custodian, custodian, stepparent, or spousal equivalent in dependency or neglect proceedings who has been

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determined to be mentally ill or developmentally disabled 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, he OR SHE shall be informed that a guardian ad litem has been appointed.

(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) The appointment of a guardian ad litem pursuant to this section shall continue until such time as the court's jurisdiction is terminated.

(5) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE ROLE OF THE GUARDIANS AD LITEM IS CRITICAL TO THE PROTECTION OF CHILDREN AND THE IMPLEMENTATION OF THE PROVISIONS IN THIS TITLE. THEREFORE, SUCH GUARDIANS AD LITEM SHOULD BE PROPERLY TRAINED AND SUPERVISED SO THAT THEY ARE ACTING AS EFFECTIVELY AS POSSIBLE TO PERFORM THE DUTIES OF THEIR POSITION.

(b) THE GENERAL ASSEMBLY URGES THE CHIEF JUSTICE OF THE SUPREME COURT TO ESTABLISH TRAINING STANDARDS FOR GUARDIANS AD LITEM AND A SYSTEM OF MONITORING COMPLIANCE WITH SUCH STANDARDS.

(c) IF THE CHIEF JUSTICE OF THE SUPREME COURT HAS NOT ADOPTED TRAINING STANDARDS FOR GUARDIANS AD LITEM AND AN EFFECTIVE SYSTEM FOR MONITORING COMPLIANCE WITH SUCH STANDARDS BY JANUARY 1, 1997,

ON AND AFTER THAT DATE, A COURT SHALL ONLY APPOINT A GUARDIAN AD LITEM UNDER THIS TITLE IF SUCH GUARDIAN AD LITEM EXPRESSLY AGREES TO THE TERMS AND CONDITIONS OF HIS OR HER APPOINTMENT ON A FORM CONTRACT PREPARED BY THE STATE JUDICIAL DEPARTMENT. SUCH FORM SHALL CONTAIN THE TERMS AND CONDITIONS OF APPOINTMENT, INCLUDING THE RATE AT WHICH THE GUARDIAN AD LITEM SHALL BE PAID AND HIS OR HER REPRESENTATION THAT HE OR SHE IS QUALIFIED AND CAPABLE OF FULFILLING THE DUTIES AND RESPONSIBILITIES OF THE POSITION. A GUARDIAN AD LITEM SHALL SUPPORT THIS REPRESENTATION BY DEMONSTRATING COMPLIANCE WITH THE TRAINING STANDARDS PROPOSED BY THE COLORADO BAR ASSOCIATION FOR GUARDIANS AD LITEM AND BY AGREEING TO ABIDE BY THE MAXIMUM CASELOAD STANDARDS ESTABLISHED BY THE COURT FOR GUARDIANS AD LITEM IN THAT JURISDICTION.

19-1-114. [Formerly 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~~ 19-4-401.

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

19-1-115. [Formerly 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 sheriff, deputy sheriff, or police 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 sheriff, deputy sheriff, or police 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.



19-1-116. [Formerly 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, 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 OR HER residence;

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

(c) To abstain from offensive conduct against a child, ~~his~~ THE CHILD'S parent or parents, ~~his~~ THE CHILD'S guardian or legal custodian, or any other person to whom legal custody of 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~~ THAT 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) For the purposes of this section, "parent" includes a natural parent who has sole or joint custody, regardless of whether the parent is designated as the primary residential custodian, or an adoptive parent. "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. 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.

(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.

19-1-117. [Formerly 19-1-115.] Legal custody - guardianship - placement out of the home. (1) (a) 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~~ ~~(18)~~ 19-1-104 (30).

(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~~ ~~(15)~~ 19-1-104 (30); except that no guardian of the person



may consent to the adoption of a child unless that authority is expressly given him OR HER 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 section ~~19-3-701~~ 19-4-701 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 19-2-701, ~~19-3-403, or 19-3-701~~ 19-4-403 OR 19-4-701 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)~~ 19-4-702 (6).

(d) 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 which 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.

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

(6) If the court enters an order removing a child from the home or 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) That continuation of the child in the home would be contrary to the child's best interests;

(b) That reasonable efforts have been made to prevent or eliminate the need for removal of the child from the home, or that an emergency situation exists ~~which~~ THAT requires the immediate temporary removal of the child from the home and that it is reasonable not to make efforts to prevent removal of the child from the home due to the emergency situation;

(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; 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.

19-1-118. [Formerly 19-1-116.] Funding - alternatives to placement out of the home - pilot project. (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)~~ (3) and subsection (4) (5) of this section.

~~(1.5)~~ (2) 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. 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)~~ (3) 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)~~ (3) of this section.

~~(2)~~ (3) (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 local public health department, 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.

(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. For the purposes of this subsection ~~(2)~~ (3), "imminent placement out of the home" means that without intercession the child will be placed out of the home immediately. 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~~ THAT 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~~ THAT are designed to prevent or reduce placement and shall report its findings to the county commissioners annually.

~~(d) Repealed.~~

(e) (d) Upon approval by the state board of ~~human services~~ of the plan submitted pursuant to paragraph (b) of this subsection ~~(2)~~ (3), 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)~~ (4) The department of ~~human services~~ shall report annually to the general assembly concerning the funds reimbursed to each county pursuant to this section, by line item, and each county's spending, by line item.

(4) (5) (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)~~ (3) of this section. Said guidelines shall include but not be limited to the information which is gathered by the commission, the goals to be addressed by the plan, the form of the budget for expenditures ~~which~~ THAT are to be made under the plan, the services ~~which~~ THAT are to be provided ~~which~~ THAT 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)~~ (3) of this section. On and after July 1, 1993, any amendments to the guidelines shall be developed by the department. of ~~social 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)~~ (5), 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)~~ (3) 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)~~ (6) 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)~~ (7) 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)~~ (8) (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~~ THAT 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)~~ (8) 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.

(H) 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)~~ (8)

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)~~ (8) 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)~~ (8) for readoption of or revisions to the three-year plan.

19-1-119. [Formerly 19-1-117.] Visitation rights of grandparents.

(1) Any grandparent of a child may, in the manner set forth in this section, seek a court order granting ~~him~~ THE GRANDPARENT reasonable grandchild

visitation rights when there is or has been a child custody case. Because cases arise ~~which~~ THAT do not directly deal with child custody but nonetheless have an impact on the custody of a child, for the purposes of this section, a "child custody case" includes any of the following, whether or not child custody was 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 the child has been given 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 his OR HER 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, has died.

(2) A party seeking a 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. The party with legal custody may file opposing affidavits. If neither party requests a hearing, the court shall enter an order granting grandchild visitation rights to the petitioning 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 visitation rights to the petitioning grandparent, the court shall enter an order granting such rights.

(3) No grandparent may file an affidavit seeking an order granting 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 the opportunity to exercise his OR HER grandchild visitation rights.

(4) The court may make an order modifying or terminating 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 pursuant to this section.

19-1-120. [Formerly 19-117.5.] Disputes concerning grandparent visitation. (1) Upon a verified motion by a grandparent who has been granted visitation or upon the court's own motion alleging that the person with legal custody of the child with whom visitation has been granted is not complying with a 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 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 and the person with legal custody of the child 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 of the child 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~~ THAT 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 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 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 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.



19-1-121. [Formerly 19-117.6.] Definition. For the purposes of sections ~~19-1-117 and 19-1-117.5~~ 19-1-119 AND 19-1-123, unless the context otherwise requires, "grandparent" has the same meaning as set forth in section ~~19-1-103 (12.5)~~ 19-1-104 (22); 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)~~ 19-1-106 (1) (d).

19-1-122. [Formerly 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, records of the state central registry of child protection, and court records.

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

19-1-123. [Formerly 19-1-119.] Confidentiality of juvenile records - delinquency. (1) (a) Except as provided in paragraph ~~(b.5)~~ (c) of this subsection (1), court records in juvenile delinquency proceedings or proceedings concerning a juvenile charged with the violation of any municipal ordinance except a traffic ordinance shall be open to inspection to the following persons without court order:

- (I) The juvenile named in said record;
- (II) The juvenile's parent, guardian, or legal custodian;
- (III) Any attorney of record;
- (IV) The juvenile's guardian ad litem;
- (V) The juvenile probation department;
- (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;
- (VIII) A court ~~which~~ THAT 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 a custody evaluation pursuant to section 14-10-127, C.R.S.;
- (XII) All members of a child protection team;
- (XIII) Any person or agency for research purposes, if all of the following conditions are met:

(A) 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

(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.

(b) 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)~~ (c) 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:

(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)~~ (d) The information which shall be open to the public pursuant to paragraph ~~(b-5)~~ (c) OF THIS SUBSECTION (1) 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.

~~(e)~~ (e) A juvenile probation officer's records, whether or not part of the court file, shall not be open to inspection except as provided in subparagraphs (I) to (IX) of this paragraph ~~(e)~~ (e) AS FOLLOWS:

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

(II) To law enforcement officers, as defined in section ~~19-1-103 (17-5)~~ 19-1-104 (29), and to fire investigators, as defined in section ~~19-1-103 (12-3)~~ 19-1-104 (21), 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.

(III) To a court ~~which~~ THAT 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 a custody evaluation pursuant to section 14-10-127, C.R.S.;

(VII) To all members of a child protection team;

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

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

~~(d)~~ (f) 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.

(2) (a) Except as otherwise provided by paragraph ~~(b.5)~~ (c) of subsection

(1) of this section, the records of law enforcement officers concerning

juveniles, including identifying information, shall be identified as juvenile records and shall not be inspected by or disclosed to the public, except:

(I) To the juvenile and the juvenile's parent, guardian, or legal custodian;

(II) To other law enforcement agencies who have a legitimate need for such information;

(III) To the victim 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~~ THAT 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 a custody evaluation pursuant to section 14-10-127, C.R.S.;

(XII) To all members of a child protection team;

(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) 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

(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.

(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.

(3) 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 ~~19-1-122~~ 19-1-125, 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.

(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 ~~19-1-120, 19-1-121, and 19-1-122~~ 19-1-124 AND 19-1-125 AND SECTION 14-15-101.5, C.R.S. 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) Whenever a petition filed in juvenile court alleges that a child between the ages of fourteen to eighteen years has committed an offense that would constitute a crime of violence, as defined in section 16-11-309, C.R.S., if committed by an adult or whenever charges filed in district court allege that a child 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 person's physical description, concerning such child 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 child 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.

(6) 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.

19-1-124. [Formerly 19-1-120.] Confidentiality of records - dependency and neglect. (1) (a) Except as provided in this section, 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) 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, 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) Only the following persons or agencies shall be given 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~~ THAT is the subject of the report, and, in addition to said reports and records, the law enforcement agency, district attorney, coroner, or county department shall have access to the state central registry of child protection for information under the name of the child or the suspected perpetrator;

(b) A physician who has before him OR HER a child whom ~~he~~ 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;

(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, with protection for the identity of reporters and other appropriate persons;

(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) The state central registry of child protection;

(h) All members of a child protection team;

(i) Such other persons as a court may determine, for good cause;

(j) The ~~state~~ department 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 reports of child abuse or neglect or to review the state central registry of child protection. Access

to the state central registry granted to the named department or agencies shall serve only as the basis for further investigation.

(k) The state central registry of child protection, when requested in writing by any operator of a facility or agency that is licensed by the department of ~~human services~~ pursuant to section 26-6-107, C.R.S., to check the state central registry of child protection 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 18-1-106, C.R.S. Within ten days of the operator's request, the central registry shall provide the incident date, the location of investigation, the type of abuse and neglect, and the county ~~which~~ THAT 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 section ~~19-3-313 (10)~~ 19-4-316 (11) and shall be subject to the penalty therefor.

(l) The state central registry of child protection, when requested in writing by the department of education to check the central registry for the purpose of aiding the department in its investigation of an allegation of abuse by an employee of a school district in this state. Within ten days of the

department's request, the central registry shall provide the incident date, 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. The department of education shall be subject to the fee assessment established in subsection ~~(2.5)~~ (3) 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 section ~~19-3-313 (10)~~ 19-4-316 (11) and shall be subject to the penalty therefor.

(m) The ~~state~~ departments of health care policy and financing and 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 respective departments, if such person's responsibilities include direct contact with children;

(II) Conducting custody evaluations;

(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, for the purpose of screening prospective adoptive parents;

(o) A person, agency, or organization engaged in a bona fide research or evaluation project or audit, 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;

(p) The governing body as defined in section ~~19-3-211 (6) (e)~~ 19-4-210 (6) and the citizen review panels created pursuant to section ~~19-3-211~~ 19-4-210, for the purposes of carrying out their conflict resolution duties as set forth in section ~~19-3-211~~ 19-4-210 and rules promulgated by the ~~state~~ department. ~~of human services~~

~~(2.5)~~ (3) Any person or agency provided information from the state central registry pursuant to paragraphs (d), (e), (i), and (k) to (o) of subsection

(2) of this section shall be assessed a fee which shall be established and collected pursuant to section ~~19-3-313 (14)~~ 19-4-316 (15).

(3) (4) After a child who is the subject of a report to the central registry 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. The amount and type of information released shall depend upon the source of the report and shall be determined by regulations established by the director of the central registry. However, under no circumstances shall the information be released unless the person requesting such information is entitled thereto as confirmed by the director of the central registry and the information released states whether or not the report is founded or unfounded. A person given access to the names or other information identifying the subject of a report shall not divulge or make public any identifying information unless he OR SHE is a district attorney or other law enforcement official and the purpose is to initiate court action or unless he OR SHE is the subject of a report.

19-1-125. [Formerly 19-1-122.] Confidentiality of records - relinquishments and adoptions. Except as provided in parts 3 and 4 of article 5 of this title, all records and proceedings in relinquishment or adoption shall be confidential and open to inspection only upon order of the court for good

cause shown. The court shall act to preserve the anonymity of the natural parents, the adoptive parents, and the child, except to the extent disclosure is made pursuant to a designated adoption or pursuant to section ~~19-5-104 (2)~~ 19-5-106 (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.

19-1-126. [Formerly 19-1-123.] Expedited procedures for permanent placement - children under the age of six years - designated counties - annual report. (1) (a) The expedited procedures for the permanent placement of children under the age of six years required by ~~article 3~~ ARTICLE 4 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~~ THAT 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)~~ 19-4-501 (2).

(b) The implementation schedule developed pursuant to paragraph (a) of this subsection (1) shall be contingent upon the availability of moneys in the



family issues cash fund created in section 26-5.3-106, C.R.S., including any moneys transferred pursuant to paragraph (a) of subsection (2) of this section as a result of out-of-home placement costs avoidance.

(2) (a) On or before December 31, 1995, and each December 31 thereafter through and including December 31, 2003, the department of human services in consultation with the judicial department shall submit a written report to the joint budget committee regarding program effectiveness and progress toward statewide implementation. Such report shall also provide an evaluation as to whether out-of-home placement costs have been avoided as a result of the program. In the event such costs have been avoided, the department of human services shall request that any available moneys be transferred from the out-of-home placement budget category to the family issues cash fund for the purposes of statewide implementation. The implementation of expedited procedures in additional counties shall be subject to specific appropriation by the general assembly.

(b) The final report submitted on or before December 31, 2003, shall also include any recommendations concerning the continuation of the expedited procedures, recommendations regarding any legislative modifications, including, if necessary, any recommendations for extensions of time required for statewide implementation, and any other information deemed necessary and appropriate.

SECTION 2. Articles 3, 4, and 5 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, **WITH THE RELOCATION OF PROVISIONS**, to read:

ARTICLE 3

Emancipation

19-3-101. Legislative intent. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT A SIGNIFICANT NUMBER OF MINORS LIVE INDEPENDENT OF THEIR PARENTS, GUARDIANS, OR CUSTODIANS DUE TO PHYSICAL, SEXUAL, OR EMOTIONAL ABUSE OR BECAUSE THEY ARE NO LONGER WANTED. IN ADDITION, MINORS HAVE NOT HAD A STATUTORY RIGHT TO OBTAIN THE LEGAL STATUS OF AN EMANCIPATED PERSON, AND MANY LIVE INDEPENDENTLY WITHOUT THE LEGAL ABILITY TO MAKE CRITICAL DECISIONS REGARDING THEIR OWN HEALTH AND WELFARE. THESE DECISIONS INCLUDE, BUT ARE NOT LIMITED TO, EXECUTING CONTRACTS, CONSENTING TO MEDICAL CARE, ENROLLING IN SCHOOL, AND CHOOSING THEIR OWN SAFE AND SECURE LIVING ARRANGEMENTS.

(2) THE PURPOSE OF THIS ARTICLE IS TO ESTABLISH A PROCEDURE BY WHICH A COURT CAN ISSUE A DECLARATION OF EMANCIPATION FOR MINORS WHO ARE SIXTEEN YEARS OF AGE OR OLDER BUT UNDER EIGHTEEN YEARS OF AGE WHO HAVE DEMONSTRATED THE ABILITY AND CAPACITY TO MANAGE THEIR OWN AFFAIRS.

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19-3-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "EMANCIPATED MINOR" MEANS A MINOR WHO IS OR HAS BEEN MARRIED, HAS ENLISTED IN THE ARMED SERVICES OF THE UNITED STATES, OR HAS BEEN DECLARED EMANCIPATED PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

19-3-103. Minors - declaration of emancipation - form of petition.

(1) (a) A MINOR WHO IS SIXTEEN YEARS OF AGE OR OLDER BUT UNDER EIGHTEEN YEARS OF AGE MAY PETITION THE DISTRICT COURT OF THE COUNTY IN WHICH THE MINOR RESIDES FOR A DECLARATION OF EMANCIPATION PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(b) THE COURT, IN ITS DISCRETION, AFTER CONSIDERATION OF THE MENTAL ABILITY, PHYSICAL HEALTH, DEVELOPMENTAL ABILITY, AND EDUCATIONAL NEEDS OF THE MINOR, MAY APPOINT A GUARDIAN AD LITEM OR AN INDEPENDENT INVESTIGATOR FOR THE MINOR. IF THE COURT APPOINTS A GUARDIAN AD LITEM OR AN INDEPENDENT INVESTIGATOR FOR THE MINOR, THE GUARDIAN AD LITEM OR INDEPENDENT INVESTIGATOR SHALL:

- (I) REPRESENT THE MINOR'S BEST INTERESTS;
- (II) INVESTIGATE THE FACTS THAT FORM THE BASIS OF THE MINOR'S PETITION, INCLUDING BUT NOT LIMITED TO THE MINOR'S MENTAL, EMOTIONAL,

AND PHYSICAL HEALTH AND ABILITY AND THE MINOR'S EDUCATIONAL NEEDS;
AND

(III) FILE A WRITTEN REPORT ON THE FINDINGS OF THE INVESTIGATION AT LEAST FIVE DAYS BEFORE THE DATE SET FOR THE HEARING ON THE PETITION FOR DECLARATION OF EMANCIPATION.

(2) A PETITION FOR DECLARATION OF EMANCIPATION SHALL BE VERIFIED AND SHALL SET FORTH THE FOLLOWING:

(a) THE FACTS THAT ESTABLISH THE COURT'S JURISDICTION AND THAT FORM THE BASIS FOR THE PETITION;

(b) THE NAME, DATE OF BIRTH, GENDER, AND ADDRESS OF THE MINOR;

(c) THE NAMES AND LAST-KNOWN ADDRESSES OF THE MINOR'S PARENT, GUARDIAN, AND CUSTODIAN, IF APPLICABLE;

(d) THE FACTS THAT DEMONSTRATE THE MINOR'S OPPORTUNITY OR ABILITY TO ACHIEVE FINANCIAL INDEPENDENCE THROUGH LEGITIMATE ACTIVITIES AND LIFE SKILLS INCLUDING THE FOLLOWING:

(I) EDUCATIONAL ACCOMPLISHMENTS OR A PLAN FOR ACHIEVING EDUCATIONAL GOALS;

(II) A VOCATIONAL PLAN OR GOAL; AND

(III) AN OPPORTUNITY OR ABILITY TO ACHIEVE ADEQUATE HOUSING AND LIVING ARRANGEMENTS APART FROM THE MINOR'S PARENT, GUARDIAN, OR CUSTODIAN.



(3) FOLLOWING RECEIPT OF A PETITION FOR DECLARATION OF EMANCIPATION, THE COURT SHALL SET A DATE FOR A HEARING ON THE PETITION: AT SUCH HEARING, THE COURT SHALL DETERMINE WHETHER TO GRANT THE MINOR A DECLARATION OF EMANCIPATION AS PROVIDED IN SECTION 19-3-104. THE COURT SHALL BASE ITS DETERMINATION ON THE PETITION, THE INVESTIGATION BY THE GUARDIAN AD LITEM OR INDEPENDENT INVESTIGATOR, IF ANY, AND ANY EVIDENCE PRESENTED AT THE HEARING BY THE MINOR OR THE MINOR'S PARENT, GUARDIAN, OR CUSTODIAN.

(4) AT LEAST THIRTY DAYS PRIOR TO THE HEARING ON THE PETITION, THE CLERK OF THE COURT SHALL SEND WRITTEN NOTICE OF THE HEARING BY REGULAR MAIL TO THE LAST-KNOWN ADDRESS OF THE MINOR'S PARENT, GUARDIAN, OR CUSTODIAN UNLESS THE PARENT, GUARDIAN, OR CUSTODIAN HAS APPEARED AS A PARTY AND HAS WAIVED NOTICE OR UNLESS PROOF HAS BEEN MADE TO THE COURT THAT SUCH ADDRESS IS UNKNOWN OR THAT, FOR OTHER REASONS, SUCH NOTICE CANNOT BE GIVEN. IF A MINOR IS A WARD OR DEPENDENT OF THE STATE, NOTICE SHALL BE GIVEN TO THE APPROPRIATE STATE OR LOCAL AGENCY.

(5) IF THE PARENT'S, GUARDIAN'S, OR CUSTODIAN'S ADDRESS IS NOT KNOWN OR IF THE PARENT, GUARDIAN, OR CUSTODIAN HAS NOT ENTERED AN APPEARANCE OR HAS WAIVED NOTICE, THEN AT LEAST THIRTY DAYS PRIOR TO THE HEARING ON THE PETITION, THE CLERK OF THE COURT SHALL CAUSE TO BE

PUBLISHED AT LEAST ONE WRITTEN NOTICE OF THE HEARING IN A NEWSPAPER OF GENERAL STATEWIDE CIRCULATION.

19-3-104. Declaration of emancipation. (1) FOLLOWING THE HEARING, THE COURT SHALL ENTER AN ORDER DECLARING THAT THE MINOR IS EMANCIPATED IF THE COURT FINDS THAT:

(a) IT IS IN THE BEST INTERESTS OF THE MINOR TO ENTER SUCH AN ORDER;

(b) THE MINOR'S PARENT, GUARDIAN, OR CUSTODIAN HAS CONSENTED TO THE EMANCIPATION OR THAT FAMILY REUNIFICATION IS NOT A VIABLE POSSIBILITY; AND

(c) THE MINOR HAS DEMONSTRATED AN OPPORTUNITY OR ABILITY TO ACHIEVE FINANCIAL INDEPENDENCE THROUGH LEGITIMATE ACTIVITIES AND LIFE SKILLS FOR INDEPENDENT LIVING INCLUDING THE FOLLOWING:

(I) EDUCATIONAL ACCOMPLISHMENTS OR A PLAN FOR ACHIEVING EDUCATIONAL GOALS;

(II) A VOCATIONAL PLAN OR GOAL; AND

(III) AN OPPORTUNITY OR ABILITY TO ACHIEVE ADEQUATE HOUSING AND LIVING ARRANGEMENTS APART FROM THE MINOR'S PARENT, GUARDIAN, OR CUSTODIAN.

19-3-105. Declaration of emancipation obtained by fraud - voidable.

(1) A DECLARATION OF EMANCIPATION OBTAINED BY FRAUD OR BY THE WITHHOLDING OF MATERIAL INFORMATION IS VOIDABLE. THE VOIDING OF ANY

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SUCH DECLARATION PURSUANT TO THIS SECTION SHALL NOT ALTER ANY CONTRACTUAL OBLIGATIONS OR RIGHTS OR ANY PROPERTY RIGHTS OR INTERESTS THAT AROSE DURING THE PERIOD THAT THE DECLARATION WAS IN EFFECT.

(2) A PETITION TO VOID A DECLARATION OF EMANCIPATION MAY BE FILED BY ANY INTERESTED PERSON OR PUBLIC ENTITY, WHICH PERSON OR ENTITY HAS KNOWLEDGE OF INFORMATION TO SUBSTANTIATE THE VOIDING OF A DECLARATION OF EMANCIPATION.

(3) THE PETITION TO VOID A DECLARATION OF EMANCIPATION SHALL BE VERIFIED BY THE PETITIONER AND SHALL BE SUPPORTED BY AN AFFIDAVIT OF FACTS.

(4) NOTICE OF THE PETITION TO VOID, AS THE COURT DEEMS REASONABLE, SHALL BE GIVEN TO THE MINOR AND THE MINOR'S PARENT, GUARDIAN, OR CUSTODIAN UNLESS PROOF IS MADE TO THE COURT THAT THE ADDRESSES OF SUCH PERSONS ARE UNKNOWN OR THAT, FOR OTHER REASONS, SUCH NOTICE CANNOT BE GIVEN.

(5) NO LIABILITY SHALL ACCRUE TO ANY PARENT, GUARDIAN, OR CUSTODIAN NOT GIVEN ACTUAL NOTICE AS A RESULT OF THE VOIDING OF A DECLARATION OF EMANCIPATION UNTIL SUCH PARENT, GUARDIAN, OR CUSTODIAN IS GIVEN ACTUAL NOTICE.

19-3-106. Effect of a declaration of emancipation. (1) ANY EMANCIPATED MINOR IS COMPETENT TO:

(a) ENTER INTO THOSE TRANSACTIONS AND GIVE THE CONSENT SET FORTH IN SECTIONS 13-22-101 TO 13-22-106, C.R.S.;

(b) ENTER INTO BINDING CONTRACTS;

(c) BUY, SELL, OR LEASE REAL PROPERTY;

(d) SUE OR BE SUED;

(e) SETTLE A CLAIM AGAINST THE EMANCIPATED MINOR;

(f) MAKE OR REVOKE A WILL;

(g) CONVEY AN INTEREST IN PROPERTY;

(h) CREATE A TRUST;

(i) REVOKE A REVOCABLE TRUST;

(j) ELECT TO TAKE UNDER A WILL;

(k) RENOUNCE ANY INTEREST ACQUIRED BY TESTATE OR INTESTATE SUCCESSION;

(l) FOREGO ANY RIGHT TO SUPPORT FROM PARENTS, GUARDIANS, OR CUSTODIANS;

(m) RETAIN EARNINGS AND WITHHOLD SUCH EARNINGS FROM PARENTS, GUARDIANS, OR CUSTODIANS;

(n) ESTABLISH A LEGAL RESIDENCE;



ARTICLE 3-4

Dependency and Neglect

PART 1

DEFINITIONS

19-4-101. [Formerly 19-3-100.5.] Legislative declaration. (1) (a) 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. 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~~ COUNTY departments of social services. Elected officials at the state and local levels must ensure that resources and services are available through ~~state~~ THE DEPARTMENT 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" have been made in each case.

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(o) APPLY FOR AND OBTAIN A WORK PERMIT AND DRIVER'S LICENSE WITHOUT PARENTAL CONSENT, SO LONG AS THE EMANCIPATED MINOR MEETS THE STATUTORY AGE REQUIREMENTS FOR A WORK PERMIT AND DRIVER'S LICENSE;

(p) ENROLL IN SCHOOL OR COLLEGE WITHOUT PARENTAL CONSENT; AND

(q) NOT BE CONSIDERED A CHILD FOR PURPOSES OF ARTICLE 4 OF THIS TITLE.

(2) EMANCIPATION PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL:

(a) TERMINATE THE PARENT'S VICARIOUS LIABILITY FOR THE EMANCIPATED MINOR'S TORTS; AND

(b) NOT AFFECT THE APPLICATION OF ANY CRIMINAL STATUTE.

(3) ANY JUDGMENT OR ORDER DECLARING OR DENYING EMANCIPATION PURSUANT TO THIS ARTICLE IS A FINAL ORDER FOR PURPOSES OF APPEAL.

(4) NOTHING IN THIS SECTION IS INTENDED TO AFFECT THE STATUS OF MINORS WHO ARE NOW OR MAY BECOME EMANCIPATED UNDER ANY OTHER STATE OR FEDERAL LAW.

(b) Therefore, in order to carry out the requirements addressed in this section, and to decrease the need for out-of-home placement, the general assembly shall define "reasonable efforts" and identify the services and processes ~~which must be in place~~ NECESSARY 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~~ 19-4-207.

(2) THE GENERAL ASSEMBLY ALSO FINDS AND DECLARES THAT THE STABILITY AND PRESERVATION OF FAMILIES, AND THE SAFETY AND PROTECTION OF CHILDREN, WOULD BE ENHANCED BY STATE SUPPORT FOR FAMILY RESOURCE CENTERS AND PREVENTION PROGRAMS THAT FOCUS ON CHILDREN AND FAMILIES.

(3) THE GENERAL ASSEMBLY ALSO FINDS THAT THE STATE DEPARTMENT AND COUNTY DEPARTMENTS SHOULD PROVIDE EARLY INTERVENTION SERVICES TO AT-RISK FAMILIES WITHOUT HAVING A DEPENDENCY AND NEGLECT ACTION FILED. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PROVISION OF SERVICES UNDER A VOLUNTARY PROGRAM SHALL BE GIVEN THE SAME PRIORITY AS THE PROVISION OF SERVICES IN CASES IN WHICH A DEPENDENCY AND NEGLECT ACTION IS FILED.

19-4-102. [Formerly 19-3-101.] Definitions. As used in this article, unless the context otherwise requires:

(1) "Reasonable efforts" 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, to provide, purchase, or develop the supportive and rehabilitative services to the family that are required both to prevent unnecessary placement of children outside of such children's homes and to foster, whenever appropriate, the reunification of children with the families of such children. Services provided by a county or city and county in accordance with section ~~19-3-208~~ 19-4-207 are deemed to meet the reasonable effort standard described in this subsection (1). Nothing in this subsection (1) shall be construed to conflict with federal law.

(2) "Residual parental rights and responsibilities" 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.

(3) "Special county attorney" 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.



(4) "Special respondent" means any person who is not a parent, guardian, or legal custodian and who is involuntarily joined as a party in a dependency or neglect proceeding for the limited purposes of protective orders or inclusion in a treatment plan.

(5) "Termination of the parent-child legal relationship" 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~~ 19-4-608.

19-4-103. [Formerly 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~~ THE CHILD 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 IS UNDER THE AGE OF TEN AND HAS COMMITTED AN ACT THAT WOULD CONSTITUTE A DELINQUENT ACT IF THE CHILD WERE TEN YEARS OF AGE OR OLDER.

19-4-104. [Formerly 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~~ PURSUANT TO 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)~~ 19-1-106 (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)~~ 19-1-106 (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.

19-4-105. [Formerly 19-3-104.] Hearings - procedure. Except for proceedings held pursuant to section ~~19-3-703~~ 19-4-703, any hearing conducted pursuant to this article in a county designated pursuant to section

~~19-1-123~~ 19-1-126 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)~~ 19-4-501 (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~~ 19-1-126 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)~~ 19-4-501 (2), the court shall include all other children residing in the same household whose placement is subject to determination pursuant to this article.

PART 2

GENERAL PROVISIONS

19-4-201. [Formerly 19-3-201.] Venue. (1) All proceedings brought under this article shall be commenced in the county in which the child resides or is present.

(2) (a) 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 resides if adjudication has taken place and it finds that the transfer would not be detrimental to the best interests of the child; except that, in a county designated pursuant to section ~~19-1-123~~ 19-1-126, if the child is under six years of age at the time a petition is filed in accordance with section ~~19-3-501~~ (2) 19-4-501 (2), it shall be presumed that any transfer of proceedings 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.

(b) THE COURT SHALL MAKE WRITTEN FINDINGS THAT A CHANGE IN VENUE IS NOT DETRIMENTAL TO THE WELFARE OF THE CHILD. IF A TRANSFER IS NOT DETRIMENTAL TO THE WELFARE OF THE CHILD, THE COURT SHALL CONSIDER THE TRANSFER OF ANY DEPENDENCY AND NEGLECT CASE REGARDING THE SAME PARENT TO THE COUNTY IN WHICH AN ORIGINAL PETITION WAS FILED OR ADJUDICATED, REGARDLESS OF WHETHER THE PARENT OR CHILD STILL RESIDES IN THAT COUNTY.

(3) When venue is transferred, as set forth in subsection (2) of this section, the court transferring jurisdiction shall transmit all documents and reports, or certified copies thereof, to the receiving court, which court shall proceed with the case as if the petition had been originally filed or adjudication had been originally made in that court. WHEN VENUE IS

TRANSFERRED, AS SET FORTH IN SUBSECTION (2) OF THIS SECTION, FINANCIAL INCENTIVES SHALL BE ELIMINATED.

(4) THE DEPARTMENT IS AUTHORIZED TO ESTABLISH RULES AND PROCEDURES FOR THE COUNTY DEPARTMENTS TO ENTER TO AGREEMENTS BETWEEN AND AMONG SUCH COUNTY DEPARTMENTS FOR SERVING CLIENTS IN CONTIGUOUS COUNTIES WHEN SUCH AGREEMENTS SERVE THE BEST INTERESTS OF THE CHILD.

19-4-202. [Formerly 19-3-202.] Right to counsel and jury trial.

(1) At the first appearance of a respondent parent, guardian, or legal custodian, the court shall fully advise such party 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 if the party is unable financially to secure counsel on his OR HER own.

(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~~ 19-4-505 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~~ 19-4-505.

19-4-203. [Formerly 19-3-203.] Guardian ad litem. (1) Upon the filing of a petition under section ~~19-3-502~~ 19-4-502 that alleges abuse or neglect of a minor child, the court shall appoint a guardian ad litem. 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 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.

~~19-3-204. Temporary protective custody. (Repealed)~~

19-4-204. [Formerly 19-3-205.] Continuing jurisdiction. Except as otherwise provided in this article, the jurisdiction of the court over any child adjudicated as neglected or dependent shall continue until he OR SHE becomes twenty-one years of age unless earlier terminated by court order.

19-4-205. [Formerly 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.

19-4-206. [Formerly 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 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.

19-4-207. [Formerly 19-3-208.] Services - county required to provide - rules and regulations. (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 and safety 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) Take into account the racial background of the child if placement out-of-home is necessary; except that the placement of a child shall not be

delayed due to attempts to assure racial resemblance between the child and the foster family; 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.

~~(e) (Deleted by amendment, L. 94, p. 1054, 4, effective May 4, 1994.)~~

~~(d) (c)~~ 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)~~ (d) The department of human services may promulgate such rules and regulations as are necessary to implement the provision of services pursuant to this article.

~~(e)~~ (e) 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.

19-4-208. [Formerly 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~~ THAT 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.

19-4-209. [Formerly 19-3-210.] Foster parents' bill of rights study -task force created - principles to be examined - report. (1) The state department of human services shall establish a task force consisting of representatives from the state department of human services and county departments of social services, child placement agencies, and the state foster parents association of Colorado. The task force shall examine the rights and responsibilities of foster parents.

(2) In determining what rights and responsibilities foster parents should have, the task force shall examine principles with respect to foster parents' rights and responsibilities, including but not limited to the following principles:

(a) The right to be treated with dignity, respect, and consideration as team members who are making important contributions to the objectives of the child welfare system;

(b) The right to promote the continuance of positive family patterns and routines, thus acknowledging the ebb and flow of family life and its normalizing benefits to a child in their care;

(c) The right to be provided training and to be given support in improving their skills in providing daily care and meeting the special needs of a child in their care;

(d) The right to be informed as to how to contact the appropriate child placement agency and receive supportive services on a twenty-four-hour basis;

(e) The right to receive timely financial reimbursement for their quality and knowledgeable care of a child;

(f) The right to object to a placement recommendation for a particular child;

(g) The right to take leave from foster parenting as needed;

(h) The right to assurances with respect to their family's health or safety;

(i) The right to have a clear understanding of a placement agency's plan concerning the placement of a child in their home;

(j) The right, when subject to an investigation of their home, to have the investigation conducted by an agency or unit within the agency other than the agency or unit that issues licenses for foster care homes, in order to reduce any conflict of interest or the appearance of such a conflict, and to have written results of the investigation delivered to the foster parents no later than three weeks after such investigation was conducted;

(k) The right, at any time during which a child is placed with the foster parent, to request any additional or necessary information that is relevant to the care of the child;

(l) The right to be notified of all scheduled meetings and staffings concerning the foster child in order to actively participate in the case planning and decision-making process regarding the child in their care, including the right to be informed of decisions made by the courts or the agency concerning the child. A foster parent's input shall be considered in the same manner as information presented by any other professional on the team. Foster parents may communicate with other professionals who work with the foster child, such as therapists, doctors, and teachers.

(m) The right to be provided, in a timely and consistent manner, with any information a caseworker has regarding the child and the child's biological family, which information is pertinent to the care and needs of the child and to the making of a permanency plan for the child;

(n) The right to reasonable notice of any change in a child's case plan or of plans to terminate the placement of the child with the foster parents and of the reasons for the change or termination of placement;

(o) The right to be named as an interested party for any court proceeding involving the child;

(p) The right, upon request, to be advised by the county department of social services as to the date and time of any court hearings, the name of the judge or magistrate hearing the case, and the court's docket number of the case;

(q) The right to be notified when a foster child who has formerly been placed successfully with the foster parents is to be re-entered into foster care placement and to be considered as an appropriate placement for the child in order to maintain continuity for the child; except that such consideration should not be deemed a legal presumption in favor of the foster parent and should be consistent with the best interests of the child;

(r) The right to have access to the existing grievance process with the child placement agency and, as part of such process, to file a grievance if any of the foster parent's rights have been violated or denied;

(s) The responsibility to openly communicate and to share information about the child with other members of the child welfare team;

(t) The responsibility to respect the confidentiality of issues concerning foster children and their families and to act appropriately within applicable confidentiality guidelines;

(u) The responsibility to advocate for children in obtaining needed services and protection;



(v) The responsibility to treat children in their care with respect, dignity, and a non-judgmental attitude;

(w) The responsibility to recognize their own individual and familial strengths and limitations and service needs in providing care for foster children according to the child's age, sex, developmental or special needs, family relationships, culture, and permanency goals;

(x) The responsibility to be aware of the benefits of relying on and affiliating with other foster parents and foster parent associations in providing quality care and service to children and families;

(y) The responsibility to assess their individual training needs and to take action to meet those needs;

(z) The responsibility to recognize the impact that placement disruption has on all members of the foster family, to develop strategies to prevent placement disruptions and to provide support for the foster children and members of the foster family when such disruptions occur;

(aa) The responsibility to know the impact foster parenting has on individuals and family relationships and to endeavor to minimize, as much as possible, any stress that results from foster parenting;

(bb) The responsibility to know the rewards and benefits to children, parents, families, and society that come from foster parenting and to promote the foster parenting experience in a positive way;

(cc) The responsibility to understand and comply with the laws which THAT define child abuse or neglect and the legal procedures related to child placements;

(dd) The responsibility to know the role, rights, and responsibilities of foster parents and professionals in the child welfare system;

(ee) The responsibility to know the child welfare agency's policy regarding allegations that foster parents have committed child abuse or neglect, how to prevent allegations, and how to access appropriate support systems should an investigation occur;

(ff) The responsibility to know the purpose of administrative case reviews, client service plans, and court processes, as well as any filing or time requirements associated with such proceedings, and to actively participate in their designated role in such proceedings;

(gg) The responsibility to know the child welfare agency's grievance procedure for foster parents and the rights of foster parents under the procedure;

(hh) The responsibility to understand the importance of maintaining accurate and relevant records regarding the child's history and progress; and

(ii) The responsibility to be aware of and to follow the structure, procedures, and regulations of the child welfare agency with which they are affiliated.

(3) In addition to the principles set forth in subsection (2) of this section, the task force shall examine whether the rights extended to foster parents should apply to persons against whom criminal charges have been filed for child abuse, as specified in section 18-6-401, C.R.S., an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., or any felony.

(4) On or before December 1, 1995, the state department of human services shall submit a report of the task force study to the general assembly, with recommendations for legislation.

19-4-210. [Formerly 19-3-211.] Conflict resolution process - rules - appeals - definitions. (1) On or before January 1, 1995, the state department, in conjunction with the attorney general, shall adopt rules ~~allowing~~ FOR each county department to implement ~~at the option of the county's governing body~~ a conflict resolution process pursuant to the provisions of this section. The purpose of such conflict resolution process is to provide a forum for grievances against a ~~participating~~ county department concerning such department's response to reports of child abuse and neglect or performance of its duties pursuant to this article.

(2) The state department's rules shall provide, at a minimum, for the following:

(a) The creation of a citizen review panel in each county, the members of which shall be appointed by the governing body of the county, be

representative of the community, have demonstrable personal or professional knowledge and experience with children, and shall not be employees or agents of any state or local social services agency;

(b) Transmittal of all grievances to the county director for the county director's prompt referral of such grievances to the ~~local~~ COUNTY department ~~of social services~~ for internal resolution within ten days after receipt of the grievance and thereafter to the citizen review panel for review and decision within thirty days after receipt of the grievance;

(c) The referral of a citizen review panel decision to the governing body for a final appeal within thirty days after the decision by the citizen review panel if a complainant disagrees with the citizen review panel's disposition of the grievance;

(d) Review and decision by the governing body within thirty days of receipt of a grievance for final appeal;

(e) (I) The inclusion of case reassignment OR PERSONNEL ACTION as a ~~possible resolution~~ RECOMMENDED RESOLUTIONS to the grievance PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (e).

(II) RECOMMENDED RESOLUTIONS SHALL BE SENT TO THE EMPLOYING AGENCY AND THE IMMEDIATE SUPERVISOR OF THE SUBJECT OF THE GRIEVANCE.

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(III) A RECOMMENDATION THAT THE SUBJECT OF THE GRIEVANCE BE SUBJECT TO DISCIPLINE SHALL BE TREATED AS GROUNDS FOR ADVERSE PERSONNEL ACTION.

(IV) WHEN ADVERSE PERSONNEL ACTION HAS BEEN RECOMMENDED, THE EMPLOYEE SHALL BE ENTITLED TO THE SAME RIGHTS, INCLUDING PROCEDURAL RIGHTS AND RIGHTS TO APPEAL, THAT WOULD BE AVAILABLE IF THE EMPLOYING AGENCY ITSELF WERE PROPOSING OR RECOMMENDING THE ADVERSE ACTION.

(f) The disclosure of the availability of the conflict resolution process to persons who are the subject of any child abuse or neglect report and to any family whose child is the subject of any child abuse or neglect report;

(g) Access by the citizen review panels and the governing body to child abuse or neglect reports, which shall be reviewed solely for the purpose of resolving disputes pursuant to the provisions of this section; except that no identifying information concerning any person who reported child abuse or neglect shall be disclosed; and

(h) A system for monitoring compliance with this section ~~which~~ THAT shall include annual reports from the ~~participating~~ counties as to the complaints received and their resolution and an annual report by the ~~state~~ department to the general assembly and the relevant committees of reference concerning compliance with this section.

(3) (a) The conflict resolution process shall be informal, and the rules governing the establishment and implementation of the process shall be easily understandable by complainants. The ~~state~~ department shall prepare standardized forms that shall be used by the county departments and the citizen review panels in the participating counties. The citizen review panels and the governing bodies shall prepare written reports setting forth the bases for their decisions.

(b) THE FINAL RECOMMENDATIONS PURSUANT TO THE CONFLICT RESOLUTION PROCESS SHALL BE FINAL AGENCY ACTION.

(c) Relevant information concerning the conflict resolution process shall be publicized.

(4) For the purpose of any proceeding relating to child abuse or neglect, written reports, prepared in connection with resolution of grievances pursuant to this section and the rules adopted by the ~~state~~ department, may be received and considered by the court along with other evidence; but the court, if so requested by the child, the child's parent or guardian, or other interested party, shall require that the person who wrote the report 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 to appear if it finds that the best interests of the child so require.

(5) Nothing in this section shall be construed to direct or authorize any participant in the conflict resolution process to interfere with any criminal investigation or judicial proceeding.

(6) As used in this section, unless the context otherwise requires:

(a) "Citizen review panel" 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 render decisions regarding grievances between a complainant and a county department.

(b) "Complainant" means the person bringing a grievance against a county department.

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

(d) "County director" means the county director or district director appointed pursuant to section 26-1-117, C.R.S.

(e) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES.

(f) "Governing body" means the board of county commissioners of a county or THE MAYOR AND the city council of a city and county.

(g) "Grievance" means any dispute between a complainant and a county department concerning such department's response to, investigation of, and recommendations regarding any report of child abuse and neglect pursuant to the provisions of this article.

(g) "State department" means the state department of human services.

(7) Upon implementation of the restructuring of the health and human services delivery system pursuant to article 1-7 of title 24, C.R.S., the provisions of this section shall no longer be applicable if the state department determines that such local restructuring includes a local conflict resolution process for grievances concerning child abuse and neglect cases.

19-4-211. [Formerly 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 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.

(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.



19-4-212. Placement criteria. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT CHILDREN HAVE THE RIGHT TO EXPECT THAT THEY WILL BE REMOVED FROM THEIR PARENTS OR CUSTODIANS ONLY WHEN SUCH REMOVAL IS NECESSARY TO PREVENT THE CHILD'S WELFARE OR THE WELFARE OF OTHERS FROM BEING ENDANGERED AND THAT, IF A CHILD IS PLACED IN THE TEMPORARY CUSTODY OF THE DEPARTMENT, SUCH PLACEMENT WILL BE STABLE, SAFE, AND SECURE. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE PRIMARY GOAL IN CHOOSING A PLACEMENT FOR A CHILD IS TO ENSURE THAT ALL CHILDREN ARE PLACED IN THE LEAST RESTRICTIVE, MOST FAMILY-LIKE SETTING THAT MEETS THEIR INDIVIDUAL NEEDS.

(2) FURTHERMORE, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE COURT, THE GUARDIAN AD LITEM, AND THE DEPARTMENT BE GUIDED BY THE FOLLOWING PRINCIPLES:

(a) SIBLINGS SHALL BE PLACED TOGETHER UNLESS IT IS CONTRARY TO THE BEST INTERESTS OF ONE OR MORE OF THE SIBLINGS TO DO SO OR OTHER EXCEPTIONAL CIRCUMSTANCES EXIST;

(b) EXCEPT IN EXTRAORDINARY CIRCUMSTANCES, MOVEMENT OF CHILDREN FROM ONE SETTING TO ANOTHER CAUSES HARM. THEREFORE, NO CHILD SHALL BE MOVED FROM ONE SETTING TO ANOTHER UNLESS IT IS DETERMINED BY THE COURT THAT SUCH MOVE, WHEN WEIGHING ALL OTHER

RELEVANT FACTORS, PRESENTS THE LEAST DETRIMENTAL ALTERNATIVE FOR THE CHILD.

(c) CHILDREN ARE ENTITLED TO BE WITH FAMILY, PREFERABLY THEIR FAMILY OF ORIGIN. THEREFORE, THE DEPARTMENT SHALL INITIATE WITHIN THREE DAYS AND COMPLETE WITHIN FORTY-FIVE DAYS AFTER PLACEMENT OUTSIDE OF THE CHILD'S OWN HOME A SEARCH FOR RELATIVES OF THE CHILD WHO ARE ABLE TO PROVIDE STABLE, SAFE, AND SECURE PLACEMENT FOR THE CHILD AND SHALL MAKE A REPORT OF THE SEARCH TO THE COURT. THIS PROVISION SHALL NOT PREVENT THE DEPARTMENT OR THE COURT FROM CONSIDERING WHETHER THE RELATIVE IS ABLE TO PROVIDE AN APPROPRIATE ALTERNATIVE TO FOSTER CARE WHILE SIMULTANEOUSLY SUPPORTING THE PARENTS' EFFORTS TO HAVE THE CHILD RETURNED TO THEIR CUSTODY.

(d) 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 OWN HOME OR TO PLACE THE CHILD IN A MORE PERMANENT SETTING HAVE BEEN EXHAUSTED;

(e) THE DEPARTMENT AND THE GUARDIAN AD LITEM SHALL ENGAGE IN CONCURRENT PLANNING FOR CHILDREN WHO MUST BE PLACED IN FOSTER CARE OR IN RELATIVE CARE FOR A PERIOD IN EXCESS OF NINETY DAYS. THIS

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REQUIREMENT SHALL NOT BE CONSTRUED TO REQUIRE THE DEPARTMENT OR THE COURT TO MOVE A CHILD WHERE NO APPROPRIATE RELATIVE OR FOSTER-ADOPT HOME CAN BE IDENTIFIED, OR WHERE THE CHILD IS LIKELY TO BE RETURNED HOME WITHIN ONE YEAR.

(3) THE GENERAL ASSEMBLY FURTHER FINDS THAT WHEN OUT-OF-HOME PLACEMENT OF CHILDREN OCCURS, ONE HOUR PER WEEK OF VISITATION IS INADEQUATE TO SUSTAIN AND NURTURE FAMILY BONDS. IT IS THE GENERAL ASSEMBLY'S INTENT, THEREFORE, THAT VISITING TIME SHOULD BE INCREASED WITH THE QUALITY AND AMBIANCE OF THE SITE ENHANCED SO AS TO MAINTAIN FAMILY BONDS AND NOT TO FUNCTION SOLELY AS A LOCATION FOR VISITATION AND OBSERVATION.

(4) WHEN OUT-OF-HOME PLACEMENT OF A CHILD OCCURS, VISITATION WITH PARENTS SHALL BE FACILITATED WITHIN FORTY-EIGHT HOURS AFTER REMOVAL AND ON A REGULAR BASIS THEREAFTER.

19-4-213. Evaluation forms. THE DEPARTMENT SHALL PREPARE AN EVALUATION FORM TO BE FILLED OUT BY THE PERSONS INVESTIGATED IN A DEPENDENCY AND NEGLECT ACTION AT MID-TERM AND THE CONCLUSION OF THE CASE. COMPLETED FORMS SHALL BE DISTRIBUTED TO THE DEPARTMENT, RELEVANT COUNTY DEPARTMENT, CITIZEN REVIEW PANEL, AND MADE AVAILABLE TO THE GENERAL ASSEMBLY.

PART 3

CHILD ABUSE OR NEGLECT

19-4-301. [Formerly 19-3-301.] Short title. This part 3 shall be known and may be cited as the "Child Protection Act of 1987".

19-4-302. [Formerly 19-3-302.] Legislative declaration. The general assembly hereby 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 child protection teams publicly discuss public agencies' responses to child abuse and neglect reports so that the public and the general assembly may be better informed concerning the operation and administration of this part 3.

19-4-303. [Formerly 19-3-303.] Definitions. As used in this part 3, unless the context otherwise requires:

(1) (a) "Abuse" or "child abuse or neglect" means an act or omission in one of the following categories ~~which~~ 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

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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 sexual assault or molestation, sexual exploitation, or prostitution AS DEFINED IN ARTICLE 3 OF TITLE 18, C.R.S., OR AGGRAVATED INCEST AS DEFINED IN SECTION 18-6-302, 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~~ 19-4-104.

(IV) Any act or omission described in section ~~19-3-102 (1) (a), (1) (b), or (1) (c)~~ 19-4-103 (1) (a), (1) (b), (1) (c);

(V) ANY CASE IN WHICH A CHILD IS SUBJECTED TO EMOTIONAL ABUSE. AS USED IN THIS SUBPARAGRAPH (V), "EMOTIONAL ABUSE" MEANS AN IDENTIFIABLE AND SUBSTANTIAL IMPAIRMENT OF THE CHILD'S INTELLECTUAL OR PSYCHOLOGICAL FUNCTIONING.

(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. Nothing in this subsection (1) shall refer to acts ~~which~~ 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 19-2-201 ~~which~~ THAT are performed by a peace officer, level I, as defined in section 18-1-901 (3) (I), C.R.S., acting in the good faith performance of his OR HER duties. A REASONABLE EXERCISE OF PARENTAL DISCIPLINE INCLUDES REASONABLE CORPORAL PUNISHMENT. FOR PURPOSES OF THIS PARAGRAPH (b), "REASONABLE CORPORAL PUNISHMENT" MEANS AN EXERCISE OF PARENTAL DISCIPLINE THAT RESULTS IN TRANSIENT PAIN OR TEMPORARY SKIN INFLAMMATION WHEN IT IS REASONABLE AND MODERATE AND IS INFLICTED BY A PARENT OR GUARDIAN FOR THE PURPOSES OF RESTRAINING OR CORRECTING A CHILD. "REASONABLE CORPORAL PUNISHMENT" DOES NOT INCLUDE: THROWING, KICKING, BURNING, BITING, OR CUTTING A CHILD; STRIKING A CHILD WITH A CLOSED FIST; SHAKING OF ANY CHILD LESS THAN TWO YEARS OF AGE; NONACCIDENTAL ACTION THAT RESULTS IN ANY INJURY TO A CHILD UNDER EIGHTEEN MONTHS OF AGE; INTERFERING WITH A CHILD'S BREATHING; THREATENING A CHILD WITH A DEADLY WEAPON; STRIKING A CHILD ON THE HEAD; OR FRACTURING ANY BONE OF A CHILD.

(2) "Child protection team" 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

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enforcement agency, a representative of the county department, a representative of a mental health clinic, a representative of a public health department, 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.

~~(2.5)~~ (3) "Confirmed" means any report made pursuant to this article that is supported by a preponderance of the evidence.

~~(3)~~ (4) "County department" means the county or district department of social services.

~~(4)~~ (5) "County director" means the county director or district director appointed pursuant to section 26-1-117, C.R.S.

(6) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES CREATED BY SECTION 24-1-120, C.R.S.

~~(4.5)~~ (7) "Institutional abuse" 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, any facility subject to the Colorado "Child Care Act" and ~~which~~ ANY FACILITY THAT is defined 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.

~~(4.7)~~ (8) "Intrafamilial abuse" 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 section ~~19-1-103 (25)~~ 19-1-104 (38), 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.

(5) (9) "Local law enforcement agency" means a police department in incorporated municipalities or the office of the county sheriff.

(6) (10) "Neglect" means acts ~~which~~ THAT can reasonably be construed to fall under the definition of "child abuse or neglect" as defined in subsection (1) of this section.

(7) (11) "Responsible person" means a child's parent, legal guardian, or custodian or any other person responsible for the child's health and welfare.

(8) (12) "State board" means the state board of human services.

(9) ~~"Department" means the department of human services created by section 24-1-120, C.R.S.~~

(9.5) (13) "Third-party abuse" 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 section ~~19-1-103 (25)~~ 19-1-104 (38), or any other person not included in the definition of intrafamilial abuse, as defined in subsection ~~(4.7)~~ (8) of this section.

(10) (14) "Unfounded report" means any report made pursuant to this article ~~which~~ THAT is not supported by a preponderance of the evidence.

19-4-304. [Formerly 19-3-304.] Persons required to report child abuse or neglect. (1) Except as otherwise provided by section ~~19-3-307~~ 19-4-307 and sections 25-1-122 (4) (d) and 25-4-1404 (1) (d), C.R.S., 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 ~~which~~ THAT would reasonably result in abuse or neglect shall immediately report or cause a report to be made of such fact to the county department or local law enforcement agency.

(2) Persons required to report such abuse or neglect or circumstances or conditions shall 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) Chiropodist or 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 a family care home, employer-sponsored on-site child care center, or child care center as defined in section 26-6-102, C.R.S.;

(n) Mental health professional;

(o) Dental hygienist;

(p) Psychologist;

(q) Physical therapist;

(r) Veterinarian;

(s) Peace officer as defined in section 18-1-901 (3) (I), C.R.S.;

(t) Pharmacist;

(u) Commercial film and photographic print processor as provided in subsection ~~(2-5)~~ (3) of this section;

(v) Fireman as defined in section 18-3-201 (1), C.R.S.;

(w) Victim's advocate, as defined in section 13-90-107 (1) (k) (II), C.R.S.

~~(2-5)~~ (3) 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. For purposes of this subsection ~~(2-5)~~ (3) only, "sexual conduct" 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.

~~(3)~~ (4) In addition to those persons specifically required by this section to report known or suspected child abuse or neglect and circumstances or conditions ~~which~~ THAT might reasonably result in abuse or neglect, any other person may report known or suspected child abuse or neglect and circumstances or conditions ~~which~~ THAT might reasonably result in child abuse or neglect to the local law enforcement agency or the county department. LOCAL LAW ENFORCEMENT MAY REPORT A CHILD DESCRIBED IN SECTION 19-4-103 (1) (g) TO THE COUNTY DEPARTMENT FOR INVESTIGATION.



~~(3-5)~~ (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 or local law enforcement agency.

~~(4)~~ (6) Any person who willfully violates the provisions of subsection (1) of this section or who violates the provisions of subsection ~~(3-5)~~ (5) of this section:

(a) Commits a class 3 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.;

(b) Shall be liable for damages proximately caused thereby. SUCH DAMAGES SHALL INCLUDE ATTORNEY FEES, EVALUATION COSTS, COSTS OF SUPERVISED VISITATION, THERAPY, AND ANY OTHER COSTS DEEMED APPROPRIATE BY THE COURT.

19-4-305. [Formerly 19-3-305.] Required report of postmortem investigation. (1) Any person who is required by section ~~19-3-304~~ 19-4-304 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 central registry as provided for in section ~~19-3-313~~ 19-4-316.

19-4-306. [Formerly 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 OR HER a child he OR SHE 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~~ THAT 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~~ THAT 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.

19-4-307. [Formerly 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 or the local law enforcement agency and shall be followed promptly by a written report prepared by those persons required to report. The county department shall forward a copy of its own report of confirmed child abuse or neglect within sixty days of receipt of the report to the central registry on forms supplied by the state department.

(2) Such reports, when possible, shall include the following information:

- (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.

~~(2-5)~~ (3) Notwithstanding the requirements set forth in subsection (2) of this section, any officer or employee of a local department of health or state department of public health and environment who makes a report pursuant to section 25-1-122 (4) (d) or 25-4-1404 (1) (d), C.R.S., shall include only the information described in said sections.

~~(3)~~ (4) 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.

~~(4)~~ (5) 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 ~~19-1-120~~ 19-1-124.

(6) THE DEPARTMENT SHALL ESTABLISH RULES AND PROCEDURES FOR THE COUNTY DEPARTMENTS PURSUANT TO WHICH PARENTS, GUARDIANS, OR LEGAL CUSTODIANS MAY REPORT A PATTERN OF SELF-ABUSE IN A CHILD TO THE COUNTY DEPARTMENT. SUCH REPORTING OF A SELF-ABUSIVE CHILD SHALL BE CORROBORATED IN WRITING ON THE REPORT BY A HEALTH CARE PROVIDER. AS USED IN THIS SUBSECTION (6), "SELF-ABUSIVE CHILD" MEANS A CHILD WHO CAUSES OR ATTEMPTS TO CAUSE INJURY TO HIMSELF OR HERSELF BY BITING,

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SCRATCHING, HITTING, OR OTHERWISE MUTILATING OR INJURING HIS OR HER BODY.

19-4-308. [Formerly 19-3-308.] Action upon report of intrafamilial, institutional, or third-party abuse - child protection team. (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~~ HUMAN 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) The rules required by paragraph (a) of this subsection (1) shall be adopted on or before January 1, 1994.

(2) The investigation, to the extent that it is reasonably possible, shall include:

- (a) THE VALIDITY OF THE SOURCE OF 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)~~ (6) AND (7) 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). As used in this subsection (4), "continuously available" 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. 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 state central registry of child protection 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 OR HER 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~~ 19-4-401 (1) (a) AND 19-4-405.



(4.5) (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.

(b) If, as a result of an investigation conducted pursuant to rules adopted in accordance with this subsection (4.5) (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 OR HER position at the institution with pay, or reassigned to other duties ~~which~~ THAT 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)~~ (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)~~ (5) shall be construed to abrogate or limit any other enforcement action provided by law.

~~(5)~~ (6) 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)~~ (6), the local law enforcement agency shall have access to the state central registry of child protection 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)~~ (7) (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 and 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 should be filed with the state central registry in accordance with section ~~19-3-313 (2) (a)~~ 19-4-316 (2) (a), which report, upon such determination, shall be filed with the state central registry within sixty days of 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 OR HER 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)~~ (8) 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)~~ (9) Upon initial investigation of a report alleging abuse or neglect in which the suspected perpetrator was acting in his OR HER 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)~~ (10) (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. In each county in which reports of fifty or more incidents of known or suspected child abuse have been made to the county department or the local law enforcement agency in any one year, the county director shall cause a child protection team to be inaugurated in the next following year.

(b) The child protection team shall review the investigatory reports of the case, which shall include the diagnostic, prognostic, and treatment services being offered to the family in connection with the reported abuse.

(c) At each meeting, each member of the child protection team shall be provided with the investigatory reports on each case to be considered.

~~(d) and (e) (Deleted by amendment, L. 91, p. 223, 4, effective May 24, 1991.)~~

(~~f~~) (d) Immediately after any executive session at which a child abuse or neglect case is discussed, the child protection team shall publicly review the responses of public and private agencies to each reported incident of child abuse or neglect, shall publicly state whether such responses were timely, adequate, and in compliance with the provisions of this part 3, and shall publicly report nonidentifying information relating to any inadequate responses, specifically indicating the public and private agencies involved.

(~~g~~) (e) After this mandatory public discussion of agency responses, the child protection team shall go into executive session upon the vote of a majority of the team members to consider identifying details of the case being discussed, to discuss confidential reports, including but not limited to the reports of physicians, including psychiatrists, or when the members of the team desire to act as an advisory body concerning the details of treatment or evaluation programs. The 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 team, without publicly revealing identifying details of the case.

(~~h~~) (f) At the team's next regularly scheduled meeting, or at the earliest possible time, the team shall publicly report whether there were any lapses and inadequacies in the child protection system, and if they have been corrected.

(~~i~~) (g) Team shall make a report of its recommendations to the county department with suggestions for further action or stating that the team has no recommendations or suggestions. Contiguous counties may cooperate in meeting the requirements of this subsection (~~6~~) (10).

(h) THE CHILD PROTECTION TEAM SHALL INCLUDE IN ITS REPORT A RECOMMENDATION AS TO WHETHER THE NAME OF THE PERSON ALLEGED TO HAVE CAUSED OR HAVE RESPONSIBILITY FOR THE INCIDENT OF CHILD ABUSE OR NEGLECT SHOULD BE INCLUDED ON THE CENTRAL REGISTRY FOR THE PROTECTION OF CHILDREN.

(~~7~~) (11) Each member of the team shall be appointed by the agency he OR SHE represents, and each team member shall serve at the pleasure of the appointing agency; except that the county director shall appoint the representatives of the lay community, including the representatives of any ethnic, racial, or linguistic minority, and shall actively recruit all interested

individuals and consider their applications for appointment as lay-community representatives on the team.

~~(8)~~ (12) -The county director or his OR HER designee shall be deemed to be the local coordinator of the child protection team. In those counties in which child protection teams meeting the requirements of this part 3 are currently functioning, they shall be recognized, with the consent of all members, as the functioning child protection team for that county.

~~(9)~~ (13) The child protection team shall meet no later than one week after receipt of a report to evaluate such report of child abuse.

~~(10)~~ (14) 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~~ 19-4-315 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)~~ (15) THE CHILD PROTECTION TEAM SHALL CONDUCT A COMPREHENSIVE CASE REVIEW OF ALL CHILD FATALITIES IN WHICH ABUSE OR NEGLECT IS SUSPECTED. THE CHILD PROTECTION TEAM SHALL EVALUATE

AGENCY RESPONSES TO THE INCIDENT IN ORDER TO PROTECT CHILDREN WHO ARE STILL IN THE HOME, TO EVALUATE AGENCY INVOLVEMENT PRIOR TO THE DEATH, AND TO INSURE A THOROUGH ASSESSMENT OF THE CHILD'S DEATH. THE CHILD PROTECTION TEAM SHALL MEET WITH LAW ENFORCEMENT PERSONNEL, THE CORONER, THE DISTRICT ATTORNEY, AND OTHER AGENCY PERSONNEL WHO WERE INVOLVED. ALL INFORMATION GATHERED FROM THIS REPORT SHALL BE FORWARDED TO THE STATE CENTRAL REGISTRY PURSUANT TO SECTION 19-4-316 AND THE STATE FATALITY REVIEW TEAM.

19-4-309. [Formerly 19-3-308.5.] Recorded interviews of child.

(1) (a) Any interview of a child conducted pursuant to section ~~19-3-308~~ 19-4-308, 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 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.

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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.

~~(b) (Deleted by amendment, L. 93, p. 1169, 2, effective January 1, 1994.)~~

(e) (b) The provisions of this subsection (1) 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.

~~(d) (Deleted by amendment, L. 93, p. 1169, 2, effective January 1, 1994.)~~

(e) (d) (I) Any agency subject to the provisions of this section shall provide equipment necessary to videotape interviews and shall train persons responsible for conducting videotaped interviews in accordance with this section. The agency shall adopt standards for persons conducting such interviews.

(II) The standards required in subparagraph (I) of this paragraph (e) (d) shall be adopted on or before January 1, 1994.

19-4-310. [Formerly 19-3-309.] Immunity from liability - persons reporting. Any person, other than the perpetrator, complicator, 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-ray~~ X RAYS, or the placing in temporary protective custody of a child pursuant to section ~~19-3-405~~ 19-4-405 or otherwise performing his OR HER 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~~ X RAYS, and any such person who has legal authority to place a child in protective custody shall be presumed.

19-4-311. [Formerly 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 OR SHE shall be released from the terms and conditions of the program, and no criminal filing for the case shall be made against him OR HER.

(4) Participation by a person accused or suspected of child abuse in any diversion program shall be voluntary.

19-4-312. [Formerly 19-3-310.5.] Mediation - pilot program. (1) The general assembly hereby finds and declares that use of mediation in dependency and neglect cases can help support the rights of families and children and hereby declares that it is in the best interests of children that qualified mediation services be available in certain phases of child dependency and neglect cases. For the purpose of providing mediation services, the general assembly hereby finds that it is necessary to establish a pilot program

under which cases brought in selected counties may be referred to mediation by approved mediators.

(2) There is hereby established a pilot program to provide mediation services in cases brought under the provisions of this article. Under the pilot program, the state board shall designate two or more counties in which mediation services shall be provided pursuant to the requirements of this section.

(3) Under the pilot program, mediation operates under the jurisdiction of the court in any case. A court within a pilot county may, at the request of any party or upon the court's own initiative, refer a case brought under the provisions of this article to mediation services. A court may refer a case to mediation services at any time after the court obtains jurisdiction over any of the parties. No mediation shall be ordered by a court in any case unless a party is represented by counsel or has waived the party's right to counsel, whether appointed or retained.

(4) (a) A case may not be referred to mediation if:

(I) There is a criminal charge pending against any party that involves the issues in the case or there has been a conviction of any party for any such criminal charge; or

(II) There is a victim who alleges that he or she has been physically injured, sexually abused, or subjected to domestic violence in any way that involves the issues in the case.

(b) The mediation of a case is terminated if:

(I) Any party involved in the mediation requests that the mediation process cease;

(II) The mediator makes a determination that the mediation should be terminated because mediation is not appropriate for the case or because it is unlikely that an agreement will be reached by the parties;

(III) After the initial referral to mediation, the court determines that, under the requirements of this section, the case is not a proper case for mediation; or

(IV) The parties reach a partial agreement through the mediation, but there are issues remaining to be determined by the court.

(5) The parties in a case shall be charged a fee for the mediation services provided under the provisions of this section. Each county in the pilot program shall set the fee to be imposed in the county at a level that is sufficient to fund the pilot program. A county in the pilot program may establish a sliding fee scale for mediation services. If a sliding scale is established, the county shall structure the fee scale such that the total amount of fees collected from all parties obtaining mediation services in the county is

sufficient to fund the pilot program. Under the pilot program, mediation services may be provided only to a person who has paid the fee established for mediation services. Mediation services are not available under the pilot program to any person who is unable to pay the fee. A county in the pilot program shall not be required to pay costs of the mediation services provided under the provisions of this section.

(6) (a) Upon completion of mediation services under the provisions of this section, the mediator shall supply to the court a written statement certifying that the parties have met with the mediator unless the counsel for a party is required to supply the statement pursuant to local rule or pursuant to order of the court.

(b) If the mediator and the parties agree that the parties are engaging in good faith mediation and inform the court thereof, the court may continue any pending hearing in the case to a date certain.

(7) If the parties involved in a case that is referred to mediation under this section reach a full or partial agreement, the parties shall prepare a written agreement that is signed by the parties. The parties shall present the agreement to the court as a stipulation and, if approved by the court, the agreement is enforceable as an order of the court.

(8) A mediator may provide mediation services under the provisions of this section if the mediator has obtained approval from the office of dispute

resolution in the judicial department created under section 13-22-303, C.R.S., and has obtained any training or approval required by the county that is operating the mediation program. A guardian ad litem or other mediator who is otherwise qualified under the provisions of this section may provide mediation services under this section only if the guardian ad litem or other mediator has not previously had contact with any of the parties in the case.

(9) Any mediation conducted under the provisions of this section is subject to the confidentiality requirements provided in section 13-22-307, C.R.S.

(10) A county that is operating a mediation pilot program under the provisions of this section shall prepare a written report regarding the experiences of the county in using mediation services. The county shall submit the report to the house and senate judiciary committees on or before January 1, 1996, AND JANUARY 1 OF EACH YEAR THEREAFTER. The report shall include, but is not limited to, the following:

- (a) The number of families referred to mediation and the number of families who successfully reached a settlement;
- (b) The types of cases that were referred to mediation by the court;
- (c) In cases in which mediation was used, whether there were any cost savings and the extent of those cost savings; and

(d) The criteria used by the county in approving mediators and whether any special training or instruction was given to mediators.

(11) ~~This section is repealed, effective July 1, 1999.~~ THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE JANUARY 1, 2000, CONCERNING THE EXPERIENCES OF THE COUNTIES USING MEDIATION SERVICES AND HOW SUCH MEDIATION SERVICES COULD BE IMPLEMENTED STATEWIDE.

19-4-313. Family services alternative response system - legislative intent - child protective investigation. (1) **Intent.** (a) THE GENERAL ASSEMBLY DECLARES THAT THE PURPOSE AND INTENT OF THIS SECTION IS TO ESTABLISH A FAMILY SERVICES ALTERNATIVE RESPONSE SYSTEM TO ALLOW THE COUNTY DEPARTMENT TO RESPOND TO REPORTS OF CHILD ABUSE OR NEGLECT BY PROVIDING, WHEN APPROPRIATE, SERVICES TO FAMILIES WITHOUT THE NEED FOR PROTECTIVE INVESTIGATIONS OR OTHER PROCEDURES REQUIRED PURSUANT TO THIS PART 3. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE COUNTY DEPARTMENT RESPOND TO REPORTS OF CHILD ABUSE OR NEGLECT IN THE MOST EFFICIENT AND EFFECTIVE MANNER THAT ENSURES THE SAFETY OF CHILDREN AND INTEGRITY OF FAMILIES.

(b) THE GENERAL ASSEMBLY HEREBY FINDS THAT MOST FAMILIES DESIRE TO BE COMPETENT CAREGIVERS AND PROVIDERS FOR THEIR CHILDREN AND THAT CHILDREN ACHIEVE THEIR GREATEST POTENTIAL WHEN FAMILIES ARE

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ABLE TO SUPPORT AND NURTURE THE GROWTH AND DEVELOPMENT OF THEIR CHILDREN.

(c) THE GENERAL ASSEMBLY HEREBY DECLARES THAT:

(I) THE MISSION OF THE CHILD PROTECTION SYSTEM SHOULD BE TO WORK IN PARTNERSHIP WITH LOCAL COMMUNITIES TO ENSURE THAT CHILDREN GROW UP IN PERMANENT AND STABLE FAMILIES, FREE FROM ABUSE AND NEGLECT;

(II) MOST FAMILIES SHOULD HAVE THE OPPORTUNITY TO RECEIVE ASSISTANCE ON A VOLUNTARY BASIS IN THE LEAST INTRUSIVE AND MOST POSITIVE MANNER POSSIBLE;

(III) THE BEST METHODS FOR PROTECTING CHILDREN INVOLVE EARLY ASSESSMENT AND FAMILY-CENTERED SUPPORTIVE SERVICES FOR PURPOSES OF FAMILY PRESERVATION OR, WHEN APPROPRIATE, REUNIFICATION;

(IV) COMMUNITIES HAVE A RESPONSIBILITY TO PROVIDE SAFE AND SECURE NEIGHBORHOODS WHERE NEEDED SERVICES AND SUPPORT ARE AVAILABLE AND ACCESSIBLE FOR FAMILY MEMBERS;

(V) REMOVAL OF A CHILD FROM THE HOME MAY STILL BE NECESSARY AND SOME FAMILIES MAY NOT BE WILLING OR ABLE TO BECOME COMPETENT CAREGIVERS QUICKLY ENOUGH WITH RESPECT TO THE CHILD'S SENSE OF TIME AND THE CHILD'S FUNDAMENTAL NEED TO GROW UP IN A FAMILY;

(VI) SERVICES SHOULD ENSURE THAT CHILDREN WHO CANNOT CONTINUE TO LIVE WITH THEIR BIRTH FAMILIES ARE PLACED WITH RELATIVES, WITH

ANOTHER FAMILY, OR IN AN INDEPENDENT LIVING ARRANGEMENT AS SOON AS POSSIBLE WITH RESPECT TO THE CHILD'S SENSE OF TIME.

(2) **Alternative system - principles.** THERE IS HEREBY CREATED A FAMILY SERVICES ALTERNATIVE RESPONSE SYSTEM, REFERRED TO IN THIS SECTION AS THE ALTERNATIVE SYSTEM. THE DEPARTMENT SHALL ADOPT RULES AND PROCEDURES THAT PROVIDE FOR INTERVENTION SERVICES THROUGH THE COUNTY DEPARTMENT BASED ON THE FOLLOWING PRINCIPLES:

(a) A PARTNERSHIP AMONG THE DEPARTMENT AND COUNTY DEPARTMENTS, OTHER AGENCIES, AND LOCAL COMMUNITIES;

(b) THE REDUCTION OF RISK TO CHILDREN THROUGH EARLY ASSESSMENT, EARLY INTERVENTION, AND FAMILY-CENTERED SUPPORTIVE SERVICES FOR THE PURPOSE OF FAMILY PRESERVATION RATHER THAN THE REMOVAL OF CHILDREN FROM THEIR HOMES IN REPORTED CASES OF ABUSE OR NEGLECT; AND

(c) SENSITIVITY TO THE SOCIAL AND CULTURAL DIVERSITY OF THE STATE AND THE INTERESTS AND NEEDS OF LOCAL COMMUNITIES.

(3) **Intervention.** ANY INTERVENTION PURSUANT TO THE ALTERNATIVE SYSTEM SHALL:

(a) ENSURE THE SAFETY OF CHILDREN;

(b) ENGAGE FAMILIES IN CONSTRUCTIVE, SUPPORTIVE, AND NONADVERSARIAL RELATIONSHIPS;

(c) INTRUDE AS LITTLE AS POSSIBLE INTO THE LIFE OF THE FAMILY AND BE FOCUSED ON CLEARLY DEFINED OBJECTIVES; AND

(d) BE BASED ON OUTCOME EVALUATION RESULTS THAT DEMONSTRATE SUCCESS IN SUPPORTING FAMILIES AND PROTECTING CHILDREN.

(4) **Alternative system - initial assessment - type of case.** (a) A CASE MAY BE REFERRED TO THE ALTERNATIVE SYSTEM IF IT APPEARS TO BE A CASE INVOLVING MINOR PHYSICAL ABUSE OR NEGLECT, MILD TO MODERATE ABUSE, NEGLECT, EMOTIONAL ABUSE, EDUCATIONAL NEGLECT, OR FIRST TIME NONSERIOUS ABUSE OR NEGLECT.

(b) UPON RECEIVING A REPORT ALLEGING CHILD ABUSE OR NEGLECT, THE COUNTY DEPARTMENT MAY USE THE ALTERNATIVE SYSTEM TO ADDRESS THE ALLEGATIONS OF THE REPORT IF THE CASE APPEARS TO BE ONE OF THE CASES DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (4) PURSUANT TO DEPARTMENT RULES AND PROCEDURES THAT PROVIDE, AT A MINIMUM, FOR THE FOLLOWING:

(I) THE CASEWORKER SHALL EXPLAIN TO THE CAREGIVER THE PURPOSE OF THE ALTERNATIVE SYSTEM AND THE POSSIBLE OUTCOMES, SERVICES, AND CONSEQUENCES OF THE DEPARTMENT'S RESPONSE;

(II) THE CASEWORKER SHALL PROVIDE HIS OR HER NAME AND OFFICE TELEPHONE NUMBER TO THE CAREGIVER;

(III) THE CAREGIVER SHALL BE INVOLVED TO THE FULLEST EXTENT POSSIBLE IN DETERMINING THE NATURE OF THE ALLEGATION AND THE NATURE OF ANY PROBLEM OR RISK TO THE CHILD; AND

(IV) AN ASSESSMENT OF RISK AND PERCEIVED NEED OF THE CHILD AND FAMILY SHALL BE CONDUCTED IN A MANNER THAT IS SENSITIVE TO THE SOCIAL, ECONOMIC, AND CULTURAL ENVIRONMENT OF THE FAMILY.

(c) BASED ON THE INFORMATION OBTAINED FROM THE CAREGIVER, THE RISK ASSESSMENT INSTRUMENT USED IN CONDUCTING THE ASSESSMENT DESCRIBED IN SUBPARAGRAPH (IV) OF PARAGRAPH (b) OF THIS SUBSECTION (4) MUST BE COMPLETED WITHIN FORTY-EIGHT HOURS AND, IF NEEDED, A CASE PLAN DEVELOPED WITHIN THIRTY DAYS.

(d) THE COUNTY DEPARTMENT SHALL DOCUMENT THE OUTCOME OF ITS INITIAL ASSESSMENT OF RISK AS FOLLOWS:

(I) **Report closed.** SERVICES WERE NOT OFFERED TO THE FAMILY BECAUSE THE RISK TO THE CHILD DOES NOT MEET THE DEPARTMENT CRITERIA FOR SERVICES.

(II) **Service delivery.** SERVICES WERE OFFERED TO AND ACCEPTED BY THE FAMILY.

(III) **Services rejected.** SERVICES WERE OFFERED TO BUT REJECTED BY THE FAMILY.

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(IV) **Protective investigation.** EITHER THE RISK TO THE CHILD'S SAFETY AND WELL-BEING CANNOT BE REDUCED BY THE PROVISION OF SERVICES OR THE FAMILY REJECTED SERVICES AND A PROTECTIVE INVESTIGATION UNDER SECTION 19-4-308 IS NEEDED.

(5) **Case management.** THE COUNTY DEPARTMENT SHALL DESIGNATE A CASE MANAGER AND DEVELOP A FAMILY SERVICES PLAN FOR FAMILIES THAT HAVE ACCEPTED SERVICES.

(6) **Protective investigation.** AT ANY TIME, AS A RESULT OF ADDITIONAL INFORMATION, FINDINGS OF FACT, OR CHANGED CONDITIONS, THE COUNTY DEPARTMENT MAY PURSUE A CHILD PROTECTIVE INVESTIGATION AS PROVIDED IN SECTION 19-4-308.

19-4-314. [Formerly 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 school psychologist and client, which is the basis for a report pursuant to section ~~19-3-304~~ 19-4-304, 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~~ THAT could be the basis for any other report under section ~~19-3-304~~ 19-4-304.

(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.

19-4-315. [Formerly 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~~ 19-4-304 OR 19-4-305, in addition to taking such immediate steps pursuant to sections ~~19-3-401 and 19-3-308 (4)~~ 19-4-401 AND 19-4-308 (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~~ MAY REQUIRE THE COUNTY DEPARTMENT TO 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)~~ 19-4-501 (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~~ 19-4-503.

(3) If the prayer of the petition is granted, the costs of this proceeding, including guardian ad litem and expert witness fees, may be charged by the court against the respondent. If the prayer of the petition is not granted, the costs may be charged against the state of Colorado.

(4) IF A REPORT IS BASED SOLELY ON AN ALLEGATION OF EMOTIONAL ABUSE AS DEFINED IN SECTION 19-4-303 (1) (a) (V), THE COURT MAY ORDER A REPORT TO BE PREPARED BY AN INDEPENDENT MENTAL HEALTH CARE PROVIDER. THE INDEPENDENT MENTAL HEALTH CARE PROVIDER MAY INTERVIEW THE CHILD AND THE ALLEGED PERPETRATOR OF THE ABUSE.

19-4-316. [Formerly 19-3-313.] Central registry. (1) There shall be established a state central registry of child protection in the state department for the purpose of maintaining a registry of information concerning each case of confirmed child abuse reported under this part 3, except as provided in section ~~19-3-305~~ 19-4-305. This shall be the only central registry in this state.

(2) The central registry shall contain but shall not be limited to:

(a) All information in any written report of confirmed child abuse or neglect received under this part 3;

(b) The record of the final disposition of the report, including services offered and services accepted;

(c) The plan for rehabilitative treatment;

(d) The name and identifying data, date, and circumstance of any person requesting or receiving information from the central registry;

(e) Any other information which might be helpful in furthering the purposes of this part 3.

(3) The state board shall appoint, subject to section 13 of article XII of the state constitution, a director of the central registry who shall have charge of said registry. Subject to available appropriations, the director shall equip his OR HER office so that data in the central registry may be made available on a statewide basis during nonbusiness hours through the use of computer technology. The director of the central registry may designate a person to act for the director in performing the functions and duties of the director as set forth in this section. Any reference in this section to the director of the central registry shall include the person designated to act on the director's behalf pursuant to this subsection (3).

(4) Unless an investigation of a report conducted pursuant to this part 3 determines there is a preponderance of evidence to support a finding of abuse or neglect, all information identifying the subject of the report shall be expunged from the central registry forthwith. The decision to expunge the record shall be made by the director of the central registry based upon the investigation made by the county department or the local law enforcement agency.

(5) (a) In all other cases, except as otherwise provided in paragraph (b) of this subsection (5), the record of the reports to the central registry shall be sealed no later than ten years after the child's eighteenth birthday. Once sealed, the record shall not otherwise be available unless the director of the central registry, pursuant to rules promulgated by the state board and upon notice to the subject of the report, gives his OR HER personal approval for an appropriate reason. In any case and at any time, except as otherwise provided in paragraph (b) of this subsection (5) and paragraph (b) of subsection ~~(7)~~ (8) of this section, the director may amend, seal, or expunge any record upon good cause shown and notice to the subject of the report.

(b) No record of a report of sexual abuse shall be sealed pursuant to paragraph (a) of this subsection (5). Such record, however, may be sealed, expunged, or amended pursuant to paragraph (a) of subsection ~~(7)~~ (8) of this section.

(6) (a) EXCEPT AS PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (6), THE DIRECTOR OF THE CENTRAL REGISTRY SHALL SEND A WRITTEN NOTICE TO EACH SUBJECT WHOSE NAME THE DIRECTOR RECEIVES FOR PLACEMENT ON THE CENTRAL REGISTRY. THE NOTICE SHALL INCLUDE THE NAME OF THE CHILD, TYPE OF ABUSE, DATE OF THE INCIDENT, COUNTY DEPARTMENT THAT FILED A REPORT WITH THE REGISTRY, INFORMATION CONCERNING PERSONS OR AGENCIES THAT HAVE ACCESS TO THE REPORT, AND INFORMATION CONCERNING THE

SUBJECT'S RIGHT TO HAVE AN ADMINISTRATIVE REVIEW PURSUANT TO THE PROVISIONS OF THIS SECTION BEFORE HAVING HIS OR HER NAME PLACED ON THE CENTRAL REGISTRY.

(b) THE INITIAL HEARING SHALL BE AT THE COUNTY LEVEL BEFORE A STATE HEARING OFFICER. THE DECISION AT THE COUNTY LEVEL HEARING SHALL BE FINAL AGENCY ACTION FOR PURPOSES OF THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

(c) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO A SUBJECT WHO HAS BEEN CONVICTED OF CHILD ABUSE PURSUANT TO ARTICLE 6 OF TITLE 18, C.R.S., OR A SUBJECT CONCERNING WHOM THERE HAS BEEN AN ADJUDICATION PURSUANT TO SECTION 19-4-505. THE DIRECTOR SHALL PLACE THE NAME OF A SUBJECT WHO HAS BEEN CONVICTED OF CHILD ABUSE PURSUANT TO ARTICLE 6 OF TITLE 18, C.R.S., OR A SUBJECT CONCERNING WHOM THERE HAS BEEN AN ADJUDICATION PURSUANT TO SECTION 19-4-505 ON THE REGISTRY IMMEDIATELY UPON RECEIPT OF THE NOTICE OF THE CONVICTION FROM THE COURT PURSUANT TO SECTION 18-6-405 (2), C.R.S., OR THE NOTICE OF ADJUDICATION FROM THE COURT PURSUANT TO SECTION 19-4-505 (7).

~~(6)~~ (7) (a) The director of the central registry shall send a written notice to each subject placed on the central registry that such subject has been listed on the registry as responsible for child abuse or neglect. Such notice shall include the name of the child, type of abuse, date of the incident, county

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department that filed a report with the registry, information as to persons or agencies that have access to the report, and information concerning the subject's rights and responsibilities in regard to amending, sealing, or expunging the report.

(b) At any time the subject of a report may receive, upon a written notarized request or upon personal request with proof of identification, a report of all information pertinent to the subject's case contained in the central registry, but the director of the central registry is authorized to prohibit the release of data that would identify the person who made the report or who cooperated in a subsequent investigation and that he OR SHE reasonably finds to be detrimental to the safety or interests of such person. A person requesting registry information pursuant to this paragraph (b) shall be assessed a fee ~~which~~ THAT shall be established and collected in accordance with subsection ~~(14)~~ (15) of this section.

(c) At any time, any person may obtain, upon written notarized request or upon personal request with proof of identification, a verification from the state registry that such person is not listed on the registry. A person requesting such verification shall be assessed a fee which shall be established and collected in accordance with subsection ~~(14)~~ (15) of this section.

~~(7)~~ (8) (a) Except as otherwise provided in ~~paragraph (b)~~ PARAGRAPHS (b) AND (c) of this subsection ~~(7)~~ (8), the subject of the report may request the

director to amend, seal, or expunge the record of the report. A request shall be written and shall be made within two years after the date of the mailing of the notice sent to the subject in accordance with paragraph (a) of subsection ~~(6)~~ (7) of this section. The decision to expunge the record shall be made by the director of the central registry based on the investigation made by the county department or the local law enforcement agency AND MAY BE BASED UPON NEWLY DISCOVERED EVIDENCE. If the director refuses or does not act within a reasonable time, but in no event later than thirty days after such request, the subject shall have the right to a fair hearing as provided under the "State Administrative Procedure Act" to determine whether the record of the report in the central registry should be amended, sealed, or expunged on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this part 3. IF THE SUBJECT HAD A HEARING PURSUANT TO SUBSECTION (6) OF THIS SECTION, THE SUBJECT SHALL ONLY BE ENTITLED TO AN EXPUNGEMENT HEARING CONCERNING THE SAME INCIDENT UNDER THIS SUBSECTION (8) BASED ON NEWLY DISCOVERED EVIDENCE. The appropriate county department shall be given notice of the hearing. The burden of proof in such a hearing shall be on the state department. At such hearings, the fact that a county department, law enforcement agency, or entity authorized to investigate institutional abuse made a finding of confirmed child abuse or neglect shall be presumptive evidence that the report was accurate.

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(b) (I) On and after July 1, 1993, a record related to a first-time listing of a subject on the registry and which is based on a minor offense reported on or after July 1, 1991, shall be examined by the director of the central registry and, on the basis of such examination, shall be expunged by said director if two years have lapsed since the date the reported incident was entered into the registry records upon a determination by the director that good cause exists for expunging such record.

(II) On and after July 1, 1991, a record related to a first-time listing of a subject on the registry and which is based on a minor offense reported before said date shall be examined by the director of the central registry upon request by the subject for expungement and, on the basis of such examination, may be expunged by said director if two years have lapsed since the date the reported incident was entered into the registry record upon a determination by the director that good cause exists for expunging such record.

(III) The state department, through rule-making, shall define minor offense and good cause; except that minor offense shall not include any incident involving sexual abuse. Each subject provided a notice in accordance with paragraph (a) of subsection ~~(6)~~ (7) of this section shall be informed about expungement pursuant to this paragraph (b). In addition, each subject shall be notified of the director's decision concerning expungement pursuant to this paragraph (b) no later than ninety days after the expiration of the two years.

A subject denied expungement pursuant to this paragraph (b) may seek to amend, expunge, or seal a record pursuant to paragraph (a) of this subsection ~~(7)~~ (8). Such appeal shall be made no later than ninety days after the date of the mailing to the subject of the notice of denial.

(c) IF A SUBJECT IS ACQUITTED OF CHILD ABUSE PURSUANT TO ARTICLE 6 OF TITLE 18, C.R.S., OR A PETITION IN DEPENDENCY AND NEGLECT UNDER SECTION 19-4-505 IS NOT SUSTAINED, THE SUBJECT'S NAME SHALL BE REMOVED FROM THE REGISTRY ON RECEIPT OF THE NOTICE FROM THE COURT PURSUANT TO SECTION 18-6-405 (2), C.R.S., OR SECTION 19-4-505 (6). THE PROVISIONS OF THIS PARAGRAPH (c) SHALL NOT APPLY TO A SUBJECT WHOSE NAME IS ON THE REGISTRY FOR ANY INCIDENT OTHER THAN THE INCIDENT ON WHICH THE CRIMINAL CHARGE OR PETITION IN DEPENDENCY AND NEGLECT WAS BASED.

~~(8)~~ (9) Any peace officer, level I, or probation officer, who was the subject of a report submitted to the central registry prior to July 1, 1987, for an act as described in section ~~19-3-303 (1) (b)~~ 19-4-303 (1) (b) and who was not criminally prosecuted or administratively disciplined for such act may request the director to expunge the record of such report on the grounds that such act did not constitute child abuse or neglect.

~~(9)~~ (10) Written notice of any amendment, sealing, or expungement made pursuant to the provisions of this part 3 shall be given to the subject of such report and to the appropriate county department. The county department,

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upon receipt of such notice, shall take similar action regarding such information in its files. Any other provision of the law to the contrary notwithstanding, upon written notice of an expungement order, the director shall forthwith cause such records in the central registry to be destroyed.

(10) (11) Any person who willfully permits or who encourages the release of data or information contained in the central registry to persons not permitted access to such information by this part 3 commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

(11) (12) The central registry shall adopt such rules and regulations as may be necessary to encourage cooperation with other states and the national center on child abuse and neglect.

(12) (13) Any person who is permitted access to the state central registry of child protection for the purpose of investigation pursuant to this part 3 shall provide the following information before access shall be allowed:

- (a) The name of the child or the suspected perpetrator;
- (b) The name of the county in which the child resides;
- (c) The reason that such access is necessary to assist in the investigation;

and

(d) The name of the individual seeking such access and the agency he OR SHE represents.

(13) (14) Any final action undertaken to deny the request for expungement of the record of the report pursuant to the fair hearing provisions of subsection (7) (8) of this section may be reviewed pursuant to the provisions of section 24-4-106, C.R.S.

(14) (15) Any person or agency provided central registry information in accordance with this section or section ~~19-1-120~~ 19-1-124 (2) (d), (2) (e), (2) (i), and (2) (k) to (2) (o) shall be assessed a fee ~~which~~ THAT shall not exceed the direct and indirect costs of administering such sections. All fees collected in accordance with this subsection (14) (15) shall be transmitted to the state treasurer who shall credit the same to the central registry fund which is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of administering the statutory provisions cited in this subsection (14) (15).

~~19-3-314. Confidentiality of records. (Repealed)~~

19-4-317. [Formerly 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~~ THAT are available for the implementation of programs ~~which~~ THAT would further the purposes of this part 3.

19-4-318. [Formerly 19-3-316.] Restraining orders and emergency.
(1) The county department or local law enforcement agency receiving a report under section ~~19-3-304 or 19-3-305~~ 19-4-304 OR 19-4-305, in addition to

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taking such immediate steps pursuant to sections ~~19-3-401 and 19-3-308~~ (4) 19-4-401 AND 19-4-308 (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) 19-4-501 (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~~ 19-4-503.

(3) If the prayer of the petition is granted, the costs of this proceeding, including guardian ad litem and expert witness fees, may be charged by the court against the respondent. If the prayer of the petition is not granted, the costs may be charged against the state of Colorado.

19-4-319. [Formerly 19-3.5-104.] Colorado children's trust fund board - creation - assistance from Colorado state university - members.

(1) There is hereby created, in the department of higher education, the Colorado children's trust fund board. The board shall exercise its powers and

duties as if the same were transferred by a type 2 transfer. The board may contract with the department of social work of Colorado state university for administrative and technical support for the board in carrying out its duties and functions.

(2) The board shall consist of ~~nine~~ TEN members, as follows:

(a) The executive director of the department of ~~human services~~ or his OR HER designee;

~~(a-5)~~ (b) The executive director of the department of public health and environment or such director's designee;

~~(b)~~ (c) The commissioner of education or his OR HER designee; and

~~(c)~~ (d) ~~Six~~ SEVEN 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~~ TWO who shall be ~~a parent or a representative of a parent organization~~ PARENTS.

(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.

19-4-319. [Formerly 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 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~~ THAT are received from the trust fund;

(c) To review and monitor the expenditure of moneys by recipients;

(d) To prepare an annual report to the general assembly on the board's activities ~~which~~ THAT include periodic evaluations of the effectiveness of the prevention programs funded by the trust fund;

(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 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~~ THAT are consistent with the purposes for which the board was created and ~~which~~ THAT are reasonably necessary for the fulfillment of the board's responsibilities;

(i) To contract with an independent auditor for a yearly financial audit. Copies of this audit shall be sent to the state auditor, members of the joint budget committee, and the ~~chairmen~~ CHAIRPERSONS of the senate and house health, environment, welfare and institutions committees. Moneys in the trust fund shall be expended for the yearly financial audit.

(j) To establish a classification system for potential recipients based upon need, and the board shall award grants to those classified most needy.

19-4-320. [Formerly 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~~ THAT shall be transferred thereto in accordance with section 14-2-106 (1) (a), C.R.S.; and

(b) All moneys collected by the board pursuant to section ~~19-3.5-105 (1)~~ (e) 19-4-320 (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.

19-4-322. [Formerly 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 prevention programs, including pilot programs and home visitation programs, to provide educational and public informational seminars, and to study and evaluate 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 one-half of the moneys credited to the trust fund each

year pursuant to section 14-2-106 (1) (a), 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 14-2-106 (1) (a), 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)~~ 19-4-320 (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)~~ 19-4-320 (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)~~ 19-4-321 (1) (b) shall not be subject to the disbursement restriction of paragraph (a) of subsection (2) of this section.

PART 4

TEMPORARY CUSTODY AND SHELTER

19-4-401. [Formerly 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; 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.

~~(1-5)~~ (2) 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)~~ (3) The taking of a child into temporary custody under this section shall not be deemed an arrest, nor shall it constitute a police record.

19-4-402. [Formerly 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 OR HER 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) The child shall then be released to the care of his 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,

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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.

(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 OR HER name, age, residence, and other necessary information and to contact his OR HER parents, guardian, or legal custodian.

(b) If he OR SHE is not released as provided in subsection (2) of this section, he OR SHE 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 OR SHE has been taken. He OR SHE 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.

19-4-403. [Formerly 19-3-403.] Temporary custody - hearing - time limits - restriction. (1) A child who must be taken from his OR HER 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 OR SHE 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 OR HER 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)~~ (3) When temporary custody is placed with the county department of social pursuant to this section, the court shall hold a hearing to determine further custody of the child within seventy-two hours, excluding Saturdays, Sundays, and court holidays. Such a hearing need not be held if a hearing has previously been held pursuant to subsection (2) of this section.

~~(3.6)~~ (4) 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. The court may consider and give preference to giving temporary custody to the child's grandparent who is appropriate, capable, willing, and available for care if in the best interests of the child and 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. 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 shall make a finding that reasonable efforts have been made to prevent unnecessary out-of-home placement if the evidence supports such a finding. In the alternative, if the evidence supports such a

finding, the court shall make a finding that the child is seriously endangered and an emergency situation exists which makes it reasonable not to make reasonable efforts to prevent the removal of such child.

~~(3.7)~~ (5) 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 OR HER residence.

~~(4)~~ (6) (a) If it appears that any child being held in a shelter facility may be developmentally disabled, as provided in article 10.5 of title 27, C.R.S., 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 may be mentally ill, as provided in sections 27-10-105 and 27-10-106, C.R.S., the intake personnel or other appropriate personnel shall contact a mental health professional to do a mental health prescreening on the child. The court shall be notified of the contact and may take appropriate action. If a mental health 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 prescreening shall not extend the time within which a hearing shall be held pursuant to this section. If a hearing has been set but has not yet occurred, the mental health prescreening shall be conducted prior to the hearing; except that the

prescreening shall not extend the time within which a hearing shall 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 be mentally ill, as provided in section 27-10-105 or 27-10-106, C.R.S., the intake personnel or other appropriate personnel shall contact the court with a recommendation for a mental health prescreening. A mental health 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) When the mental health professional finds, as a result of the prescreening, that the child may be mentally ill, the mental health professional shall recommend to the court that the child be evaluated pursuant to section 27-10-105 or 27-10-106, C.R.S., and the court shall proceed as provided in section 19-3-506 19-4-506.

(d) Nothing in this subsection (4) (6) shall be construed to preclude the use of emergency procedures pursuant to section 27-10-105 (1), C.R.S.

(5) (7) The court may, at any time, order the release of any child being held pursuant to section 19-3-401 19-4-401 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) (8) (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) (9) The court may also issue temporary orders for legal custody as provided in section 19-1-115 19-1-117.

(8) (10) 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.

19-4-404. [Formerly 19-3-404.] Temporary shelter - child's home. The court may find that it is not necessary to remove a child from his OR HER 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.

19-4-405. [Formerly 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. 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) Such 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 his OR HER place of residence or in the care and custody of the person responsible for his care and custody would present a danger to that child's life or health in the reasonably foreseeable future.

(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 shall not exceed seventy-two hours, excluding Saturdays, Sundays, and court holidays.

PART 5

PETITION, ADJUDICATION, DISPOSITION

19-4-501. [Formerly 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) (1) Make whatever informal adjustment is practicable without a petition if:

(A) The child and his OR HER 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~~ 19-4-304 (2) indicating that a child has suffered abuse as defined in section ~~19-3-303~~ 19-4-303 and that the best interests of the child require that he OR SHE 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.

(3) UPON APPLICATION TO THE COURT BY A CHILD'S PHYSICAL CUSTODIAN, THE COURT SHALL ORDER THE COUNTY DEPARTMENT OF SOCIAL SERVICES TO FILE A PETITION IN DEPENDENCY AND NEGLECT WHERE THERE IS CREDIBLE EVIDENCE THAT THE CHILD'S PARENTS HAVE ABANDONED THE CHILD FOR A PERIOD OF SIX MONTHS OR MORE.

19-4-502. [Formerly 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~~ THAT 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 OR HER parents, guardian, custodian, legal custodian, stepparent, or spousal equivalent or of his OR HER nearest known relative if no parent, guardian, custodian, legal custodian, stepparent, or spousal equivalent is known.

~~(2.5)~~ (3) 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~~ THAT precluded the use of services to prevent out-of-home placement of the child. The petition shall be verified.

~~(3)~~ (4) 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 eighteen months or longer, the court shall hold a permanency planning hearing no later than eighteen months to determine the future status or placement of 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~~ 19-1-117 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)~~ (5) 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)~~ (5) 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) (6) 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) (7) A person may be named as a special respondent on the grounds that he OR SHE 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 OR SHE is given notice by a service of summons and a copy of the petition or motion describing the reasons for his OR HER 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 OR HER 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 OR HER own expense.

19-4-503. [Formerly 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 OR HER 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 OR HER 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 OR HER place of residence is not known or when he OR SHE 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.

19-4-505. [Formerly 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~~

19-1-126, if the child is under six years of age at the time a petition is filed in accordance with section ~~19-3-501 (2)~~ 19-4-501 (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 be mentally ill or developmentally disabled as these terms are defined in articles 10 and 10.5 of

title 27, C.R.S., paragraphs (a) to (c) of this subsection (4) shall not apply, and the court shall proceed under section ~~19-3-506~~ 19-4-506.

(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 parents, guardian, or legal custodian shall also be discharged from any restriction or other previous temporary order. NOTICE



THAT THE PETITION WAS NOT SUSTAINED SHALL BE SENT TO THE DIRECTOR OF THE CENTRAL REGISTRY CREATED IN SECTION 19-4-316.

(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.

NOTICE THAT THE PETITION WAS SUSTAINED SHALL BE SENT TO THE DIRECTOR OF THE CENTRAL REGISTRY CREATED IN SECTION 19-4-316.

(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~~, 19-1-126 if the child is under six years of age at the time a petition is filed in accordance with section ~~19-3-501 (2)~~ 19-4-501 (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.

19-4-506. [Formerly 19-3-506.] Mentally ill child or child with developmental disabilities - procedure. (1) (a) If it appears from the evidence presented at an adjudicatory hearing or otherwise that a child may have developmental disabilities, as defined in article 10.5 of title 27, C.R.S., 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, C.R.S.

(b) If it appears from the evidence presented at an adjudicatory hearing or otherwise that a child may be mentally ill, as defined in sections 27-10-105 and 27-10-106, C.R.S., and the child has not had a mental health prescreening pursuant to section ~~19-3-403 (4)~~ 19-4-403 (6), the court shall order a prescreening to determine whether the child requires further evaluation. Such prescreening shall be conducted as expeditiously as possible, and a prescreening report shall be provided to the court within twenty-four hours of the prescreening, excluding Saturdays, Sundays, and legal holidays.

(c) When the mental health professional finds, based upon a prescreening done pursuant to section ~~19-3-403 (4)~~ 19-4-403 (6) or under this section, that the child may be mentally ill, as defined in sections 27-10-105 and 27-10-106, C.R.S., 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 27-10-105 or 27-10-106, C.R.S. 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) shall be completed within seventy-two hours, excluding Saturdays, Sundays, and legal holidays. Neither a county jail nor a detention facility, as described in article 2 of this title, shall be considered a suitable facility for evaluation, although a mental health prescreening may be conducted in any appropriate setting.

(e) If the mental health professional finds, based upon the prescreening, that the child is not mentally ill, 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 illness, and the court may order additional prescreenings as deemed appropriate. No order for a seventy-two-hour treatment and evaluation shall 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 from a mental health professional ~~which~~ THAT indicates that mental illness 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 shall specify the person or agency to whom the child shall be released when the evaluation indicates that the child is not mentally ill.

(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~~ THAT 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 is mentally ill, as defined in sections 27-10-105 and 27-10-106, C.R.S., the court shall treat the evaluation report as a certification under section 27-10-107, C.R.S., and shall proceed pursuant to article 10 of title 27, C.R.S., 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 is not mentally ill or does not have developmental disabilities, 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 shall 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 is not mentally ill or does not have developmental disabilities, the court shall set a time for resuming the hearing on the petition or any other pending matters.

19-4-507. [Formerly 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~~ 19-1-109.

(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 ~~which~~ THAT details the services ~~which~~ 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 which, 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.

(2) If the court has reason to believe that the child may have developmental disabilities, 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, C.R.S. If the court has reason to believe that the child may be mentally ill, the court shall order a mental health prescreening to be conducted in any appropriate place.

(3) (a) Except as provided in section ~~19-3-508~~ (1) 19-4-508 (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 if continued placement is necessary and is in the best interests of the child 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 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 ~~19-3-701~~ (6) 19-4-701.

(5) GRANDPARENTS, RELATIVES, FOSTER PARENTS, OR OTHER INTERESTED PARTIES 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.

19-4-508. [Formerly 19-3-508.] Neglected or dependent child - disposition. (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~~ 19-1-126, if the child is under six years of age at the time a petition is filed in accordance with section ~~19-3-501~~ (2) 19-4-501 (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 decree does not terminate the parent-child legal relationship, the court shall approve an appropriate treatment plan ~~which~~ THAT shall include but not be limited to one or more of the following provisions of paragraphs (a) to (d) of this subsection (1):

(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~~ 19-1-126, if the child is under six years of age at the time a petition is filed in accordance with section ~~19-3-501~~ ~~(2)~~ 19-4-501 (2) and is placed with a parent or guardian who is a named respondent in a petition filed pursuant to section ~~19-3-502~~ 19-4-502, 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)~~ 19-1-109 (3).

(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 family care home or other child care facility.

(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 no child may be placed in a mental health facility operated by the department of human services until the child has received a mental health prescreening resulting in a recommendation that the child be placed in a facility for evaluation pursuant to section 27-10-105 or 27-10-106, C.R.S., or a hearing has been held by the court after notice to all parties, including the department of human services. No order for a seventy-two-hour treatment and evaluation shall 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 which indicates that mental illness 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) 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 subsection (4) of this section and the parents cannot be located.~~

(II) "~~Appropriate treatment plan~~", as used in this paragraph (e), means a ~~treatment plan approved by the court which~~ THAT is reasonably calculated to ~~render the particular respondent fit to provide adequate parenting to the child within a reasonable time and which~~ THAT relates to the child's needs.

(2) Before a disposition other than that provided in paragraph (a) of subsection (1) of this section is made, it shall be made to appear 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.

(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)~~ (b), (d), or (e) of subsection (1) of this section that the court finds appropriate.

~~(b-5)~~ (c) 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.

~~(e)~~ (d) 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) When a child has been adjudicated neglected or dependent because the child has been abandoned by the child's parent or parents, the court may enter a decree terminating the parent-child legal relationship if it finds one of the following:

(a) That the parent or parents have surrendered physical custody for a period of six months and, during this period, have not manifested to the child, the court, or the person having physical custody a firm intention to resume or obtain physical custody or to make permanent legal arrangements for the care of the child;

(b) That the identity of the parent or parents of the child is unknown and has been unknown for a period of ninety days and that reasonable efforts to identify and locate the parents in accordance with section ~~19-3-603~~ 19-4-603 have failed.

(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 OR HER parents whenever practicable.

(b) 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 which 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~~ 19-1-109. If the court places the child 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 child 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 report monthly to the joint budget committee and annually to the general assembly on such placements.

(6) The court may grant a new hearing as provided in the Colorado rules of juvenile procedure.

PART 6

TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP

19-4-601. [Formerly 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".

19-4-602. [Formerly 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.

(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~~ 19-1-107. Advisement of right to counsel 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)~~ 19-1-106 (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.

19-4-603. [Formerly 19-3-603.] Notice - abandonment. Before a termination of the parent-child legal relationship based on abandonment can be ordered under any of the criteria set forth in section ~~19-3-508 (4)~~ 19-4-508 (4), 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.

19-4-604. [Formerly 19-3-604.] Criteria for termination. (1) The court may order a termination of the parent-child legal relationship upon the finding 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~~ THREE 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 ~~19-3-701~~(1) 19-4-701 (1);

(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~~ 19-4-603 have failed; AND

(III) THAT THE CHILD EITHER VOLUNTARILY OR INVOLUNTARILY HAS BEEN PLACED OF THE CARE OF THE PARENT OR PARENTS FOR A PERIOD OF THREE MONTHS OR MORE AND DURING SUCH TIME THE PARENT OR PARENTS HAVE FAILED TO MAINTAIN CONTACT WITH EITHER THE CHILD, THE COURT, OR THE COUNTY DEPARTMENT IN SUCH A MANNER AS TO MANIFEST A FIRM INTENTION TO RESUME PHYSICAL CUSTODY OF THE CHILD OR TO MAKE PERMANENT LEGAL ARRANGEMENTS FOR THE CARE OF THE CHILD. LETTERS, TELEPHONE CALLS, OR THIRD PARTY MESSAGES SHALL NOT SUBSTITUTE FOR ACTIVE WORK ON BEHALF OF THE PARENT TO ESTABLISH OR MAINTAIN A RELATIONSHIP WITH THE CHILD.

(b) That the child is 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. In making such

a determination, the court shall find one of the following as the basis for unfitness:

(I) Emotional illness, mental illness, or mental deficiency 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 a gravely disabling 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~~ 19-1-126, if the child is under six years of age at the time a petition is filed in accordance with section ~~19-3-501~~(2) 19-4-501 (2), the long-term confinement of the parent of such duration that the parent is not eligible for parole OR RELEASE for ~~at least thirty six months after~~ A PERIOD OF ONE-HALF THE CHILD'S LIFE AS OF the date the child was adjudicated dependent or neglected, BUT NOT LESS THAN SIX MONTHS AND NOT TO EXCEED THREE YEARS IN ANY CASE, 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) Gravely disabling injury or death of a sibling due to proven parental abuse or neglect;

(V) A RECENT AND CHRONIC HISTORY OF THE PARENT'S SERIOUS EMOTIONAL OR MENTAL HEALTH PROBLEMS THAT ARE NOT TREATABLE, OR A HISTORY OF FAILING TO PARTICIPATE IN APPROPRIATE TREATMENT;

(VI) PREVIOUS INCIDENTS OF ABUSE AND NEGLECT TO OTHER CHILDREN THAT RESULTED IN A DEATH, TERMINATION OF PARENTAL RIGHTS, OR LONG-TERM OUT-OF-HOME CARE AND TREATMENT EFFORTS THAT HAVE FAILED TO PREVENT SUBSEQUENT HARM TO CHILDREN BORN LATER.

(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)~~ 19-4-508 (1) (e), that an appropriate treatment plan could not be devised. In a county designated pursuant to section ~~19-1-123~~ 19-1-126, if a child is under six years of age at the time a petition is filed in accordance with section ~~19-3-501 (2)~~ 19-4-501 (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, court-appointed special advocate, 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 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 gravely disabling injury or disfigurement of the child;

(e) Excessive use of intoxicating liquors or controlled substances, as defined in section 12-22-303 (7), 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;

(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.

(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 OR HER 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.

19-4-605. [Formerly 19-3-605.] Request for placement with family members. Following an order of termination of the parent-child legal relationship, the court shall consider, but shall not be bound by, a request that guardianship and legal custody of the child be placed in a grandparent, aunt, uncle, brother, or sister of the child. When ordering guardianship of the person and legal custody of the child, the court shall give preference to a grandparent, aunt, uncle, brother, or sister of the child when such relative has made a 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 seeking termination of the parent-child legal relationship. 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.

19-4-606. [Formerly 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 ~~19-1-122~~ 19-1-125.

(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.

19-4-607. [Formerly 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 court's review and approval, shall be paid by the state of Colorado pursuant to section ~~19-3-610~~ 19-4-610.

(2) All ordered evaluations shall be made available to counsel at least fifteen days prior to the hearing.

19-4-608. [Formerly 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~~ THAT 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 OR HER 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 OR SHE any right to object to the adoption or to otherwise participate in such proceedings.



19-4-609. [Formerly 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~~ 19-4-610.

19-4-610. [Formerly 19-3-610.] Budgetary allocation for expenses. The general assembly shall make annual appropriations to the office of the state court administrator for the purpose of meeting the expenses of sections ~~19-3-607 (1) and 19-3-609 (2)~~ 19-4-607 (1) AND 19-4-609 (2).

~~**19-3-611. Review of decisions regarding placement of children.**~~
(Repealed)

PART 7

REVIEW OF PLACEMENT

19-4-701. [Formerly 19-3-701.] Petition for review of need for placement. (1) Whenever it appears necessary that the placement of a child out of the home will be for longer than ninety days, which placement is voluntary and not court-ordered and which placement involves the direct expenditure of funds appropriated by the Colorado 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 such 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, physical, or intellectual disability which necessitates care and treatment of a longer duration than ninety days as provided pursuant to this subsection (1). The court shall not transfer or require relinquishment of legal custody of or otherwise terminate the parental rights with respect to a child with such an emotional, physical, or intellectual disability 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 is consenting to placement in a mental health facility pursuant to section 27-10-103, C.R.S., the review under section 27-10-103 (3.3), C.R.S., shall be conducted in lieu of and shall fulfill the requirements for review under this subsection (1).

(2) (a) The petition and all subsequent court documents in any proceedings brought under subsection (1) of this section 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.

(b) The petition shall set forth plainly the facts ~~which~~ 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 such placement is necessary for a time exceeding ninety days and continuation of such placement is necessary and is in the best interest of the child and the community. The petition shall also state the name, age, and residence of the child and the names and residences of his parents, guardian, or other legal custodian or of his nearest known relative if no parent, guardian, or other legal custodian is known.

(c) All petitions filed pursuant to this section shall include the following statement: "If the child is placed out of the home for a period of eighteen months or longer, the court shall hold a permanency planning hearing 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)~~ 19-1-117 (4) (a) 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."

(3) 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~~ 19-4-502 and be dealt

with in the manner provided in section ~~19-3-503~~ 19-4-503 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, and 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 section shall require the presence of any person before the court unless the court so directs.

(4) 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.

(5) 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 ~~which~~ 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 ~~which~~ THAT contains, at a minimum, the goals to be achieved by the placement, the services ~~which~~ THAT are to be provided, their intensity, duration, and provider, and identification of the services ~~which~~ 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 the parents pursuant to section ~~19-1-115 (4) (d)~~ 19-1-117 (4) (d). In addition, if a change in legal custody is recommended, the evaluation for placement shall include other alternatives ~~which~~ THAT have been explored and the reason for their rejection, and the evaluation for placement shall contain an explanation of any particular placements which were considered and not chosen and the reason for their rejection.

(6) The petition for review of need for placement shall request the court to determine, by a preponderance of the evidence, if placement or continued placement is necessary and is in the best interest of the child and of the community. If the court makes such a finding, it shall enter a decree ordering the child's placement out of the home in the facility or setting ~~which~~ 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~~ 19-1-109 or the evaluation for placement required by subsection (5) of this section. If the

evaluation for placement recommends placement in a facility located in Colorado ~~which~~ THAT can provide appropriate treatment and ~~which~~ THAT will accept the child, then the court shall not place the child in a facility outside this state. If the court places the child 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~~ THAT 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 child 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 report monthly to the joint budget committee and annually to the general assembly on such placements. 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 subsection (6) 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 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 subsection (6).

(7) No petition for review of need for placement shall be handled as an informal adjustment in accordance with the provisions of section ~~19-3-501~~ (2) 19-4-501.

19-4-702. [Formerly 19-3-702.] Permanency planning hearing. (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 planning hearing if a child cannot be returned home under section ~~19-1-115 (4) (b)~~ 19-1-117 (4)(b) for the purpose of making a determination regarding the future status of the child. Such permanency planning hearing shall be held as soon as possible following the dispositional hearing but shall be held no later than eighteen months after the original placement and from time to time as deemed necessary by the court; except that, in a county designated pursuant to section ~~19-1-123~~ 19-1-126, if the child is under six years of age at the time a petition is filed in accordance with section ~~19-3-501 (2)~~ 19-4-501 (2), such permanency planning hearing shall be held no later than three months after the decree of disposition of the child. The permanency planning hearing shall be combined with the six-month review as provided for in section ~~19-1-115 (4) (e)~~ 19-1-117 (4) (c).

(2) When the court schedules a permanency planning 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 to the parents and all parties, including the director of the facility or agency in which the child is placed, and any person who has physical custody of the child. 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 planning hearing as required in this section.

~~(2.5)~~ (3) At a permanency planning hearing held in a county designated pursuant to section ~~19-1-123~~ 19-1-126, if the child is under six years of age at the time a petition is filed in accordance with section ~~19-3-501 (2)~~ 19-4-501 (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~~ 19-4-604 have not yet been met.

~~(3)~~ (4) Except as provided in subsection ~~(2.5)~~ (3) of this section, at the permanency planning hearing, the court shall first determine whether the child should be returned to the child's parent or guardian, pursuant to section ~~19-1-115 (4) (b)~~ 19-1-117 (4) (b). 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 planning hearing.

~~(4)~~ (5) 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, continue in foster care for a specified period, remain in foster care on a permanent or long-term basis because of special needs or circumstances, be placed for adoption, be placed in legal guardianship or guardianship of the person, or be considered for emancipation or independent living.

~~(5)~~ (6) 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~~ 19-5-204, 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~~ 19-4-604 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) 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 continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress ~~which~~ THAT has been made toward alleviating or mitigating the causes necessitating placement in foster care and shall project a likely date by which the child may be returned to the home, placed for adoption, legal guardianship or guardianship of the person, or be placed in another permanent placement setting.

(7) ~~(Deleted by amendment, L. 93, p. 390, 4, effective April 3, 1993.)~~

~~(8)~~ (7) 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.

19-4-703. [Formerly 19-3-703.] Permanent home. In a county designated pursuant to section ~~19-1-123~~ 19-1-126, if a child is under six years of age at the time a petition is filed in accordance with section ~~19-3-501~~ (2) 19-4-501 (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 19-3-101 (1), were made to find the child an appropriate permanent home and such a home is not currently available or that the child's mental and/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. 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.

ARTICLE 5

Relinquishment and Adoption

PART 1

RELINQUISHMENT

19-5-101. [Formerly 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.

19-5-102. [Formerly 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)~~ 19-1-106 (1) (d); or
- (b) Proceedings under section ~~19-5-105~~ 19-5-107.

(2) No parent shall relinquish the parent-child legal relationship with a child other than in accordance with the provisions of this article.

19-5-103. [Formerly 19-5-102.] Venue. 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.

19-5-104. [Formerly 19-5-103.] Relinquishment procedure - petition - hearings. (1) Any parent desiring to relinquish his OR HER child shall:

(a) Obtain AT LEAST FOUR HOURS OF FACE-TO-FACE counseling OVER A PERIOD OF THREE WEEKS, OR SUCH ADDITIONAL COUNSELING 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;

(b) (I) Petition the juvenile court upon STANDARDIZED forms ~~supplied~~ APPROVED by the court 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 an affidavit indicating the nature and extent of counseling furnished to the petitioner, if any, and the recommendations of the counselor. THE AFFIDAVIT OF RELINQUISHMENT COUNSELING SHALL BE A STANDARDIZED FORM APPROVED BY THE COURT AND SHALL INCLUDE A COPY OF THE ORIGINAL BIRTH CERTIFICATE OR A COPY OF THE APPLICATION THEREFOR. If the petitioner has not received the counseling required by paragraph (a) of this subsection (1), the petition shall be continued, and the petitioner shall be referred for counseling by the court.

(III) THE PETITION SHALL ALSO BE ACCOMPANIED BY A STANDARDIZED AFFIDAVIT APPROVED BY THE COURT DISCLOSING ANY AND ALL PAYMENTS, GIFTS, ASSISTANCE, GOODS, OR SERVICES RECEIVED, PROMISED, OR OFFERED TO THE RELINQUISHING PARENT IN CONNECTION WITH THE PREGNANCY, BIRTH, AND PROPOSED RELINQUISHMENT OF THE CHILD AND THE SOURCE OR SOURCES OF SUCH PAYMENTS, GIFTS, ASSISTANCE, GOODS, OR SERVICES.

(IV) IN PROPOSED RELATIVE ADOPTIONS, AS PART OF THE RELINQUISHMENT COUNSELING REPORT AND RECOMMENDATIONS TO THE COURT AND PRIOR TO ANY ORDER OF RELINQUISHMENT, THE DEPARTMENT OR THE LICENSED ADOPTION AGENCY SHALL CONDUCT A PRELIMINARY INVESTIGATION OF THE POTENTIAL ADOPTIVE PARENTS AND PREPARE A CHILD PLACEMENT PLAN. THE PRELIMINARY INVESTIGATION SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, A BRIEF FAMILY HISTORY, A BACKGROUND CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION, AND CONFIRMATION THAT THE RELATIVE REQUESTING TO ADOPT THE CHILD TO BE RELINQUISHED DOES NOT APPEAR ON THE CENTRAL CHILD ABUSE REGISTRY.

~~(1.5)~~ (2) THE COUNSELING SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND PROVIDED BY THE DEPARTMENT SHALL ADDRESS THE FOLLOWING:



(a) INFORMATION TO THE PARENTS CONCERNING THE PERMANENCE OF THE DECISION AND THE IMPACT OF SUCH DECISION ON THE RELINQUISHING PARENT NOW AND IN THE FUTURE;

(b) INFORMATION CONCERNING THE PARENTS' COMPLETE MEDICAL AND SOCIAL HISTORIES;

(c) IN THE CASE OF PREGNANCY, REFERRAL OF THE PREGNANT PARENT 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 MOTHER THAT IF SHE APPLIES FOR PUBLIC ASSISTANCE FOR HERSELF AND THE CHILD, 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 OBTAINED BY THE DEPARTMENT IN THE COURSE OF RELINQUISHMENT COUNSELING UNLESS THE PARENT PROVIDES WRITTEN PERMISSION OR A RELEASE OF INFORMATION IS LEGALLY SANCTIONED.

(2) (3) Upon receipt of the petition, 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.

(3) (4) (a) 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, ADOPTION AGENCY, AND DEPARTMENT SHALL PROVIDE TO THE COURT ANY AND ALL INFORMATION AVAILABLE TO SUCH RELINQUISHING PARENT, AGENCY, OR DEPARTMENT CONCERNING THE FOLLOWING:

- (I) THE PHYSICAL DESCRIPTION OF THE CHILD'S BIRTH PARENTS;
- (II) THE EDUCATIONAL BACKGROUND OF THE CHILD'S BIRTH PARENTS;
- (III) THE OCCUPATION OF THE CHILD'S BIRTH PARENTS;
- (IV) GENETIC INFORMATION ABOUT THE CHILD'S BIRTH FAMILY;
- (V) MEDICAL INFORMATION ABOUT THE BIRTH PARENTS AND THE CHILD TO BE RELINQUISHED;
- (VI) SOCIAL INFORMATION ABOUT THE CHILD'S BIRTH PARENTS; AND
- (VII) THE PLACEMENT HISTORY OF THE CHILD TO BE RELINQUISHED.

(4) (5) The court shall not issue an order of relinquishment until it is satisfied that the relinquishing parent and the child, if ~~twelve~~ THREE years of age or older, have been counseled pursuant to subsection (1) of this section

and fully advised of the consequences of the parent's act. THE COURT MAY ORDER COUNSELING FOR A CHILD YOUNGER THAN THREE YEARS OF AGE IF THE COURT DEEMS SUCH COUNSELING TO BE IN THE CHILD'S BEST INTERESTS.

~~(5)~~ (6) If the court ~~believes~~ FINDS after the hearing that it is in the best interests of the ~~parties concerned, including the~~ child that no relinquishment be granted, the court shall enter an order dismissing the action.

~~(6)~~ (7) (a) THE COURT SHALL ENTER AN ORDER OF RELINQUISHMENT if the court is satisfied AND FINDS after the hearing that:

(I) The relinquishing parent or parents and the child, if ~~twelve~~ THREE years of age or older, have been counseled as provided in subsection (1) of this section: and ~~that~~

(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 ~~all parties concerned, including the child, it shall enter an order of relinquishment~~ THE CHILD TO BE RELINQUISHED.

(b) IT SHALL BE A REBUTTABLE PRESUMPTION THAT A RELINQUISHMENT WOULD NOT BE IN THE CHILD'S BEST INTERESTS IF SUCH CHILD IS TWELVE YEARS OF AGE OR OLDER AND OBJECTS TO THE RELINQUISHMENT.

~~(7)~~ (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.

~~(8)~~ (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 ~~(8)~~ (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.

~~(9)~~ (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.



~~(10)~~ (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.

~~(11)~~ (12) THE PROVISIONS OF THIS SECTION, INCLUDING BUT NOT LIMITED TO RELINQUISHMENT COUNSELING, NOTIFICATION, AND THE RELINQUISHMENT HEARING, SHALL APPLY IN ALL CASES INVOLVING CHILDREN IN COLORADO OR FOR WHOM COLORADO IS THE HOME STATE OF THE CHILD AS DESCRIBED IN SECTION 14-13-103 (5), C.R.S., INCLUDING CASES IN WHICH IT IS PROPOSED THAT THE CHILD TO BE RELINQUISHED WILL BE RELINQUISHED OR ADOPTED OUTSIDE THE STATE OF COLORADO.

19-5-105. Ongoing contact - agreements - orders - enforcement.

(1) (a) THE RELINQUISHING PARENT AND THE PROPOSED ADOPTING PARENT SHALL DISCLOSE TO THE COURT IN WRITING AT THE TIME OF THE RELINQUISHMENT HEARING ANY AGREEMENTS THEY HAVE REACHED CONCERNING THE EXCHANGE OF INFORMATION SUCH AS PICTURES, SCHOOL OR

MEDICAL REPORTS, OR ANY SUCH OTHER NONPHYSICAL CONTACT ON AN ONGOING BASIS CONCERNING THE CHILD TO BE ADOPTED.

(b) ANY AGREEMENTS THAT HAVE BEEN DISCLOSED TO THE COURT IN WRITING PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE ENFORCEABLE AS PART OF THE DECREE OF ADOPTION IF THE COURT FINDS THAT SUCH AGREEMENTS ARE NOT CONTRARY TO THE CHILD'S BEST INTERESTS.

(c) THE TERMS OF SUCH AGREEMENTS MAY BE MODIFIED BY THE COURT UPON THE MOTION OF ANY PARTY IF SUCH MODIFICATION IS IN THE BEST INTERESTS OF THE CHILD.

(d) AGREEMENTS FOR ONGOING CONTACT OR INFORMATION CONCERNING THE ADOPTED CHILD PURSUANT TO THIS SECTION SHALL NOT IN ANY WAY DIMINISH THE ADOPTIVE PARENTS' RIGHTS TO RAISE THE CHILD. THE COURT SHALL INTERPRET ALL AGREEMENTS CONCERNING THE ONGOING SHARING OF INFORMATION OR CONTACT CONCERNING AN ADOPTED CHILD SO AS TO PRESERVE THE RIGHT OF THE ADOPTIVE PARENT TO RAISE THE CHILD WITHOUT INTERFERENCE.

(2) (a) THE COURT SHALL HAVE DISCRETION TO RECEIVE EVIDENCE AND ENTER ORDERS CONCERNING WHETHER CONTACT, INCLUDING BUT NOT LIMITED TO LETTERS, TELEPHONE CALLS, AND VISITS BETWEEN THE CHILD AND THE BIRTH FAMILY MEMBERS, IS IN THE BEST INTERESTS OF THE CHILD. IN DETERMINING WHETHER TO ALLOW SUCH CONTACT, THE COURT SHALL GIVE

CHILD WELFARE

PRIMARY CONSIDERATION TO THE CHILD'S NEED FOR A PERMANENT HOME. THE COURT SHALL ALSO CONSIDER THE EXPECTATIONS OF THE ADOPTIVE PARENTS AND THE WISHES OF THE CHILD, IF THE CHILD IS CAPABLE OF ARTICULATING HIS OR HER WISHES. UPON A FINDING THAT THE PROPOSED CONTACT IS IN THE BEST INTERESTS OF THE CHILD, THE COURT SHALL ENTER AN ORDER FOR CONTACT AS PART OF THE ADOPTION DECREE WITH SUCH TERMS AND CONDITIONS AS THE COURT DEEMS APPROPRIATE.

(b) THE COURT MAY MODIFY ANY ORDERS IT ENTERS PURSUANT TO THIS SUBSECTION (2) UPON A SHOWING OF A CHANGE IN CIRCUMSTANCES THAT RENDERS THE CONTACT NOT IN THE BEST INTERESTS OF THE CHILD.

(3) THE COURT SHALL HAVE DISCRETION TO RECEIVE EVIDENCE AND ENTER ORDERS CONCERNING WHETHER CONTACT, INCLUDING BUT NOT LIMITED TO LETTERS, TELEPHONE CALLS, AND VISITS BETWEEN THE CHILD AND THE CHILD'S FORMER FOSTER PARENT OR PARENTS AFTER THE ADOPTIVE PLACEMENT, IS IN THE BEST INTERESTS OF THE CHILD.

(4) ENFORCEMENT OF ANY AGREEMENTS APPROVED BY THE COURT PURSUANT TO SUBSECTION (1) OF THIS SECTION AND ORDERS OF CONTACT THAT THE COURT ENTERS PURSUANT TO SUBSECTION (2) OR (3) OF THIS SECTION SHALL BE ENFORCEABLE BY CONTEMPT PROCEEDINGS. NONCOMPLIANCE SHALL NOT BE GROUNDS TO INVALIDATE THE DECREE OF ADOPTION.

19-5-106. [Formerly 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 racial, cultural, and 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 of good moral character, if such individual shall have had the child living in his OR HER home for a year or more, including a foster parent.

(2) 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 AND IN ANY CASE NOT MORE THAN SIX MONTHS AFTER THE CHILD'S INITIAL PLACEMENT OUT OF THE HOME. 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.

~~(2.3)~~ (3) IF A RELATIVE FAILS TO MAKE A TIMELY REQUEST FOR CUSTODY OF THE CHILD AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, THE COURT SHALL CONSIDER A REQUEST THAT CUSTODY OF THE CHILD, WITH THE OPTION OF APPLYING FOR ADOPTION, BE PLACED WITH THE CHILD'S FOSTER PARENT WHO HAS CARED FOR THE CHILD FOR NINETY DAYS OR MORE. WHEN ORDERING LEGAL CUSTODY OF THE CHILD, THE COURT SHALL GIVE PREFERENCE TO THE CHILD'S FOSTER PARENT WHEN A RELATIVE HAS FAILED TO MAKE A TIMELY REQUEST FOR CUSTODY, THE FOSTER PARENT HAS MADE A REQUEST THEREFOR,

AND THE COURT DETERMINES THAT SUCH PLACEMENT IS IN THE BEST INTERESTS OF THE CHILD.

~~(2.5)~~ (4) No person shall be precluded from adopting a child solely because they have been a child's foster parent.

~~(3)~~ (5) 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) 19-5-104 (1) has been offered the relinquishing parent or parents and the child if ~~twelve~~ THREE years of age or older.

~~(4)~~ (6) EXCEPT AS OTHERWISE AGREED OR ORDERED PURSUANT TO SECTION 19-5-105, 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, ~~of human services~~ 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.

~~(4.3)~~ (7) 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~~ 19-5-107, 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 ~~(4.5)~~ (8) of this section, an order of relinquishment is final and irrevocable.

~~(4.5)~~ (8) (a) A relinquishment may be revoked only if, within ninety 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 ~~(4.5)~~ (8), 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.

~~(4.7)~~ (9) If the relinquishment by an individual is revoked pursuant to subsection ~~(4.5)~~ (8) of this section and no grounds exist under section ~~19-5-105~~ 19-5-107 or under part 6 of ~~article 3~~ ARTICLE 4 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.

~~(5)~~ (10) The fact that the relinquishing parent or parents are minors shall in no way affect the validity of the final order of relinquishment.

19-5-107. [Formerly 19-5-105.] Proceeding to terminate parent-child legal relationship - criminal penalty. (1) If one parent relinquishes or proposes to relinquish or consents to the adoption of a child AND THE CHILD IS NOT IN THE LEGAL CUSTODY OF THE OTHER PARENT, 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 AND ANY PERSON PRESUMED TO BE A PARENT OF THE CHILD PURSUANT TO SECTION 14-15-105, C.R.S., unless the other parent's, OR PRESUMED 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)~~ 14-15-105, C.R.S.

(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.

~~(2.5)~~ (3) ANY KNOWN PARENT WHO FAILS OR REFUSES TO PROVIDE THE INFORMATION OBTAINED AS A RESULT OF THE INQUIRY SET FORTH IN SUBSECTION (2) OF THIS SECTION WHEN HE OR SHE HAS SUCH INFORMATION COMMITS A CLASS 1 MISDEMEANOR.

~~(3)~~ (4) 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)~~ (12) of this section. If any of them fails to appear or, if appearing, cannot personally assume legal and physical custody promptly, 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 promptly, 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~~ ARTICLE 4 of this title with appropriate orders for the protection of the child during the pendency of the action.

~~(3.1)~~ (5) 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, but shall not be limited to, the following:

(I) Emotional illness, mental illness, or mental deficiency 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 gravely disabling 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;

(V) Excessive use of intoxicating liquors or use of controlled substances, as defined in section 12-22-303 (7), 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; and

(VII) Injury or death of a sibling or other children due to proven abuse or neglect by such parent;

(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 pursuant to rule 12 of the Colorado rules of civil procedure, WITHIN THIRTY DAYS AFTER SERVICE OF THE NOTICE AND PETITION TO TERMINATE THE PARENT-CHILD LEGAL RELATIONSHIP, or fails to file a paternity action, pursuant to article 4 of this title, within thirty days after the birth of the child or within thirty days 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)~~ (6) 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)~~ (7) 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 ~~(3.4)~~ (5) 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)~~ (8) (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)~~ (9) Notwithstanding subsection ~~(3.4)~~ (8) 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)~~ (10) Except for a parent whose parental rights have been relinquished pursuant to section ~~19-5-104~~ 19-5-106, 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)~~ (8) 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) (11) 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 days after an order terminating a parent-child legal relationship is issued under subsection (3) (4) of this section or this subsection (4) (11), 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 days from the date that the order was entered.

(5) (12) 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 twenty THIRTY 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 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. 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.

~~19-5-106. Records. (Repealed)~~

~~19-5-107. When notice of relinquishment proceedings required. (Repealed)~~

PART 2

ADOPTION

19-5-201. [Formerly 19-5-200.2.] Legislative declaration.

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.

19-5-202. [Formerly 19-5-201.] Who may be adopted. Any child under eighteen years of age present in the state at the time the petition for adoption is filed and legally available for adoption as provided in section ~~19-5-203~~

19-5-204 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.

19-5-203. [Formerly 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 OR SHE 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 RELATIVE WHO HAS TIMELY REQUESTED CUSTODY OF A CHILD, WITH THE OPTION OF APPLYING FOR ADOPTION, PURSUANT TO SECTION 19-5-106 (2), MAY PETITION THE COURT TO DECREE AN ADOPTION AND THE COURT SHALL GIVE PREFERENCE TO SUCH RELATIVE IF IT FINDS THAT IT WOULD BE IN THE BEST INTERESTS OF THE CHILD. IF THE RELATIVE FAILS TO MAKE A TIMELY REQUEST, THE COURT SHALL GIVE PREFERENCE TO THE FOSTER PARENT WHO HAS CARED FOR THE CHILD FOR NINETY DAYS OR MORE IF SUCH FOSTER PARENT

REQUESTS TO ADOPT THE CHILD AND IF THE COURT FINDS IT WOULD BE IN THE BEST INTERESTS OF THE CHILD.

(5) IN CIRCUMSTANCES IN WHICH A CHILD HAS BEEN ADOPTED OR IN WHICH AN ADOPTION HAS BEEN UNDERTAKEN PURSUANT TO THIS PART 2 BUT HAS NOT BEEN FINALIZED, AND IN WHICH THE CHILD IS NO LONGER LIVING WITH EITHER ADOPTIVE PARENT DUE TO A DEPENDENCY AND NEGLECT ADJUDICATION OR BECAUSE THAT CHILD IS THE SUBJECT OF A RELINQUISHMENT PROCEEDING, THE COURT MAY DIRECT THE DEPARTMENT TO MAKE A REASONABLE EFFORT TO CONTACT THE BIRTH PARENTS OR THE BIRTH PARENTS' FAMILIES AS A POSSIBLE ADOPTIVE PLACEMENT FOR THE CHILD. IF THE COURT SO DIRECTS, SUCH CONTACT SHALL BE MADE BEFORE ANOTHER ADOPTION BY UNRELATED PEOPLE IS CONSIDERED; EXCEPT THAT THE COURT SHALL NOT ORDER SUCH CONTACT WHERE THE CHILD HAS ALREADY DEVELOPED A GOOD RELATIONSHIP WITH THE SPECIFIC UNRELATED PEOPLE WHO WISH TO ADOPT.

19-5-204. [Formerly 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 THIS ARTICLE OR UNDER article ~~3~~ 5 of this title;

(b) Order of the court decreeing the voluntary relinquishment of the parent-child legal relationship under section ~~19-5-103~~ ~~or 19-5-105~~ 19-5-104 OR 19-5-107;

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(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 OR HER 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, ~~where~~ 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 ~~where he~~ THAT THE OTHER 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 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)~~ 19-5-213 (2).

(e) Written and verified consent of the parent having only residual parental rights and responsibilities when custody has been awarded to the other parent in a dissolution of marriage proceeding where the spouse of the parent having custody wishes to adopt the child;

(f) Written and verified consent of the parent or parents as defined in section ~~19-1-103 (21)~~ 19-1-104 (34) 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~~ THAT 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 THAT 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 in cooperation with the department of ~~human services~~ whenever such cooperation is authorized or advised by federal law.

(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.

19-5-205. [Formerly 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.

19-5-206. [Formerly 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) 19-5-209 (2).

(2) The court shall issue a decree declaring valid an adoption granted by a court of competent jurisdiction of a country other than the United States of America upon a finding that:

(a) At the time the petition is sought, 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.

(3) Any decree issued pursuant to this section shall have the same legal effect as any decree of adoption issued by the court.

19-5-207. [Formerly 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~~ DEPARTMENT'S capacity to utilize existing staff to perform other child welfare functions.

(2) (a) The ~~department of human services~~ is authorized to select nonpublic, licensed ~~child placement~~ ADOPTION agencies authorized to handle adoptions or nonpublic agencies that meet the qualifying criteria to be licensed child placement agencies pursuant to ~~article 6~~ ARTICLE 6.5 of title 26, C.R.S., and any implementing rules or regulations promulgated by the ~~department of human services~~ for the provision of services to individuals seeking assistance in nonpublic agency interstate or foreign adoption cases pursuant to this part 2. The ~~department of human services~~ shall, by rule, establish qualifying criteria by which such nonpublic agencies shall be selected for this purpose.

(b) The ~~department of human services~~ shall further promulgate rules creating standards by which the ~~department of human services~~ 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 ~~homestudy~~ 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 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)~~ 19-5-210, 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) For purposes of this section, "nonpublic agency interstate and foreign adoption" means an interstate or foreign adoption that is handled by a private, licensed ~~child placement~~ ADOPTION agency. 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)~~ 19-5-208 (1).

19-5-208. [Formerly 19-5-206.] Placement for purposes of adoption.

(1) No placement of any child legally available for adoption under section ~~19-5-203~~ 19-5-204 (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)~~ 19-5-106 (2), the county department, ~~of social services~~ or a licensed ~~child placement~~ ADOPTION agency.

(2) ~~(a)~~ Birth parent or 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)~~ 19-5-106 (1) until finalization of adoptive placement. A county department may provide adoption services to birth parents who request designated adoption only in cases in which the county has legal custody of the child prior to the filing of the petition to relinquish. All requirements and provisions of this article pertaining to relinquishment and adoption shall apply to designated adoptions.

~~(b) The court may waive the assessment and approval requirements of paragraph (a) of this subsection (2) in cases where the birth parent or parents have designated the child's grandparent, aunt, uncle, brother, or sister as the person with whom they wish to place their child for purposes of adoption. The court may proceed to finalize such adoptive placement upon finding that the placement is in the best interests of the child.~~

(3) Consideration given to the racial background of a child legally available for adoption in placing such child with an adopting family shall not delay the placement of the child due to attempts to assure racial resemblance between the child and the adopting family.

(4) IF THE CHILD HAS BEEN IN THE CARE OF A FOSTER PARENT OR PARENTS FOR A PERIOD OF SIX MONTHS OR MORE PRIOR TO THE ADOPTION, SUCH FOSTER PARENTS SHALL BE ENTITLED TO PARTICIPATE IN THE DEPARTMENT'S STAFFING AND TO SUBMIT A RECOMMENDATION TO THE COURT CONCERNING THE PROPOSED ADOPTIVE PLACEMENT OF THE CHILD.

19-5-209. [Formerly 19-5-207.] Written consent and report. (1) When a child is placed for adoption by the county department, ~~of social services~~ a licensed ~~child placement~~ ADOPTION 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~~ ADOPTION agencies, in addition to such written consent, the court shall require a written report 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 A MINIMUM OF SIX HOURS OF FACE-TO-FACE ADOPTION COUNSELING, OR SUCH ADDITIONAL TIME AS THE COURT DEEMS APPROPRIATE.

- ~~(b)~~ (c) The physical and mental condition of the child;
- ~~(e)~~ (d) The child's family background, including the names of parents and other identifying data regarding the parents, if obtainable;
- ~~(d)~~ (e) Reasons for the termination of the parent-child legal relationship;
- ~~(e)~~ (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
- ~~(f)~~ (g) The length of time the child has been in the care and custody of the petitioner.

(3) IN PROPOSED RELATIVE ADOPTIONS, THE COURT SHALL REVIEW THE REPORT PREPARED PURSUANT TO THIS SECTION IN CONJUNCTION WITH THE PRELIMINARY INVESTIGATION AND BACKGROUND CHECKS REQUIRED AS PART OF THE RELINQUISHMENT COUNSELING PURSUANT TO SECTION 19-5-104 (1) (b) (IV). THE COURT MAY ORDER FURTHER ASSESSMENT IF THE COURT DEEMS IT NECESSARY.

~~(3)~~ (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.

~~(4)~~ (5) Any person who, by his OR HER own request or by order of the court as provided in section ~~19-5-209~~ 19-5-211, is the subject of a written

report and investigation conducted pursuant to subsection (2) of this section by the county department of ~~social services~~ or by the probation department of the court shall be required to pay, based on an ability to pay, the cost of such written report and investigation.

(5) (6) The department of ~~human services~~ shall establish rules and regulations which provide for county departments of ~~social services~~ to charge a fee, not to exceed five hundred dollars in the case of a first adoption and not to exceed two hundred fifty dollars for a second or subsequent adoption by the same party or parties, for reports and investigations provided in accordance with this article.

(6) (7) The department of ~~human services~~ may waive the fee provided for in ~~subsection (4)~~ SUBSECTION (6) of this section if such fee poses a barrier to the adoption of a child for whom the county department of ~~social services~~ has financial responsibility.

(7) (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~~ 19-5-104 AND 19-5-106, the county department shall charge a fee to meet the full cost of the counseling.

(9) IF THE CHILD IS BEING PLACED BY A LICENSED ADOPTION 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

ADOPTION 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 1 MISDEMEANOR PUNISHABLE BY A FINE OF FIVE THOUSAND DOLLARS. THE DEPARTMENT SHALL, BY RULE, ADOPT A MECHANISM BY WHICH AN ADOPTION AGENCY SHALL NOTIFY THE COURT OF ANY DISCIPLINARY ACTION AGAINST THE AGENCY.

19-5-210. [Formerly 19-5-208.] Petition for adoption. (1) The petition for adoption shall be filed not later than thirty 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 ON A STANDARDIZED FORM APPROVED BY THE COURT, 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:

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(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.

(3) If the adoption placement is made by the county department of social services or a child placement AN ADOPTION 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 report required in section ~~19-5-207~~ 19-5-209.

(4) A statement of all fees, costs, or expenses charged by any person or agency relative to the adoption shall be submitted to the court with the petition and shall state what additional fees, if any, shall be charged.

19-5-211. [Formerly 19-5-209.] Petition - written reports. (1) Except for stepparent 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 report of the county department of social services or a licensed child placement agency, the court shall order the county department of social services or a licensed child placement agency to make an investigation and file a written report substantially in the form outlined in section ~~19-5-207(2)~~ 19-5-209 (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.

19-5-212. Certificate of approval of placement - legal effects of final decree. (1) 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, BASED ON THE DOCUMENTS AND ASSESSMENT FILED PURSUANT TO SECTIONS 19-5-209 AND 19-5-210, THAT THE PLACEMENT FOR ADOPTION IS IN THE BEST INTERESTS OF THE CHILD. THE COURT MAY HOLD A HEARING ON THE ISSUE OF PLACEMENT IF IT DEEMS APPROPRIATE.

(2) AFTER THE ENTRY OF A CERTIFICATE OF APPROVAL OF PLACEMENT, THE PETITIONER SHALL HAVE THE TEMPORARY LEGAL CUSTODY OF THE CHILD AS DEFINED IN SECTION 19-1-104 (30).

(3) THE CHILD SHALL BE ELIGIBLE FOR ENROLLMENT AND COVERAGE BY ANY MEDICAL INSURANCE HELD BY THE PETITIONER IF, AND ON SUCH A BASIS AS, SUCH COVERAGE WOULD BE AVAILABLE TO A CHILD NATURALLY BORN TO THE PETITIONER.

19-5-213. [Formerly 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) 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) No sooner than six months ~~from~~ AFTER the date of the hearing PLACEMENT, unless for good cause shown that time is extended or shortened by the court, the court ~~may~~ SHALL HOLD A HEARING ON THE PETITION AND 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 suitability of the home of the person adopting such child;
 - (c) The mental and physical condition of the child as a proper subject for adoption in said home; and
 - (d) The fact that the best interests of the child will be served by the adoption.
- (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.

(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.

19-5-214. [Formerly 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~~ **THE CHILD** 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.

~~(4-5)~~ (2) 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 ~~(4-5)~~ (2). The provisions of this subsection

~~(4-5)~~ (2) shall not apply to an adoption by the spouse of a custodial parent. ~~(2)~~ (3) The natural 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 natural parents.

~~(3)~~ (4) 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.

19-5-215. [Formerly 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.

19-5-216. [Formerly 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 AS FOLLOWS:

(I) UPON COURT APPROVAL, THE ADOPTION AGENCY MAY PAY TO OR ON BEHALF OF THE RELINQUISHING MOTHER PRENATAL CARE EXPENSES, PREGNANCY-RELATED MEDICAL COSTS, AND HOUSING COSTS IF MEDICALLY NECESSARY IN THE SEVENTH, EIGHTH, AND NINTH MONTHS OF PREGNANCY, FOR THE MOTHER AND CHILD;

(II) Attorney fees; and

(III) 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 ADOPTION 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.

(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 CLASS 4 FELONY PUNISHABLE IN ACCORDANCE WITH SECTION 18-1-105, C.R.S.

19-5-217. [Formerly 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 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.

19-5-215. Records. (Repeated)

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 qualified right of access to any records regarding their or their child's adoption or the adoption of their offspring or siblings and that such a qualified right must coexist with the right of such parties to privacy and confidentiality. The general assembly also finds that an adult adoptee, his OR HER biological or adoptive parent, or his OR HER biological sibling may desire to obtain information about each other at different points in time. Furthermore, the general assembly finds that confidentiality is essential to the adoption process and that any procedure to access information ~~which~~ THAT relates to an adoption 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.

19-5-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Adoptee" means a person who, as a minor, was adopted pursuant to a final decree of adoption entered by a court.

(2) "Adoptive parent" means an adult who has become a parent of a minor through the legal process of adoption.

(3) "Adult" means a person ~~twenty-one~~ EIGHTEEN years of age or older.

(4) "Biological parent" means a parent, by birth, of an adopted person.

(5) "Biological sibling" means a sibling, by birth, of an adopted person

AND A HALF-SIBLING OF THE ADOPTEE THROUGH EITHER BIOLOGICAL PARENT, WHETHER SUCH SIBLING IS OLDER OR YOUNGER THAN THE ADOPTEE AND SO LONG AS SUCH SIBLING IS AT LEAST EIGHTEEN YEARS OF AGE.

(6) "Chief justice" means the chief justice of the Colorado supreme court.



(7) "Confidential intermediary" means a person twenty-one years of age or older who has completed a training program for confidential intermediaries ~~which~~ 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.

(8) "Consent" means voluntary, informed, written consent. "Consent" always shall be preceded by an explanation that consent permits the confidential intermediary to arrange a personal contact among biological relatives.

(9) "Court" means any court of record with jurisdiction over the matter at issue.

19-5-303. Commission created - duties. (1) There is hereby created in the department ~~of human services~~ a commission of seven 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) Two members shall represent the judicial department and shall be appointed by the chief justice or his OR HER designee.

(b) One member shall represent the department ~~of human services~~ and shall be appointed by the executive director of such department or his OR HER designee.

(c) Two 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. ~~of human services.~~

(d) Two 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. ~~of human services.~~

(2) The commission shall have responsibility for:

(a) Drafting a manual of standards for training confidential intermediaries;

(b) Monitoring confidential intermediary training 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 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.

19-5-304. Confidential intermediaries - confidential intermediary services. (1) (a) Any person who has completed a confidential intermediary training program ~~which~~ 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 such list, ~~he~~ SUCH PERSON shall be:

(I) Authorized to inspect confidential relinquishment and adoption records AND THE ADOPTEE'S ORIGINAL BIRTH CERTIFICATE upon motion to the court by an adult adoptee, adoptive parent, biological parent, or biological sibling;

(II) Available, subject to time constraints, for appointment by the court to act as a confidential intermediary for an adult adoptee, adoptive parent, biological parent, or biological sibling.

(2) Any adult adoptee, adoptive parent, biological parent, or biological sibling who is ~~twenty-one~~ 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 his OR HER unknown relative or relatives; except that no one shall seek to determine the whereabouts of a relative who is younger than ~~twenty-one~~ EIGHTEEN years of age. The court may rule on said motion and affidavit without hearing and, may appoint a trained confidential intermediary.

(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.

(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~~ THE 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.

PART 4

ACCESS TO NONIDENTIFYING ADOPTION INFORMATION

19-5-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Adoptive parent" means an adult who has become a parent of a minor through the legal process of adoption.

(2) "Adult adoptee" means an individual who is ~~twenty-one~~ EIGHTEEN years of age or older and who, as a minor, was adopted pursuant to a final decree of adoption entered by a court.

(3) "Birth parents" 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~~ ARTICLE 15 OF TITLE 14, C.R.S., prior to the termination of parental rights.

(4) "Department" means the department of human services.

(5) "Nonidentifying information" means information ~~which~~ THAT does not disclose the name, address, place of employment, or any other material information ~~which~~ THAT would lead to the identification of the birth parents and ~~which~~ 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.

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~~ THAT is available to the department. The department shall adopt rules governing the disclosure of nonidentifying information.

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~~ THAT identifies members of the birth family strictly confidential.

19-5-404. Medical information affecting adoptee or birth parent. A BIRTH PARENT OR AN ADOPTIVE PARENT OF A CHILD UNDER THE AGE OF EIGHTEEN YEARS MAY PETITION THE COURT FOR AN ORDER ALLOWING SUCH PARENT ACCESS TO MEDICAL INFORMATION THAT AFFECTS THE CHILD OR BIRTH PARENT. UPON A FINDING BY THE COURT OF GOOD CAUSE, THE COURT SHALL DIRECT THE BIRTH PARENT TO PROVIDE THE ADOPTIVE PARENT WITH SUCH

MEDICAL INFORMATION WITHIN THIRTY DAYS AFTER THE COURT'S ORDER OR DIRECT THE ADOPTIVE PARENT TO PROVIDE THE BIRTH PARENT WITH SUCH MEDICAL INFORMATION WITHIN THIRTY DAYS AFTER THE COURT'S ORDER.

PART 5

ACCESS TO ADOPTION RECORDS

19-5-501. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT ADULT ADOPTEES SHOULD HAVE A QUALIFIED RIGHT OF ACCESS TO ANY RECORDS REGARDING THEIR ADOPTION AND THAT SUCH A QUALIFIED RIGHT MUST COEXIST WITH THE RIGHT OF BIRTH PARENTS TO PRIVACY AND CONFIDENTIALITY. ACCORDINGLY, IT IS THE PURPOSE AND INTENT OF THIS PART 5 TO ESTABLISH A MEANS BY WHICH ADULT ADOPTEES MAY HAVE QUALIFIED ACCESS TO THEIR COMPLETE HISTORY WHILE ALSO MAINTAINING THE ABILITY OF THE ADOPTEE'S BIRTH PARENTS TO PRESERVE THEIR PRIVACY.

19-5-502. Access to adoption records. (1) FOR ALL ADOPTION PROCEEDINGS INITIATED ON AND AFTER JULY 1, 1996, THE COURT, UPON MOTION OF AN ADOPTEE WHO IS EIGHTEEN YEARS OF AGE OR OLDER, SHALL MAKE THE ORIGINAL BIRTH CERTIFICATE AND THE ADOPTION RECORDS CONTAINED IN THE COURT'S FILE THAT ARE ASSOCIATED WITH THE ADOPTION PROCEEDING IN WHICH THE ADOPTEE WAS THE SUBJECT OF THE ACTION AVAILABLE FOR INSPECTION BY SUCH ADOPTEE.



(2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, THE COURT MAY EXEMPT THE ACCESSIBILITY OF RECORDS BY ADULT ADOPTEES IF THE RELINQUISHING PARENT MOVES THE COURT TO MAINTAIN THE CONFIDENTIALITY OF THE ADOPTION RECORDS. IN SUCH CASES, THE ADULT ADOPTEE MAY PURSUE CONTACT BY MEANS OF THE CONFIDENTIAL INTERMEDIARY PROCESS SET FORTH IN PART 3 OF THIS ARTICLE 5.

PART 6

ACCESS TO RELINQUISHMENT RECORDS

19-5-601. Definitions. FOR PURPOSES OF THIS PART 6, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADULT CHILDREN" MEANS PERSONS EIGHTEEN YEARS OF AGE OR OLDER.

(2) "RECORDS" MEANS COURT RELINQUISHMENT RECORDS, MEDICAL RECORDS CONCERNING THE CHILD, AND THE CHILD'S BIRTH CERTIFICATE.

19-5-602. Access to relinquishment records. ADULT CHILDREN WHOSE PARENT OR PARENTS HAVE RELINQUISHED PARENTAL RIGHTS PURSUANT TO PART 1 OF THIS ARTICLE 5, OR SUCH SIMILAR LAW OF ANOTHER STATE, BUT WHO HAVE NOT BEEN ADOPTED, SHALL BE ENTITLED TO HAVE ACCESS TO ANY RECORDS REGARDING THEIR PARENT'S RELINQUISHMENT AND TO SEARCH FOR THEIR BIOLOGICAL FAMILY.

SECTION 3. 13-22-101, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

13-22-101. Competence of persons eighteen years of age or older - emancipated minors. (1) Notwithstanding any other provision of law enacted or any judicial decision made prior to July 1, 1973, every person, otherwise competent, shall be deemed to be of full age at the age of eighteen years or older OR IF THE PERSON IS AN EMANCIPATED MINOR AS DEFINED IN SECTION 19-3-102, C.R.S., for the following specific purposes:

(a) To enter into any legal contractual obligation and to be legally bound thereby to the full extent as any other adult person; but such obligation shall not be considered a family expense of the parents of the person who entered into the contract under section ~~14-6-110~~ 14-15-709, C.R.S.;

(b) To manage his OR HER estate in the same manner as any other adult person. This section shall not apply to custodial property given or held under the terms of the "Colorado Uniform Transfers to Minors Act", article 50 of title 11, C.R.S., or property held for a protected person under the "Colorado Probate Code", article 14 of title 15, C.R.S., unless otherwise permitted in said articles;

(c) To sue and be sued in any action to the full extent as any other adult person in any of the courts of this state, without the necessity for a guardian ad litem or someone acting in his OR HER behalf;

(d) To make decisions in regard to his OR HER own body and the body of his OR HER issue, whether natural or adopted by such person, to the full extent allowed to any other adult person.

SECTION 4. 13-22-103 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

13-22-103. Minors - consent for medical, dental, and related care.

(1) Except as otherwise provided in sections 16-11-311 (4.5), 18-6-101, and 25-4-402, C.R.S., a minor eighteen years of age or older, or a minor fifteen years of age or older who is living separate and apart from his OR HER parent, parents, or legal guardian, with or without the consent of his OR HER parent, parents, or legal guardian, and is managing his OR HER own financial affairs, regardless of the source of his OR HER income, or any minor who has contracted a lawful marriage, OR ANY MINOR WHO IS AN EMANCIPATED MINOR AS DEFINED IN SECTION 19-3-102, C.R.S., may give consent to the furnishing of hospital, medical, dental, emergency health, and surgical care to himself OR HERSELF. Such consent shall not be subject to disaffirmance because of minority, and, when such consent is given, said minor shall have the same rights, powers, and obligations as if he OR SHE had obtained majority.

SECTION 5. 13-22-104 (3), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

13-22-104. Minors - transplants and transfusions - declaration of policy - limit on liability. (3) Any provision of the law to the contrary notwithstanding, any minor who has reached the age of eighteen years OR WHO IS AN EMANCIPATED MINOR AS DEFINED IN SECTION 19-3-102, C.R.S., may give consent to the donation of his OR HER blood and to the penetration of tissue ~~which~~ THAT is necessary to accomplish such donation. Such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents, or legal guardian of such a minor shall not be necessary in order to authorize such donation and penetration of tissue.

SECTION 6. 19-2-210 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-210. Statements. (2) 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 or physical custodian if the juvenile is eighteen years of age or older at the time of the interrogation, if the juvenile is emancipated from the parent, guardian, or legal or physical custodian, or if the juvenile is a runaway from a state other than Colorado and is of sufficient age and understanding. For the purposes of this subsection (2) only, an "emancipated juvenile" means a ~~juvenile over fifteen years of age and under eighteen years of age who has, with the real or apparent assent of his parents, demonstrated his independence~~

from his 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 his own support, who is married, or who is in the military MINOR WHO IS EMANCIPATED AS DEFINED IN SECTION 19-3-102.

SECTION 7. 19-2-306 (2.5) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-306. Summons - issuance - contents - service. (2.5) (a) The court may, when the court determines that it is in the best interests of the child, join the child's parent or guardian and the person with whom the child resides, if other than the child's parent or guardian, as a respondent to the action and may issue a summons requiring the parent or guardian and the person with whom the child resides, if other than the child's parent or guardian, to appear with the child at all proceedings under this article involving the child. If the parent or guardian of any child 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 19-2-307, "parent" includes a natural parent who has sole or joint custody, regardless of whether the parent is designated as the primary residential custodian, or an adoptive parent. This subsection (2.5) 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. MEANS AN EMANCIPATED MINOR AS DEFINED IN SECTION 19-3-102.

SECTION 8. 13-17-102 (8), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

13-17-102. Attorney fees. (8) The provisions of this section shall not apply to traffic offenses, DELINQUENCY, PATERNITY, AND CHILD SUPPORT matters brought under the provisions of the "Colorado Children's Code", title 19, C.R.S., ~~or related juvenile matters~~ AND MAY NOT BE RECOVERED BY OR ON BEHALF OF ANY STATE, LOCAL, OR COUNTY GOVERNMENT AGENCY, or matters involving violations of municipal ordinances.

SECTION 9. 18-6-405, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-6-405. Reports of convictions to department of education - central registry. (1) When a person is convicted, pleads nolo contendere, or receives a deferred sentence for a violation of the provisions of this part 4 and the court knows the person is a current or former employee of a school district in this state or holds a certificate or letter of authorization pursuant to the provisions of article 60 of title 22, C.R.S., the court shall report such fact to the department of education.

(2) THE COURT SHALL REPORT ALL ACQUITTALS AND CONVICTIONS FOR VIOLATIONS OF THE PROVISIONS OF THIS PART 4 TO THE DIRECTOR OF THE CENTRAL REGISTRY CREATED IN SECTION 19-4-316, C.R.S.

SECTION 10. 26-6-103 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-6-103. Application of article. (1) This article shall not apply to:

(i) PRIVATE OR PUBLIC ADOPTION AGENCIES.

SECTION 11. The introductory portion to 26-6-104 (5), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

26-6-104. Licenses - out-of-state notices and consent. (5) No person shall send or bring into this state any child for the purposes of foster care or adoption without sending notice of the pending placement and receiving the consent of the department or its designated agent to the placement. The notice shall contain:

SECTION 12. 26-6-105 (1) (a) (V), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

26-6-105. Fees - when original and renewal applications for licensure are required - creation of child care licensing cash fund. (1) (a) The department is hereby authorized to establish, pursuant to rules and regulations,

full and provisional license fees and fees for continuation of a full license for the following types of child care arrangements:

(V) Child placement agencies, OTHER THAN ADOPTION AGENCIES;

SECTION 13. Title 26, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 6.5

Adoption Agencies

26-6.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "ADOPTION AGENCY LICENSURE ACT".

26-6.5-102. Application of article. THIS ARTICLE SHALL APPLY TO PRIVATE AND PUBLIC ADOPTION AGENCIES.

26-6.5-103. Licenses - provisional license - out-of-state notices and consent. (1) NO PERSON SHALL OPERATE AN ADOPTION AGENCY CONDUCTING ANY TYPE OF ADOPTION WITHOUT FIRST BEING LICENSED BY THE DEPARTMENT TO OPERATE SUCH ADOPTION AGENCY WITH AUTHORITY TO CONDUCT SPECIFIC TYPES OF ADOPTION AND PAYING THE FEE PRESCRIBED THEREFOR.

(2) NO PERSON SHALL RECEIVE OR ACCEPT A CHILD UNDER SIXTEEN YEARS OF AGE FOR AN ADOPTION OF ANY TYPE, OR PLACE A CHILD IN AN ADOPTIVE HOME EITHER TEMPORARILY OR PERMANENTLY, WITHOUT FIRST OBTAINING A LICENSE FROM THE DEPARTMENT AS AN ADOPTION AGENCY FOR

THE TYPE OF ADOPTION TO BE UNDERTAKEN AND PAYING THE FEE PRESCRIBED THEREFOR.

(3) THE DEPARTMENT MAY ISSUE A PROVISIONAL LICENSE THAT PERMITS THE APPLICANT TO CONDUCT CERTAIN TYPES OF ADOPTION SERVICES, IF THE APPLICANT IS TEMPORARILY UNABLE TO CONFORM TO ALL MINIMUM STANDARDS REQUIRED UNDER THIS ARTICLE, UPON PROOF BY THE APPLICANT THAT ATTEMPTS ARE BEING MADE TO CONFORM TO SUCH STANDARDS OR TO COMPLY WITH ANY OTHER REQUIREMENTS. THE APPLICANT HAS THE RIGHT TO APPEAL ANY STANDARD THAT THE APPLICANT BELIEVES WORKS AN UNDUE HARDSHIP OR HAS BEEN APPLIED TOO STRINGENTLY BY THE DEPARTMENT. UPON FILING AN APPEAL, THE DEPARTMENT SHALL PROCEED IN THE MANNER PRESCRIBED FOR LICENSEE APPEALS IN SECTION 26-6-106 (3). A PROVISIONAL LICENSE SHALL BE VALID FOR A PERIOD OF SIX MONTHS.

(4) NO PERSON SHALL SEND OR BRING INTO THIS STATE ANY CHILD FOR THE PURPOSE OF ADOPTION WITHOUT SENDING NOTICE OF THE PENDING ADOPTION AND RECEIVING THE CONSENT OF THE DEPARTMENT OR ITS DESIGNATED AGENT TO THE ADOPTION. THE NOTICE SHALL CONTAIN:

- (a) THE NAME AND THE DATE AND PLACE OF BIRTH OF THE CHILD;
- (b) THE TYPE OF ADOPTION TO BE UNDERTAKEN;
- (c) THE IDENTITY AND ADDRESS OR ADDRESSES OF THE PARENTS OR LEGAL GUARDIAN;

(d) THE IDENTITY AND ADDRESS OF THE PERSON SENDING OR BRINGING THE CHILD;

(e) THE NAME AND ADDRESS OF THE PERSON TO OR WITH WHICH THE SENDING PERSON PROPOSES TO SEND, BRING, OR PLACE THE CHILD;

(f) A FULL STATEMENT OF THE REASONS FOR THE PROPOSED ACTION AND EVIDENCE OF THE AUTHORITY PURSUANT TO WHICH THE PLACEMENT IS PROPOSED TO BE MADE.

26-6.5-104. Fees - when original and renewal applications for licensure are required - creation of adoption agency licensing cash fund.

(1) (a) THE DEPARTMENT IS HEREBY AUTHORIZED TO ESTABLISH, PURSUANT TO RULES AND REGULATIONS, FULL AND PROVISIONAL LICENSE FEES AND FEES FOR RENEWAL OF A FULL LICENSE FOR ADOPTION AGENCIES, TAKING INTO ACCOUNT THE SPECIALTY OF THE LICENSE.

(b) THE FEES ESTABLISHED PURSUANT TO THIS SUBSECTION (1) SHALL NOT EXCEED THE DIRECT AND INDIRECT COSTS INCURRED BY THE DEPARTMENT. IN DEVELOPING A FEE SCHEDULE, THE DEPARTMENT SHALL CONSIDER THE TYPES AND NUMBER OF ADOPTION SPECIALTIES FOR WHICH THE APPLICANT SEEKS LICENSURE, THE SIZE OF THE AGENCY, THE TIME NEEDED TO LICENSE THE AGENCY, AND THE ABILITY OF THE AGENCY TO PAY LICENSE FEES.

(2) (a) THE APPLICANT FOR A LICENSE SHALL PAY THE FEES SPECIFIED IN SUBSECTION (1) OF THIS SECTION WHEN APPLICATION IS MADE FOR ANY

LICENSE, AND SUCH FEES SHALL NOT BE SUBJECT TO REFUND. APPLICATIONS FOR LICENSES SHALL BE REQUIRED IN THE SITUATIONS THAT ARE SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (2) AND SHALL BE MADE ON FORMS PRESCRIBED BY THE DEPARTMENT. EACH COMPLETED APPLICATION SHALL SET FORTH SUCH INFORMATION AS REQUIRED BY THE DEPARTMENT. ALL FULL LICENSES SHALL CONTINUE IN FORCE FOR ONE YEAR OR UNTIL REVOKED OR SURRENDERED, WHICHEVER OCCURS FIRST.

(b) (I) AN ORIGINAL APPLICATION SHALL BE REQUIRED WHEN AN INDIVIDUAL, PARTNERSHIP, CORPORATION, OR ASSOCIATION PLANS TO OPEN AN ADOPTION AGENCY; WHEN THE MANAGEMENT OR GOVERNING BODY OF AN ADOPTION AGENCY IS ACQUIRED BY A DIFFERENT INDIVIDUAL, ASSOCIATION, PARTNERSHIP, OR CORPORATION; OR WHEN AN INDIVIDUAL, PARTNERSHIP, CORPORATION, OR ASSOCIATION LICENSED PURSUANT TO THIS ARTICLE TO CONDUCT CERTAIN TYPES OF ADOPTION SEEKS TO CONDUCT ADDITIONAL TYPES OF ADOPTION.

(II) A RENEWAL DECLARATION AND FEE SHALL BE PAID BY THE APPLICANT TO THE DEPARTMENT IN THE MANNER SPECIFIED IN RULES AND REGULATIONS ESTABLISHED BY THE DEPARTMENT.

(3) ALL FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE ADOPTION AGENCY LICENSING CASH FUND, WHICH IS HEREBY CREATED.

THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS FROM THE ADOPTION AGENCY LICENSING CASH FUND FOR EXPENDITURES INCURRED BY THE DEPARTMENT IN THE PERFORMANCE OF ITS DUTIES UNDER THIS ARTICLE. IN ACCORDANCE WITH SECTION 24-36-114, C.R.S., ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF THE ADOPTION AGENCY CASH FUND CREATED PURSUANT TO THIS SUBSECTION (3) SHALL BE CREDITED TO THE GENERAL FUND.

26-6.5-105. Standards for adoption agencies - rules. (1) (a) THE DEPARTMENT SHALL PRESCRIBE AND PUBLISH MINIMUM STANDARDS FOR LICENSING OF ADOPTION AGENCIES AND CONTINUING EDUCATION FOR ADOPTION AGENCY EMPLOYEES. SUCH STANDARDS SHALL BE APPLICABLE TO THE VARIOUS TYPES OF ADOPTION AGENCIES REGULATED AND LICENSED PURSUANT TO THIS ARTICLE. THE DEPARTMENT SHALL SEEK THE ADVICE AND ASSISTANCE OF PERSONS REPRESENTATIVE OF THE VARIOUS TYPES OF ADOPTION AGENCIES IN ESTABLISHING SUCH STANDARDS. SUCH STANDARDS SHALL BE ESTABLISHED BY RULE OF THE DEPARTMENT, AND SUCH RULES SHALL BE ISSUED IN ACCORDANCE WITH THE PROVISIONS AND PROCEDURES SPECIFIED IN ARTICLE 4 OF TITLE 24, C.R.S.

(2) STANDARDS PRESCRIBED BY SUCH RULES SHALL INCLUDE:

(a) SPECIFIC CRITERIA AND MINIMUM CREDENTIALS, QUALIFICATIONS, TRAINING, AND EDUCATION OF STAFF NECESSARY FOR EACH OF THE

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FOLLOWING TYPES OF ADOPTION FOR WHICH AN APPLICANT MAY SEEK TO BE LICENSED:

(I) TRADITIONAL ADOPTIONS WITH ADOPTING PARENTS WHO ARE UNKNOWN;

(II) FAMILY ADOPTIONS, INCLUDING STEPPARENT AND GRANDPARENT ADOPTIONS;

(III) INTERSTATE ADOPTIONS;

(IV) INTERNATIONAL ADOPTIONS;

(V) IDENTIFIED OR DESIGNATED ADOPTIONS; AND

(VI) SPECIAL NEEDS ADOPTIONS.

(b) THE CONTINUING EDUCATION REQUIREMENTS NECESSARY TO MAINTAIN THE ADOPTION AGENCY'S LICENSE, TAKING INTO ACCOUNT THE TYPE AND SPECIALTY OF SUCH AGENCY'S LICENSE;

(c) THE OPERATION AND CONDUCT OF THE AGENCY AND THE RESPONSIBILITY IT ASSUMES IN ADOPTION CASES;

(d) THE CHARACTER, SUITABILITY, AND QUALIFICATIONS OF THE APPLICANT FOR A LICENSE, EITHER ORIGINAL OR RENEWAL;

(e) THE GENERAL FINANCIAL ABILITY AND COMPETENCE OF THE APPLICANT FOR A LICENSE, EITHER ORIGINAL OR RENEWAL, TO PROVIDE NECESSARY SERVICES FOR THE ADOPTION OF CHILDREN AND TO MAINTAIN PRESCRIBED STANDARDS;

(f) THE NUMBER OF INDIVIDUALS OR STAFF REQUIRED TO INSURE ADEQUATE HANDLING OF ADOPTION CASES;

(g) PROPER MAINTENANCE OF RECORDS; AND

(h) PROVISIONS TO SAFEGUARD THE LEGAL RIGHTS OF CHILDREN SERVED.

(3) ANY PERSON LICENSED TO OPERATE AN ADOPTION AGENCY UNDER THE PROVISIONS OF THIS ARTICLE HAS THE RIGHT TO APPEAL ANY STANDARD WHICH, IN THAT PERSON'S OPINION, WORKS AN UNDUE HARDSHIP OR WHEN, IN THAT PERSON'S OPINION, A STANDARD HAS BEEN TOO STRINGENTLY APPLIED THE DEPARTMENT. UPON SUCH APPEAL, THE DEPARTMENT SHALL DESIGNATE A PANEL OF THREE PERSONS REPRESENTING VARIOUS STATE AND LOCAL GOVERNMENT AGENCIES WITH AN INTEREST IN AND CONCERN FOR CHILDREN TO HEAR SUCH APPEAL AND TO MAKE RECOMMENDATIONS TO THE DEPARTMENT.

26-6.5-106. Investigation and review - reports. (1) (a) (I) THE DEPARTMENT SHALL INVESTIGATE AND PASS ON EACH ORIGINAL APPLICATION AND EACH ANNUAL RENEWAL APPLICATION FOR A LICENSE TO OPERATE AN ADOPTION AGENCY PRIOR TO GRANTING SUCH LICENSE. AS PART OF SUCH INVESTIGATION, THE DEPARTMENT SHALL OBTAIN THE CONSENT OF EACH APPLICANT, OWNER, EMPLOYEE, LICENSEE, AND ANY ADULT EMPLOYED BY THE AGENCY FOR THE DEPARTMENT TO CONDUCT A CRIMINAL RECORDS CHECK BY REVIEWING ANY ARREST RECORD. SUCH INFORMATION SHALL BE USED BY THE

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DEPARTMENT TO ASSIST THE DEPARTMENT IN ASCERTAINING WHETHER THE PERSON BEING INVESTIGATED HAS BEEN CONVICTED OF ANY OF THE FOLLOWING: CHILD ABUSE, AS SPECIFIED IN SECTION 18-6-401, C.R.S.; AN UNLAWFUL SEXUAL OFFENSE, AS DEFINED IN SECTION 18-3-411 (1), C.R.S.; OR A FELONY. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT SHALL REQUIRE A FINGERPRINT CHECK OF EACH APPLICANT, LICENSEE, OWNER, AND ADULT EMPLOYED WITH THE AGENCY; EXCEPT THAT THE DEPARTMENT NEED NOT REQUIRE A FINGERPRINT CHECK OF JUVENILES IF RECORDS ARE NOT AVAILABLE TO BE SEARCHED; AND EXCEPT THAT THE STATE BOARD MAY ADOPT RULES THAT EXEMPT FROM SAID FINGERPRINTING REQUIREMENTS PERSONS EMPLOYED FOR FEWER THAN NINETY DAYS BY AGENCIES THAT ARE IN OPERATION FEWER THAN NINETY DAYS EACH YEAR. WHEN THE QUALITY OF SUCH PERSON'S FINGERPRINTS OR WHEN A PHYSICAL AILMENT OF AN INDIVIDUAL WHO IS EMPLOYED WITH AN AGENCY PRECLUDES A SEARCH OF THE ARREST FILE THROUGH FINGERPRINTS, AN ARREST HISTORY REVIEW, AS THOROUGH AS POSSIBLE, SHALL BE CONDUCTED USING THE PERSON'S NAME AND PERSONAL DESCRIPTIONS AS REQUIRED BY THE COLORADO BUREAU OF INVESTIGATION. AS PART OF SAID INVESTIGATION, THE STATE CENTRAL REGISTRY OF CHILD PROTECTION SHALL ALSO BE ACCESSED TO DETERMINE WHETHER THE OWNER, APPLICANT, EMPLOYEE, LICENSEE, OR INDIVIDUAL EMPLOYED WITH THE AGENCY BEING INVESTIGATED IS THE SUBJECT

OF A REPORT OF KNOWN OR SUSPECTED CHILD ABUSE. ANY CHANGE IN OWNERSHIP OF A LICENSED FACILITY OR THE ADDITION OF AN EMPLOYEE TO THE AGENCY SHALL REQUIRE A NEW INVESTIGATION AS PROVIDED FOR IN THIS SECTION. THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THIS SUBPARAGRAPH (I).

(II) IF THE AGENCY REFUSES TO HIRE AN APPLICANT AS A RESULT OF INFORMATION DISCLOSED IN THE INVESTIGATION OF THE APPLICANT PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), THE EMPLOYER SHALL NOT BE SUBJECT TO CIVIL LIABILITY FOR SUCH REFUSAL TO HIRE. IF A FORMER EMPLOYER OF THE APPLICANT RELEASES INFORMATION REQUESTED BY THE PROSPECTIVE EMPLOYER PERTAINING TO THE APPLICANT'S FORMER PERFORMANCE, THE FORMER EMPLOYER SHALL NOT BE SUBJECT TO CIVIL LIABILITY FOR THE INFORMATION GIVEN.

(b) WHEN THE DEPARTMENT IS SATISFIED THAT THE APPLICANT OR LICENSEE IS COMPETENT AND WILL ADEQUATELY CONDUCT ADOPTIONS UNDER THE REQUIREMENTS OF THIS ARTICLE AND THAT MINIMUM STANDARDS ARE BEING MET AND WILL BE COMPLIED WITH, IT SHALL ISSUE THE LICENSE FOR WHICH APPLIED. EACH LICENSEE SHALL CERTIFY IN WRITING AT THE TIME OF APPLYING FOR RENEWAL THAT IT IS IN COMPLIANCE WITH ALL APPLICABLE LICENSING STANDARDS. THE DEPARTMENT MAY MAKE SUCH INSPECTIONS AS IT DEEMS NECESSARY TO INSURE THAT THE REQUIREMENTS OF THIS ARTICLE

ARE BEING MET AND THAT THE WELFARE OF THE CHILDREN BEING PLACED ARE PROTECTED.

(2) EVERY AGENCY LICENSED UNDER THIS ARTICLE SHALL KEEP AND MAINTAIN SUCH RECORDS AS THE DEPARTMENT MAY PRESCRIBE PERTAINING TO THE ADOPTIONS CONDUCTED BY THE AGENCY AND SHALL REPORT THEREON TO THE DEPARTMENT ON REQUEST BY THE DEPARTMENT ON FORMS PRESCRIBED BY THE DEPARTMENT: ALL RECORDS REGARDING CHILDREN AND ALL FACTS LEARNED ABOUT CHILDREN AND THEIR RELATIVES SHALL BE KEPT CONFIDENTIAL BOTH BY THE FACILITY AND THE DEPARTMENT.

26-6.5-107. Denial of original license - suspension - revocation - probation - refusal to renew license. (1) WHEN AN APPLICATION FOR AN ORIGINAL LICENSE HAS BEEN DENIED BY THE DEPARTMENT, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING OF SUCH DENIAL BY MAILING A NOTICE TO THE APPLICANT AT THE ADDRESS SHOWN ON THE APPLICATION. ANY APPLICANT AGGRIEVED BY SUCH DENIAL MAY PURSUE THE REMEDY FOR REVIEW AS PROVIDED IN SUBSECTION (3) OF THIS SECTION IF THE APPLICANT, WITHIN THIRTY DAYS AFTER RECEIVING SUCH NOTICE, PETITIONS THE DEPARTMENT TO SET A DATE AND PLACE FOR HEARING, THE DEPARTMENT SHALL AFFORD THE APPLICANT AN OPPORTUNITY TO BE HEARD IN PERSON OR BY COUNSEL. ALL HEARINGS ON THE DENIAL OF ORIGINAL LICENSES SHALL BE

CONDUCTED IN CONFORMITY WITH THE PROVISIONS AND PROCEDURES SPECIFIED IN ARTICLE 4 OF TITLE 24, C.R.S.

(2) THE DEPARTMENT MAY DENY THE ORIGINAL LICENSE OR SUSPEND, REVOKE, MAKE PROBATIONARY, OR REFUSE TO RENEW THE LICENSE OF ANY ADOPTION AGENCY REGULATED AND LICENSED UNDER THIS ARTICLE IF THE LICENSEE:

(a) CONSISTENTLY FAILS TO MAINTAIN THE STANDARDS PRESCRIBED AND ISSUED BY THE DEPARTMENT;

(b) REFUSES TO SUBMIT ANY REPORTS TO THE DEPARTMENT OR REFUSES TO MAKE AVAILABLE TO THE DEPARTMENT ANY RECORDS REQUIRED BY THE DEPARTMENT IN MAKING ITS INVESTIGATION OF THE AGENCY FOR LICENSING PURPOSES; OR

(c) CONDUCTS TYPES OF ADOPTION FOR WHICH THE AGENCY IS NOT LICENSED.

(3) THE DEPARTMENT SHALL SUSPEND, REVOKE, OR REFUSE TO RENEW A LICENSE IN ACCORDANCE WITH THE PROVISIONS AND PROCEDURES SPECIFIED IN ARTICLE 4 OF TITLE 24, C.R.S., AND AFTER A HEARING THEREON, IF REQUESTED, AS PROVIDED IN SAID ARTICLE 4; EXCEPT THAT ALL HEARINGS UNDER THIS ARTICLE SHALL BE CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE OF THE DEPARTMENT WHO SHALL RENDER HIS OR HER DECISION, WHICH SHALL BE THE FINAL DECISION OF THE DEPARTMENT. NO SUCH HEARING SHALL

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PREVENT OR DELAY ANY INJUNCTIVE PROCEEDINGS INSTITUTED UNDER THE PROVISIONS OF SECTION 26-6-111.

26-6.5-108. Injunctive proceeding. THE DEPARTMENT, IN THE NAME OF THE PEOPLE OF THE STATE OF COLORADO, THROUGH THE ATTORNEY GENERAL, MAY APPLY FOR AN INJUNCTION IN ANY COURT OF COMPETENT JURISDICTION TO ENJOIN ANY PERSON FROM OPERATING ANY ADOPTION AGENCY WITHOUT A LICENSE. AN INJUNCTION MAY ALSO BE REQUESTED BY THE APPROPRIATE COUNTY DEPARTMENT THROUGH THE COUNTY ATTORNEY OR RETAINED COUNSEL. IF IT IS ESTABLISHED THAT THE DEFENDANT HAS BEEN OR IS SO OPERATING SUCH AN AGENCY, THE COURT SHALL ENTER A DECREE ENJOINING SAID DEFENDANT FROM FURTHER OPERATING SUCH AGENCY UNLESS AND UNTIL HE OR SHE OBTAINS A LICENSE THEREFOR. IN CASE OF VIOLATION OF ANY INJUNCTION ISSUED UNDER THE PROVISIONS OF THIS SECTION, THE COURT MAY SUMMARILY TRY AND PUNISH THE OFFENDER FOR CONTEMPT OF COURT. SUCH INJUNCTIVE PROCEEDINGS SHALL BE IN ADDITION TO AND NOT IN LIEU OF THE PENALTY PROVIDED IN SECTION 26-6-112.

26-6.5-109. Penalty. (1) ANY PERSON VIOLATING ANY PROVISION OF THIS ARTICLE OR INTENTIONALLY MAKING ANY FALSE STATEMENT OR REPORT TO THE DEPARTMENT IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN THREE HUNDRED DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS.

(2) (a) IN ADDITION TO ANY OTHER PENALTY OTHERWISE PROVIDED BY LAW, ANY PERSON VIOLATING ANY PROVISION OF THIS ARTICLE OR INTENTIONALLY MAKING ANY FALSE STATEMENT OR REPORT TO THE DEPARTMENT MAY BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN ONE HUNDRED DOLLARS PER DAY TO A MAXIMUM OF TEN THOUSAND DOLLARS.

(b) THE AMOUNT OF THE CIVIL PENALTIES TO BE ASSESSED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE SET IN RULES AND REGULATIONS PROMULGATED BY THE DEPARTMENT.

(c) EACH DAY IN WHICH A PERSON IS IN VIOLATION OF ANY PROVISION OF THIS ARTICLE MAY CONSTITUTE A SEPARATE OFFENSE.

(d) THE DEPARTMENT MAY ASSESS A CIVIL PENALTY IN CONFORMITY WITH THE PROVISIONS AND PROCEDURES SPECIFIED IN ARTICLE 4 OF TITLE 24, C.R.S.; EXCEPT THAT ALL HEARINGS CONDUCTED PURSUANT TO THIS SECTION SHALL BE BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DEPARTMENT, WHOSE DECISION SHALL BE THE FINAL DECISION OF THE DEPARTMENT.

SECTION 14. Title 14, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW ARTICLES CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

ARTICLE 15

Child Support and Paternity

PART 1

UNIFORM PARENTAGE ACT

14-15-101. [Formerly 19-4-101.] Short title. This article shall be known and may be cited as the "Uniform Parentage Act".

14-15-101.5. [Formerly 19-1-121.] Confidentiality of records - "Uniform Parentage Act". Notwithstanding any other law concerning public hearings and records, any hearing or trial held under ~~article 4 of this title~~ THIS PART 1 shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. ~~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 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.~~ AFTER DISPOSITION OF THE ACTION OR PROCEEDING, THE COURT MAY, IF IT DEEMS IT NECESSARY IN ORDER TO

PROTECT THE CHILD'S WELFARE, ORDER THAT THE RECORD OF ANY INTERVIEW, REPORT, GENETIC TEST, INVESTIGATION, PLEADING, OR TESTIMONY IN A PARENTAGE PROCEEDING BE KEPT SECRET, AND THE COURT MAY MAKE AN APPROPRIATE ORDER SEALING THE RECORD. 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~~ THAT shall be in effect prohibiting such persons from disclosing the genetic testing information contained in the department's record.

14-15-101.7 Multiple intrastate child support cases. (1) IN CASES INVOLVING THE ISSUANCE OF MULTIPLE CHILD SUPPORT ORDERS IN COURTS IN DIFFERENT JUDICIAL DISTRICTS FOR THE SAME PARENTS AND CHILDREN, ANY PARTY, INCLUDING THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT, MAY PETITION THE COURT IN THE DISTRICT ISSUING ONE OF THE ORDERS FOR THE

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CONSOLIDATION OF SUCH ISSUES INTO ONE CASE IN THAT COURT PURSUANT TO THE VENUE PROVISIONS SET FORTH IN THE COLORADO RULES OF CIVIL PROCEDURE. THE COURT IS AUTHORIZED TO ORDER SUCH CONSOLIDATION TO ELIMINATE DUPLICATE CASE NUMBERS AND RESULTING CONFUSION. IF A COURT ORDERS A CONSOLIDATION OF CHILD SUPPORT ISSUES, ABSENT COMPELLING CIRCUMSTANCES, IT SHALL ORDER:

(a) CHILD SUPPORT ISSUES IN JUVENILE SUPPORT PROCEEDINGS MERGED INTO AN EXISTING DISSOLUTION OF MARRIAGE CASE OR AN EXISTING PATERNITY CASE; AND

(b) CHILD SUPPORT ISSUES IN A DISSOLUTION OF MARRIAGE CASE SHALL BE MERGED INTO AN EXISTING PATERNITY CASE.

(2) IN NO EVENT SHALL SUCH CONSOLIDATION BE CONSTRUED TO AFFECT THE VALIDITY OF ANY OF THE ORDERS, NOR OF ANY ARREARS THAT MAY HAVE ACCRUED, AS A RESULT OF SUCH ORDERS.

14-15-102. [Formerly 19-4-102.] Parent and child relationship defined.

As used in this ~~article~~ PART 1, "parent and child relationship" means the legal relationship existing between a child and ~~his~~ THE CHILD'S 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.

14-15-103. [Formerly 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.

14-15-104. [Formerly 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~~ PART 1, between a child and the natural father pursuant to the provisions of this ~~article~~ PART 1, or between a child and an adoptive parent by proof of adoption.

14-15-105. [Formerly 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 AND, WITH HIS CONSENT, HE IS NAMED AS THE CHILD'S FATHER ON THE CHILD'S BIRTH CERTIFICATE; OR

~~(II) With his consent, he is named as the child's father on the child's birth certificate; or~~

~~(III)~~ (II) 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.~~ 14-15-409;

(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 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; or~~ HE AND THE UNMARRIED MOTHER OF THE CHILD ACKNOWLEDGE HIS PATERNITY OF THE CHILD ON A FORM PRESCRIBED AND FURNISHED BY THE STATE REGISTRAR OF VITAL STATISTICS, AS SET FORTH IN SECTION 25-2-112, C.R.S.;

(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; OR

(g) HE AND THE CHILD'S MOTHER, WHO IS MARRIED TO ANOTHER MAN, ACKNOWLEDGE HIS PATERNITY OF THE CHILD ON A FORM PRESCRIBED AND FURNISHED BY THE STATE REGISTRAR OF VITAL STATISTICS, AND THE HUSBAND OF THE MOTHER OF THE CHILD AND THE MOTHER EXECUTE A FORM PRESCRIBED AND FURNISHED BY THE REGISTRAR ATTESTING THAT THE HUSBAND IS NOT THE FATHER OF THE CHILD AS SET FORTH IN SECTION 25-2-112, C.R.S.

(2) 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~~ THAT conflict with each other, ~~the~~ THAT presumption CONTROLS which on the facts is founded on the weightier considerations of policy and logic, ~~controls~~ CONSIDERING THE BEST INTERESTS OF THE CHILD AND INCLUDING CONSIDERATION OF THE CHILD'S AGE, ESTABLISHED RELATIONSHIPS, AND THE CHILD'S PHYSICAL, EMOTIONAL, AND DEVELOPMENTAL NEEDS. ~~The presumption is rebutted by a court decree establishing paternity of the child by another man.~~

14-15-105.5. [Formerly 19-4-105.5.] Commencement of proceedings - summons. (1) All proceedings under this ~~article~~ PART 1 shall be commenced in the manner provided by the Colorado rules of civil procedure or as otherwise provided in this section or section ~~26-13.5-105, C.R.S.~~ 14-15-405.

(2) Upon commencement of a proceeding under this ~~article~~ PART 1 by one of the parties, the other parties shall be served in the manner set forth in section ~~19-4-109 (2)~~ 14-15-109 (2), the Colorado rules of civil procedure, or as otherwise provided in section ~~26-13.5-105, C.R.S.~~ 14-15-405.

14-15-106. [Formerly 19-4-106.] Artificial insemination. (1) If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen 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. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination and shall file the husband's consent with the department of public health and environment, where it 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. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

(2) The donor of semen provided to a licensed physician for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived.

14-15-107. [Formerly 19-4-107.] Determination of father and child relationship - who may bring action - when action may be brought. (1) A child, ~~his~~ THE CHILD'S natural mother, or a man presumed to be ~~his~~ THE CHILD'S father under section ~~19-4-105 (1) (a), (1) (b), or (1) (e)~~ 14-15-105 (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.,~~ PART 2 OR 4 OF THIS ARTICLE OR ARTICLE 15.5 OF THIS TITLE 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) (e)~~ 14-15-105 (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) (e)~~ 14-15-105 (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.~~ PART 2 OR 4 OF THIS ARTICLE OR ARTICLE 15.5 OF THIS TITLE, 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)~~ 14-15-105 (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~~ 14-15-105 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)~~ 14-15-114 (2), between an alleged or presumed father and the mother or child does not bar an action under this section.

14-15-108. [Formerly 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~~ 14-15-107 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.

14-15-109. [Formerly 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~~ PART 1. 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.~~ PART 4 OF THIS ARTICLE. 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~~ PART 1 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(f) of the Colorado rules of civil procedure, personal jurisdiction over an individual outside this state may be acquired 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.

14-15-110. [Formerly 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 natural mother, each man presumed to be the father under section ~~19-4-105~~ 14-15-105, and each man alleged to be the natural father shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard. The court may align the parties.

14-15-111. [Formerly 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.

(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~~ PART 1, any party may seek the issuance of a temporary restraining 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 custody, 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~~ PART 1. Issues of temporary custody, parenting time, and 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.~~ THIS TITLE. Any temporary restraining 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 restraining 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 restraining orders of any court addressing in whole or in part the subject matter of the requested restraining 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.

14-15-112. [Formerly 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.

14-15-113. [Formerly 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) Blood 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. PART 2 OR 4 OF THIS ARTICLE, 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.

14-15-114. [Formerly 19-4-114.] Pretrial recommendations. (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) PURSUANT TO THE PROVISIONS OF SECTION 14-15-601, 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.

(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 blood tests have not been taken, the court shall require the parties to submit to blood 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.

(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 OR SHE might make under subsection (1) or (3) of this section.

14-15-115. [Formerly 19-4-115.] Civil action. An action under this ~~article~~ PART 1 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~~ 14-15-111 (2) AND (3), 14-15-112, AND 14-15-113 apply TO THIS PART 1.

14-15-116. [Formerly 19-4-116.] Judgment or order - repeal. (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, the court shall order that a new birth certificate be issued under section ~~19-4-124~~ 14-15-124.

(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.~~ 14-15-304, the custody 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 the reasonable expenses of the mother's pregnancy and confinement.

(b) (I) In addition to the provisions specified in paragraph (a) of this subsection (3), a judgment or order may also contain provisions concerning the recovery of birth-related costs incurred pursuant to section 25.5-1-202, C.R.S.

(II) This paragraph (b) is repealed, effective June 30, 1999.

(4) Support judgments or orders ordinarily shall be for periodic payments ~~which~~ THAT 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.~~ 14-15-602.

~~(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 custodial parent;~~

~~(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) (6).~~ Any order of support made pursuant to ~~subsections (4) to (6)~~ SUBSECTION (4) OR (5) of this section shall continue until the child is nineteen years of age, unless the support order is terminated sooner by court order.

~~(8) (7)~~ 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.

14-15-117. [Formerly 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 blood 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.~~ PART 2 OR 4 OF THIS ARTICLE, the final costs of any genetic tests or other tests of inherited characteristics shall be assessed against the nonprevailing party on the parentage issue.

14-15-118. [Formerly 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~~ PART 1 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 mother, the clerk of the court, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.

(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.

14-15-119. [Formerly 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)~~ 14-15-116 (3) AND (4) AND 14-15-118 (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)~~ 14-15-116 (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.~~ 14-15-602.

14-15-120. [Formerly 19-4-120.] Represented by counsel. At the pretrial hearing and in further proceedings, any party may be represented by counsel.

14-15-121. [Formerly 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~~ PART 1 applicable to the father and child relationship apply.

14-15-122. [Formerly 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)~~ 14-15-107 (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.

14-15-123. [Formerly 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.~~ PART 4 OF THIS ARTICLE, 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.

14-15-124. [Formerly 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".

14-15-125. [Formerly 19-4-126.] Uniformity of application and construction. This ~~article~~ PART 1 shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this ~~article~~ PART 1 among states enacting it.



14-15-126. [Formerly 19-4-127.] Severability. If any provision of this ~~article~~ PART 1 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~~ THIS PART 1 THAT can be given effect without the invalid provision or application, and, to this end, the provisions of this ~~article~~ PART 1 are severable.

14-15-127. [Formerly 19-4-128.] Right to jury trial - limitation. Any party may demand a trial by jury of six persons to determine the existence or nonexistence of the parent and child relationship. However, if 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 probability of the alleged father's paternity is ninety-nine percent or higher, no party may demand a jury trial, and notwithstanding any demand ~~which~~ THAT may have been made, trial shall be to the court and not to a jury.

14-15-128. [Formerly 19-4-129.] Child support - guidelines - schedule of basic support obligations. The provisions of section ~~14-10-115, C.R.S.~~ 14-15-601 shall apply to all child support obligations, established or modified, as part of any proceeding under this ~~article~~ PART 1, whether filed on or subsequent to July 1, 1988.

14-15-129. [Formerly 19-4-130.] Temporary custody orders. (1) Upon the filing of any proceeding under this ~~article~~ PART 1 or under ~~article 13.5~~ of

~~title 26, C.R.S.~~ PART 4 OF THIS ARTICLE, the court shall, as soon as practicable, enter a temporary or permanent custody order ~~which~~ THAT shall determine the legal custody of the child until further order of the court.

(2) (a) IN THE ABSENCE OF AN ORDER OF JUDGMENT REGARDING CUSTODY ISSUED BY A COURT OF COMPETENT JURISDICTION, THE MOTHER OF A CHILD BORN OUT OF WEDLOCK HAS LEGAL INTERIM CUSTODY OF SUCH CHILD UNTIL A CUSTODY ORDER HAS BEEN ENTERED OR THE CHILD IS EMANCIPATED.

(b) WHEN A PETITION FOR CUSTODY OF OR A PETITION TO ESTABLISH PATERNITY FOR A CHILD BORN OUT OF WEDLOCK IS FILED, THE PARENT WHO HAS HAD PHYSICAL CUSTODY OF THE CHILD FOR THE MAJORITY OF TIME DURING THE PRIOR SIXTY DAYS HAS LEGAL CUSTODY UNTIL A COURT ORDERS OTHERWISE. IF EMERGENCY ORDERS ARE NECESSARY TO RESTORE PHYSICAL CUSTODY OF THE CHILD TO SAID PARENT, THE COURT SHALL ENTER PARENTING TIME ORDERS.

(c) THE PROVISIONS REGARDING INTERIM CUSTODY IN PARAGRAPH (a) OF THIS SUBSECTION (2) AND PHYSICAL CUSTODY IN PARAGRAPH (b) OF THIS SUBSECTION (2) SHALL NOT PREJUDICE EITHER PARENT IN ANY COURT PROCEEDING TO DETERMINE CUSTODY OR PARENTING TIME. THE COURT SHALL GIVE PRIMARY CONSIDERATION TO THE BEST INTERESTS OF THE CHILD AND SHALL CONSIDER THE FACTORS LISTED IN SECTION 14-10-124.

(d) THE PROVISIONS REGARDING INTERIM CUSTODY IN PARAGRAPH (a) OF THIS SUBSECTION (2) AND PHYSICAL CUSTODY IN PARAGRAPH (b) OF THIS SUBSECTION (2) SHALL NOT PRECLUDE EITHER PARENT FROM EXERCISING PARENTING TIME WITH THE MINOR CHILD. EACH PARENT IS ENCOURAGED TO NOURISH AND PROMOTE A RELATIONSHIP BETWEEN THE CHILD AND THE OTHER PARENT.

PART 2

CHILD SUPPORT ENFORCEMENT

14-15-201. [Formerly 26-13-101.] Short title. This ~~article~~ PART 2 shall be known and may be cited as the "Colorado Child Support Enforcement Act".

14-15-202. [Formerly 26-13-102.] Legislative declaration. The purposes of this ~~article~~ PART 2 are to provide for enforcing the support obligations owed by absent parents, to locate absent parents, to establish parentage, to establish and modify child support obligations, and to obtain support in cooperation with the federal government pursuant to Title IV-D of the federal "Social Security Act", as amended, and other applicable federal regulations.

14-15-203. [Formerly 26-13-103.] Support enforcement program. The ~~state~~ department OF HUMAN SERVICES, pursuant to rules and regulations, shall establish a program to provide necessary support enforcement services. The state department shall establish a single and separate agency within the

department to administer or supervise the administration of such program in accordance with Title IV-D of the federal "Social Security Act", as amended, and this ~~article~~ PART 2.

14-15-204. [Formerly 26-13-104.] State plan. The ~~state~~ department OF HUMAN SERVICES shall prepare and submit to the United States secretary of health and human services a state plan and any amendments to such state plan that become necessary ~~which~~ THAT meet the requirements of Title IV-D of the federal "Social Security Act", as amended.

14-15-205. [Formerly 26-13-105.] Child support enforcement services.

(1) Subject to the provisions of section ~~26-13-104~~ 14-15-204, the child support enforcement program shall include the following, as required by federal law:

(a) The establishment and modification of an obligor parent's legal obligation to support his or her dependent children, including determination of parentage when necessary;

(b) The location of an obligor parent or putative parent;

(c) The monitoring and processing of an obligor parent's child support and maintenance payment;

(d) The enforcement of an obligor parent's support obligation as set forth in section ~~26-13-106-(1)~~ 14-15-206 (1);



(e) Any necessary investigative and administrative activities ~~which~~ THAT may be necessary to accomplish the services required by this section.

(2) In any action brought pursuant to this ~~article~~ PART 2, or any action brought by a governmental agency, to establish, modify, or enforce a child support obligation or to enforce a maintenance obligation as set forth in section ~~26-13-106~~ 14-15-206, the prosecuting attorney represents the people of the state of Colorado. Nothing in this section shall be construed to modify statutory mandate, authority, or confidentiality required of any governmental agency, nor should representation by a prosecuting attorney be construed to create an attorney-client relationship between the attorney and any party, other than the people of the state of Colorado, or witness to the action; except that any district attorney or county attorney as contractual agent for a county department shall collect a fee pursuant to section ~~26-13-106 (2)~~ 14-15-206 (2).

14-15-206. [Formerly 26-13-106.] Eligibility for services. (1) Support enforcement services shall be provided to those recipients of medicaid-only and Title IV-E foster care as required by federal law and to recipients of aid to families with dependent children who, as a condition of eligibility pursuant to federal law, must assign their rights to support to, and cooperate with, the state department in the establishment, modification, and enforcement of support obligations owed by absent parents to their children and the

enforcement of maintenance owed by absent parents to their spouses or former spouses.

(2) Child support establishment, modification, and enforcement services shall be provided to any person who completes a written application and pays the required fee. The state department shall establish, by rule, a fee to be charged for services provided under this section. Such fee shall be used to reimburse expenditures incurred by the child support enforcement program. County departments and their contractual agents for legal services, including district and county attorneys, shall diligently pursue such fee, notwithstanding any other provision of law. Nonpayment of any fee charged by the state department for services provided under this section shall not be the basis for any criminal prosecution or order of contempt of the court.

14-15-207. [Formerly 26-13-107.] State parent locator service.

(1) There shall be established in the state department a state parent locator service to assist county departments or their authorized agents and other states in the location of parents who have or appear to have abandoned children who qualify under section ~~26-13-106~~ 14-15-206.

(2) To effectuate the purposes of subsection (1) of this section, the executive director may request and shall receive from departments, boards, bureaus, or other agencies of the state or any of its political subdivisions, and the same are authorized to provide, such assistance and data as will enable the

state department and county departments or their authorized agents properly to carry out their powers and duties to locate such parents and to enforce their liability for the support of their children. Any records established pursuant to the provisions of this section shall be available only to the state department, the county departments or their authorized agents, the attorney general, and the district attorneys, county attorneys, and courts having jurisdiction in support and abandonment proceedings or actions to establish child support or to establish parentage.

(3) (a) All departments and agencies of the state and local governments shall cooperate in the location of parents who have abandoned or deserted children, irrespective of whether such children are or are not receiving aid to families with dependent children; and, on request of a county department or its authorized agent, the state department, or the district attorney of any judicial district in this state, they shall supply any information on hand, notwithstanding any other provisions of law making such information confidential, concerning the location, employment, income, and property of such absent parents and any other information on hand relative to the enforcement of support. The department of revenue shall furnish, at no cost to inquiring departments and agencies, such information as may be necessary to effectuate the purposes of this ~~article~~ PART 2. The procedures whereby this information will be requested and provided shall be established pursuant to

rules and regulations of the state department. The state department or county departments shall use such information only for the purposes of administering child support enforcement under this title, and the district attorney shall use it only for the purpose of establishing and enforcing the support liability of such absent parents and shall not use the information, or disclose it, for any other purpose.

(b) Nothing in this subsection (3) shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if such information is required to be kept confidential by the federal law or regulations relating to such program, or to compel the disclosure of any information disclosed in any document, report, or return made confidential by section 39-21-113, C.R.S.

(c) The state parent locator service or a local child support enforcement unit may request any employer located within this state or doing business in this state to provide any employment-related information held by such employer concerning the location, benefits, income, and assets of parents with a child support obligation. Compliance with such a request shall not subject the employer to liability to the obligor for disclosing such information without a subpoena pursuant to this paragraph (c).



(d) The state parent locator service or a delegate child support enforcement unit may obtain information from credit bureaus on the whereabouts, income, and assets of individuals pursuant to the provisions of the federal "Fair Credit Reporting Act" in order to provide the services set forth in section ~~26-13-105~~ 14-15-205.

14-15-208. [Formerly 26-13-108.] Recovery of public assistance paid for child support and maintenance. (1) Whenever the state department, a county department or its authorized agent, or a district attorney recovers any amounts of support for public assistance recipients, such amounts shall be deposited in the county social services fund, and, if such support is used to reimburse public assistance paid in accordance with federal law, the federal government shall be entitled to a share proportionate to the amount of federal funds paid, the state shall be entitled to a share proportionate to one-half the amount of state funds paid, and the county shall be entitled to a share proportionate to the amount of county funds paid. In addition, the county shall be entitled to a share proportionate to one-half the amount of state funds paid; except that such share shall be subject to subsection (2) of this section. Costs and expenses reasonably and necessarily incurred by the office of district or county attorney, as contractual agent for a county department, in carrying out the provisions of this ~~article~~ PART 2 shall be billed to county departments of social services or a county department of social services within the judicial

district for the actual cost of services provided. Each county shall make an annual accounting to the state department on all amounts recovered.

(2) (a) For fiscal year 1990-91, out of the total one-half proportionate state share of the moneys to which counties are entitled under subsection (1) of this section, the first forty thousand seven hundred seventy-one dollars shall be transmitted to the state treasurer, who shall credit the same to the family support registry fund created in section ~~26-13-115.5~~ 14-15-215.5 for the purpose of implementing and operating the family support registry created in section ~~26-13-114~~ 14-15-214. The remaining balance of such proportionate share shall be paid to counties in accordance with section ~~26-13-112~~ 14-15-212.

(b) For fiscal year 1991-92, out of the total one-half proportionate state share of the moneys to which counties are entitled under subsection (1) of this section, up to four hundred twenty-five thousand eight hundred forty-three dollars, as appropriated by the general assembly, shall be transmitted to the state treasurer, or so much thereof as may be necessary, who shall credit the same to the family support registry fund created in section ~~26-13-115.5~~ 14-15-215.5 for the purpose of implementing and operating the family support registry created in section ~~26-13-114~~ 14-15-214. The remaining balance of such proportionate share shall be paid to counties in accordance with section ~~26-13-112~~ 14-15-212.

(c) For fiscal year 1992-93, out of the funds authorized by paragraph (b) of this subsection (2) to be appropriated for fiscal year 1991-92, but not yet appropriated, an amount equal to two hundred seventy-two thousand one hundred sixty-eight dollars shall be appropriated by the general assembly to the family support registry fund created in section ~~26-13-115.5~~ 14-15-215.5 for the purpose of implementing and operating the family support registry created in section ~~26-13-114~~ 14-15-214.

14-15-209. [Formerly 26-13-109.] Enforcement of support UIFSA.

(1) The ~~state~~ department OF HUMAN SERVICES shall be the state information agency for the "Uniform Interstate Family Support Act", ~~article 5 of title 14,~~ ~~C.R.S.~~ ARTICLE 15.5 OF THIS TITLE, in this state and reciprocal laws of other states; and, in this capacity, the state department shall:

(a) Assist county departments and other agencies to carry out their responsibilities, powers, and duties to establish and enforce the liability of parents for the support of their minor children;

(b) Aid in the location of deserting parents through the operation of the state parent locator service established in section ~~26-13-107~~ 14-15-207, obtain and transmit pertinent information and data from public officials and agencies, and assist in the training of local personnel employed to locate such parents;

(c) Stimulate and encourage cooperation, through the holding of meetings and the exchange of information, between and among public officials, law

enforcement agencies, and courts having powers and duties relating to the enforcement of the liability of parents for the support of their minor children, including cooperation with public officials, agencies, and courts of other states and the federal government, and, upon request or when required to do so by other provisions of law, advise such officials, agencies, and courts in the exercise of such powers or in the performance of such duties;

(d) Develop, or assist in the development of, appropriate forms, guides, manuals, handbooks, and other materials ~~which~~ THAT may be necessary or useful effectively to accomplish the objectives of this section;

(e) Adopt any rules and regulations ~~which~~ THAT may be necessary to carry out the purposes of this article.

14-15-210. [Formerly 26-13-110.] Federal requirements. Nothing in this ~~article~~ PART 2 shall be construed to prevent the state department from complying with federal requirements for the child support enforcement program expressly provided by Title IV-D of the "Social Security Act", as amended, in order for the state to qualify for federal funds under such act and to maintain said program within the limits of available appropriations.

14-15-211. [Formerly 26-13-111.] State income tax refund offset.
(1) (a) At any time prescribed by the department of revenue, but not less frequently than annually, the ~~state~~ department OF HUMAN SERVICES shall certify to the department of revenue information regarding persons who owe



a child support debt to the state pursuant to section ~~14-14-104, C.R.S.~~ 14-15-304, or who owe child support arrearages as requested as a part of an enforcement action pursuant to ~~article 5 of title 14, C.R.S.~~ ARTICLE 15.5 OF THIS TITLE, or who owe child support arrearages ~~which~~ THAT are the subject of enforcement services provided pursuant to section ~~26-13-106~~ 14-15-206.

(b) Such information shall include the name and the social security number of the person owing the child support debt or arrearages, the amount of same, and any other identifying information required by the department of revenue.

(2) Prior to final certification of the information specified in subsection (1) of this section to the department of revenue, the state department shall notify the obligated parent, in writing, that the state intends to refer the parent's name to the department of revenue in an attempt to offset the parent's child support debt or arrearages against the parent's state income tax refund. Such notification shall include information on the parent's right to object to the offset.

(3) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 39-21-108 (3), C.R.S., and after deduction of the fees authorized in subsection (4) of this section to be collected from applicants receiving support enforcement services pursuant to section ~~26-13-106 (2)~~ 14-15-206 (2), the state department shall disburse such amounts

to the appropriate county department for processing or for distribution to the individual receiving support enforcement services pursuant to section ~~26-13-106~~ 14-15-206, as appropriate.

(4) The state department shall promulgate rules and regulations, pursuant to article 4 of title 24, C.R.S., establishing procedures to implement this section and may promulgate rules and regulations establishing reasonable fees to be collected from an applicant who is receiving support enforcement services provided pursuant to section ~~26-13-106 (2)~~ 14-15-206 (2). Such fees shall not exceed the amount necessary to cover the cost of collecting overdue child support using the state tax refund offset procedure.

(5) The home addresses and social security numbers of persons subject to the income tax refund offset, provided to the ~~state~~ department OF HUMAN SERVICES by the department of revenue, shall be sent to the respective delegate child support enforcement unit as defined in section ~~14-14-102, C.R.S.~~ 14-15-302.

14-15-212. [Formerly 26-13-112.] Child support incentive payments.

(1) For purposes of this section, unless the context otherwise requires:

(a) "AFDC collections" means total child support collected from absent parents under assignments of support rights executed by recipients of aid to families with dependent children.

(b) "Non-AFDC collections" means total child support collected from absent parents under applications for child support enforcement services.

(c) "Total administrative costs" means the total direct administrative expenditures related to the child support enforcement program claimed by a county department of social services; except that such costs shall not include laboratory costs incurred in determining parentage. Fees paid by individuals, recovered costs, and program income such as interest earned on collections shall be excluded from the computation of total administrative costs.

(2) (a) In federal fiscal year 1986, the child support incentives to be distributed to county departments of social services shall be the amount of the federal incentives paid to the state.

(b) In federal fiscal year 1987, the child support incentives to be distributed to county departments of social services shall be the amount of the federal incentives paid to the state plus one-half of the state incentive paid to county departments of social services pursuant to section ~~26-13-108~~ 14-15-208.

(c) In federal fiscal year 1988, and each federal fiscal year thereafter, the child support incentives to be distributed to county departments of social services shall be the amount of the federal incentives paid to the state plus one hundred percent of the state incentives paid to county departments of social services pursuant to section ~~26-13-108~~ 14-15-208 except as otherwise provided in section ~~26-13-108(2)~~ 14-15-208 (2).

(3) A county department of social services' child support incentive shall be calculated as follows:

(a) (I) The county department of social services' AFDC collections shall be divided by the county department's total administrative costs. This quotient establishes a cost-effectiveness ratio. The cost-effectiveness ratio shall be used to identify a performance percentage pursuant to subsection (4) of this section.

(II) The county department's AFDC collections shall be multiplied by the performance percentage identified pursuant to subparagraph (I) of this paragraph (a). This product shall be the unadjusted AFDC incentive.

(b) An unadjusted non-AFDC incentive shall be computed pursuant to the steps set forth in paragraph (a) of this subsection (3) by substituting non-AFDC collections for AFDC collections; except that the unadjusted non-AFDC incentive shall be limited to a percentage of the unadjusted AFDC incentive as follows:

(I) For federal fiscal years 1986 and 1987, such incentive shall be limited to one hundred percent of the unadjusted AFDC incentive;

(II) For federal fiscal year 1988, such incentive shall be limited to one hundred five percent of the unadjusted AFDC incentive;

(III) For federal fiscal year 1989, such incentive shall be limited to one hundred ten percent of the unadjusted AFDC incentive;



(IV) For federal fiscal year 1990, and for each federal fiscal year thereafter, such incentive shall be limited to one hundred fifteen percent of the unadjusted AFDC incentive.

(c) (I) The county department of social services' unadjusted AFDC incentive shall be divided by the total of all of the county departments' unadjusted AFDC incentives to determine the county department of social services' pro rata share of the AFDC incentives.

(II) The county department of social services' unadjusted non-AFDC incentive shall be divided by the total of all of the county departments' unadjusted non-AFDC incentives to determine the county department of social services' pro rata share of the non-AFDC incentives.

(d) (I) The unadjusted AFDC incentives of all of the county departments of social services shall be added and the sum divided by the sum of the total of all of the unadjusted AFDC incentives of all of the county departments of social services plus the total of all of the unadjusted non-AFDC incentives of all of the county departments of social services. This fraction shall be multiplied by the total amount of the child support incentive to be distributed pursuant to subsection (2) of this section. This amount shall be the total amount of AFDC child support incentive to be distributed.

(II) The total amount of child support incentive to be distributed pursuant to subsection (2) of this section minus the total amount of AFDC child support

incentive to be distributed shall be the total amount of non-AFDC child support incentive to be distributed.

(e) A county department of social services' child support incentive shall be the sum of the county department's pro rata share of the total amount of AFDC child support incentive to be distributed and the county department's pro rata share of the total amount of non-AFDC child support incentive to be distributed.

(4) (a) If the county department of social services' cost-effectiveness ratio is:

(I) Less than two-tenths, the performance percentage shall be three percent;

(II) Two-tenths or more but less than four-tenths, the performance percentage shall be three and one-half percent;

(III) Four-tenths or more but less than six-tenths, the performance percentage shall be four percent;

(IV) Six-tenths or more but less than eight-tenths, the performance percentage shall be four and one-half percent;

(V) Eight-tenths or more but less than one, the performance percentage shall be five percent;

(VI) One or more but less than one and two-tenths, the performance percentage shall be five and one-half percent;

(VII) One and two-tenths or more but less than one and four-tenths, the performance percentage shall be six percent;

(VIII) One and four-tenths or more but less than one and six-tenths, the performance percentage shall be six and one-half percent;

(IX) One and six-tenths or more but less than one and eight-tenths, the performance percentage shall be seven percent;

(X) One and eight-tenths or more but less than two, the performance percentage shall be seven and one-half percent;

(XI) Two or more but less than two and two-tenths, the performance percentage shall be eight percent;

(XII) Two and two-tenths or more but less than two and four-tenths, the performance percentage shall be eight and one-half percent;

(XIII) Two and four-tenths or more but less than two and six-tenths, the performance percentage shall be nine percent;

(XIV) Two and six-tenths or more but less than two and eight-tenths, the performance percentage shall be nine and one-half percent;

(XV) Two and eight-tenths or more, the performance percentage shall be ten percent.

(b) For purposes of this subsection (4), a cost-effectiveness ratio shall be truncated at one decimal place.

(5) The ~~state~~ department OF HUMAN SERVICES shall pay incentives to political subdivisions quarterly.

14-15-213. [Formerly 26-13-113.] Placement in foster care automatic assignment of right. When a child is placed in foster care pursuant to article 5 of ~~this title~~ TITLE 26, C.R.S., and Title IV-E of the federal "Social Security Act", as amended, all rights to current and accrued child support for the benefit of the child are assigned by operation of law to the ~~state~~ department OF HUMAN SERVICES. When placement has terminated, the assignment of rights to accrued child support shall remain in effect until foster care maintenance costs have been reimbursed in full. Amounts collected pursuant to this section shall be distributed to the federal government, the state, and the county proportionately according to each entity's contribution.

14-15-214. [Formerly 26-13-114.] Family support registry - collection and disbursement of child support and maintenance - rules and regulations - legislative declaration - repeal. (1) The general assembly hereby finds, determines, and declares that, based on the results of the feasibility study conducted pursuant to section ~~26-13-117~~ 14-15-216, it has been demonstrated that the establishment and operation of an automated central payment registry for the processing of child support payments would be beneficial to the state in the collection and enforcement of family support obligations, particularly with respect to Title IV-D cases. It is the intent of the general assembly by



enacting this section to authorize the implementation of a central family support registry for the collection, receipt, and disbursement of payments with respect to child support obligations for children whose custodians are receiving child support enforcement services from delegate child support enforcement units (IV-D cases). It is the intent of the general assembly that, after the completion of the conversion of all IV-D cases to payment through the registry, the state department of human services shall evaluate and analyze the operation of the family support registry in order to determine the feasibility of expanding the registry to include the processing of some or all of the non-IV-D cases through the family support registry.

(2) "Family support registry" means a central registry maintained and operated by the state department of human services acting as the child support enforcement agency which THAT receives, processes, disburses, and maintains a record of the payment of child support, child support when combined with maintenance, child support arrears, or child support debt made pursuant to court order or administrative order. The family support registry shall be used only for the collection and processing of child support payments for IV-D cases or IV-D orders.

(3) The child support enforcement agency is authorized to establish and maintain or contract for the establishment and maintenance of a family support registry to receive, process, and disburse support payments for IV-D cases or

IV-D orders. Development and operation of the family support registry shall be subject to available appropriations.

(4) In implementing the family support registry, the child support enforcement agency is authorized to:

(a) Receive, process, and disburse payments for child support, child support when combined with maintenance, child support arrears, or child support debt for any IV-D case or IV-D order;

(b) Maintain records of any payments collected, processed, and disbursed through the family support registry;

(c) Establish and maintain a separate record for payments made through the registry as a result of a judgment remedy;

(d) Answer inquiries from authorized parties concerning payments processed through the family support registry;

(e) Collect a fee for the processing of insufficient funds checks and issue a notice to the originator of any insufficient funds check that no further checks will be accepted from such person and that future payments shall be required to be paid by cash or certified funds. The department of human services shall insure that provisions are available for obligors to make cash payments through their county child support enforcement units.

(5) On and after July 1, 1991, the child support enforcement agency shall begin implementing the family support registry in particular counties and

judicial districts as designated by the executive director of the ~~state~~ department of human services. The executive director of the ~~state~~ department of human services shall inform the state court administrator when a particular county or judicial district is ready to implement and participate in the family support registry.

(6) Upon implementation of the family support registry in a particular county or judicial district, the following procedures shall be followed:

(a) All court orders entered or modified and all administrative orders issued pursuant to ~~article 13.5 of this title~~ PART 4 OF THIS ARTICLE with respect to a IV-D case or IV-D order shall include an order that support payments for child support, child support when combined with maintenance, child support arrears, or child support debt shall be made through the family support registry.

(b) The delegate child support enforcement unit for each county implementing the family support registry shall send or cause to be sent a notice to redirect payments, by first class mail. The notice shall state that all payments shall be made to the family support registry. The notice shall be sent to the following persons:

(I) Any obligor who is obligated to make payments for child support, child support when combined with maintenance, child support arrears, or child

support debt under a court order or administrative order in a IV-D case where the order does not already specify paying through the family support registry;

(II) Any employer or trustee who has been withholding wages under a wage assignment pursuant to section ~~14-14-107, C.R.S.~~ 14-15-307;

(III) Any employer or other payor of funds who has been deducting income for family support obligations pursuant to section ~~14-14-111, C.R.S.~~ 14-15-310;

(IV) Any obligor or employer who receives a notice to redirect payments as specified in subparagraph (I) of this paragraph (b) who fails to make the payments to the family support registry and who continues to make payments to the court or to the delegate child support enforcement unit shall be sent a second notice to redirect payments. The second notice shall be sent certified mail, return receipt requested. Such notice shall contain all of the information required to be included in the first notice to redirect payments and shall further state that the obligor or employer has failed to make the payments to the correct agency and that ~~he~~ THE OBLIGOR OR EMPLOYER shall redirect the payments to the family support registry at the address indicated in the notice. Failure to make payments to the family support registry after a second notice shall be grounds for filing a motion for contempt.

(c) Any payment required to be made to the family support registry ~~which~~ THAT is received by the court or by a delegate child support



enforcement unit shall be forwarded to the family support registry within five working days after receipt. Any such payments forwarded shall be identified with the information specified by the family support registry, including but not limited to, the court case number, the county where the court case originated, and the name of the obligor. A copy of the notice to redirect payments described in subparagraph (I), (II), (III), or (IV) of paragraph (b) of this subsection (6) shall be mailed to the obligee and the court.

(d) If the delegate child support enforcement unit is no longer required to provide enforcement services pursuant to section ~~26-13-106~~ 14-15-206, it may continue to process payments through the registry unless both parties stipulate on the form required by the family support registry that any future payments shall be made directly from the obligor to the obligee and a copy of such form is provided to the family support registry and the court.

(7) All support orders entered or modified after July 1, 1990, shall contain:

- (a) The amount of the payment;
- (b) The specific day or dates on which the payment is due;
- (c) The name, social security number, date of birth, residential address, and sex of the obligor, and the name and address of the employer of the obligor;

(d) The name, social security number, date of birth, residential address, and sex of the obligee;

(e) The name, date of birth, sex, and social security number, if any, of all dependents covered under the support order;

(f) A statement that the parties are required to notify the family support registry of any change in residential address of the obligor or obligee or of any change in address of the employer or payor of funds or any other changes that may affect the administration of the support order, including changes in employment of the obligor.

(8) The clerk of the court shall notify the family support registry within five working days after any entry of judgment is filed in relation to any child support case where payments are required to be paid through the family support registry, whether by order of court or verified entry of judgment, including the inclusive dates of the judgment and the judgment amount.

(9) The judicial department and the department of human services shall cooperate in the transfer of the functions relating to the collection of child support from the judicial department to the department of human services.

(10) A copy of the record of payment maintained by the family support registry shall be admissible into evidence as proof of the payments made through the family support registry.

(11) The state board OF HUMAN SERVICES AUTHORIZED TO ACT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 26-1-107, C.R.S., shall promulgate such rules and regulations, pursuant to section 24-4-103, C.R.S., as are necessary to implement this section.

(12) ~~This section is repealed, effective July 1, 1996.~~ NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, PAYMENT RECORD INFORMATION IN THE CUSTODY OF THE FAMILY SUPPORT REGISTRY SHALL BE MADE AVAILABLE UPON REQUEST TO THE OBLIGOR OR THE OBLIGOR'S ATTORNEY OF RECORD, THE OBLIGEE OR THE OBLIGEE'S ATTORNEY OF RECORD, OR COURT PERSONNEL.

14-15-215. [Formerly 26-13-116.] Debt information made available to consumer reporting agencies - notice to noncustodial parent - fees - rules and regulations - repeal. (1) For purposes of this section, "consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(2) On and after October 1, 1985, the child support enforcement agency shall provide information to consumer reporting agencies, upon request, for cases in which the amount of child support debt or child support arrearages owed by the obligor parent is an amount greater than one thousand dollars.

(2.5) (a) The child support enforcement agency may provide information to consumer reporting agencies regarding child support obligations in cases in which child support debt or child support arrearages are owed.

(b) This subsection (2.5) is repealed, effective July 1, 1998.

(3) Prior to furnishing any information pursuant to subsection (2) of this section, the child support enforcement agency shall provide advance notice to the obligor parent regarding the proposed release of the information to the consumer reporting agency. Such notice shall contain an explanation of the obligor parent's right to contest the accuracy of the information to be released.

(4) The ~~state~~ department OF HUMAN SERVICES shall establish fees to be collected for providing the information specified in this section. The fees shall not exceed the cost of providing such information.

(5) The state board OF HUMAN SERVICES shall promulgate rules and regulations, pursuant to section 24-4-103, C.R.S., to implement this section, including, but not limited to, the following:

- (a) Application procedures;
- (b) Notification of the obligor parent;
- (c) Procedures for contesting the accuracy of the information; and
- (d) Fee schedules.

14-15-215.5. [Formerly 26-13-115.5.] Family support registry fund created. There is hereby created in the state treasury a fund to be known as



the family support registry fund, which shall consist of any moneys credited thereto pursuant to section ~~26-13-108~~ 14-15-208. Moneys in the fund shall be used to implement and operate the family support registry created in section ~~26-13-114~~ 14-15-214. The moneys in the family support registry fund shall not be credited or transferred to the general fund or any other fund of the state.

14-15-216. [Formerly 26-13-117.] Study of centralized system for processing child support payments. (1) The ~~state~~ department OF HUMAN SERVICES shall conduct a study to determine whether the child and spousal support enforcement program, which it administers pursuant to Title IV-D of the federal "Social Security Act", can be improved by the development of a centralized system for processing child and spousal support payments. This study shall be conducted by the ~~state~~ department OF HUMAN SERVICES and shall include consultation with the state judicial department, the family law section of the Colorado bar association, the county departments, and other interested parties. The ~~state~~ department OF HUMAN SERVICES shall issue a report based upon this study to the state court administrator and to the joint budget committee of the general assembly not later than September 1, 1989. The report should include, but need not be limited to, recommendations relating to:

(a) The establishment of an automated central registry of child and spousal support orders;

(b) The establishment of an automated central payment processing system for monitoring and tracking support payments, including receipting, disbursement, billing, and automated income-withholding functions;

(c) The case load, including both IV-D and non-IV-D cases;

(d) The financing alternatives, including but not limited to user fees, federal funds, general funds, private funds, and any other financing alternatives;

(e) The integration of the recommendations made as a result of such study with the automated child support enforcement system (ACSES);

(f) An implementation plan ~~which~~ THAT includes budget and legislative initiatives.

14-15-217. [Formerly 26-13-118.] Lottery winnings offset. (1) (a) The ~~state~~ department OF HUMAN SERVICES shall periodically certify to the department of revenue information regarding persons who owe a child support debt to the state pursuant to section ~~14-14-104, C.R.S.~~ 14-15-304, or who owe child support arrearages as requested as a part of an enforcement action pursuant to ~~article 5 of title 14, C.R.S.~~ ARTICLE 15.5 OF THIS TITLE, or who owe child support arrearages ~~which~~ THAT are the subject of enforcement services provided pursuant to section ~~26-13-106~~ 14-15-206.

(b) Such information shall include the social security number of the person owing the child support debt or arrearages, the amount of same, and any other identifying information required by the department of revenue.

(2) Prior to the payment of lottery winnings required by rule and regulation of the commission to be paid only at the lottery offices, the department of revenue shall check the social security number of each winner with those certified by the ~~state~~ department OF HUMAN SERVICES. If the social security number of a lottery winner appears among those certified by the ~~state~~ department OF HUMAN SERVICES, the department of revenue shall obtain the current address of the winner, shall suspend the payment of the winnings, and shall notify the ~~state~~ department OF HUMAN SERVICES. The ~~state~~ department OF HUMAN SERVICES shall notify the obligated parent, in writing, that the state intends to offset, in the following order of priority, the parent's current monthly child support obligation, child support debt, or child support arrearages against the parent's winnings from the state lottery. Such notification shall include information on the parent's right to object to the offset and to request an administrative review pursuant to the rules and regulations of the state board of human services.

(3) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 24-35-212, C.R.S., and after deduction of the fees authorized in subsection (4) of this section to be collected

from applicants receiving support enforcement services pursuant to section ~~26-13-106(2)~~ 14-15-206 (2), the ~~state~~ department OF HUMAN SERVICES shall disburse such amounts to the appropriate county department for processing or for distribution to the individual receiving support enforcement services pursuant to section ~~26-13-106~~ 14-15-206, as appropriate.

(4) The ~~state~~ department OF HUMAN SERVICES shall promulgate rules and regulations, pursuant to article 4 of title 24, C.R.S., establishing procedures to implement this section and may promulgate rules and regulations establishing reasonable fees to be collected from an applicant who is receiving support enforcement services as provided pursuant to section ~~26-13-106(2)~~ 14-15-206 (2). Such fees shall not exceed the amount necessary to cover the cost of collecting overdue child support using the state lottery winnings offset procedure.

(5) The home addresses and social security numbers of persons subject to the state lottery winnings offset provided to the ~~state~~ department OF HUMAN SERVICES by the department of revenue shall be sent to the respective delegate child support enforcement unit as defined in section ~~14-14-102, C.R.S.~~ 14-15-302.

14-15-218. [Formerly 26-13-119.] Distribution of amounts collected.

(1) This section shall only apply to Title IV-D cases under the federal "Social Security Act" where the delegate child support enforcement unit is providing



support enforcement services pursuant to section ~~26-13-106~~ 14-15-206 and has responsibility to collect the required support obligation for the month.

(2) - Notwithstanding any provision in the Colorado rules of civil procedure to the contrary, any amounts collected by the delegate child support enforcement agency, except for federal income tax refund offsets and state income tax refund offsets, shall be allocated and distributed first to satisfy the required support obligation for the month in which the collection was received. In cases where some portion of an amount collected pursuant to execution on a judgment is diverted to satisfy the required support obligation for the month in which the collection was received, the delegate child support enforcement agency shall file a partial satisfaction of judgment with the court ~~which~~ THAT reflects the portion of the amount collected that is actually allocated and distributed to satisfy the judgment.

14-15-219. [Formerly 26-13-120.] Administrative review of child support orders. (1) The delegate child support enforcement unit may conduct a review at least once every two and one-half years of the amount of any child support order in every case with respect to the support of a child on whose behalf the custodian of that child is receiving support enforcement services from the delegate child support enforcement unit pursuant to section ~~26-13-106~~ 14-15-206.

(2) In order to obtain financial information for conducting the review pursuant to subsection (1) of this section, the delegate child support enforcement unit is authorized to serve, by regular mail, an administrative subpoena on any person, corporation, partnership, financial institution, or labor union, for an appearance or for production of records and financial documents. The delegate child support enforcement unit may make application to the district court to compel and enforce the appearance, production, and testimony relating to the review.

(3) Notice of any administrative review of such order pursuant to subsections (1) and (2) of this section shall be made at least thirty days before the commencement of such review.

14-15-220. [Formerly 26-13-121.] Review and modification of child support orders. (1) The general assembly hereby finds that the pilot project to test the procedures for modification of child support orders with respect to a child the custodian of whom is receiving support enforcement services pursuant to this ~~article~~ PART 2 has been successful and should be extended statewide. The general assembly further finds that review of child support orders is required in order for this state to comply with the federal "Family Support Act of 1988".

(2) The delegate child support enforcement unit may issue a notice of review and proposed modification at least once every two and one-half years

to an obligor who has an existing order for the support of a child on whose behalf the custodian of that child is receiving support enforcement services from the delegate child support enforcement unit pursuant to this ~~article~~ PART

2. The notice shall inform the obligor that:

(a) The obligor is required to appear at the time and location stated in the notice for a review conference to review the obligor's order of support in accordance with the Colorado child support guidelines as set out in section ~~14-10-115, C.R.S.~~ 14-15-601 and the standard for modification set forth in section ~~14-10-122, C.R.S.~~ 14-15-602;

(b) The obligor is required to comply with any administrative subpoena issued by the delegate child support enforcement unit to obtain income information from the obligor;

(c) The obligor may be required to provide medical support;

(d) The obligor has the right to consult an attorney and the right to be represented by an attorney at the review conference;

(e) The obligor may request a court hearing immediately as provided in subsection (5) of this section or at the conclusion of the review conference if no stipulation is reached.

(3) The delegate child support enforcement unit shall serve the notice of review and proposed modification on the obligor by regular mail not less than ten days prior to the date stated in the notice.

~~(a) to (e) (Deleted by amendment, L. 92, p. 212, 16, effective August 1, 1992.)~~

(4) (a) An obligor who has been served with a notice of review and proposed modification who does not request a hearing pursuant to subsection (5) of this section shall appear at the time and location stated in the notice. The review conference shall be scheduled not more than thirty days after the date of issuance of the notice. The review conference shall not be rescheduled more than once and shall not be rescheduled for a date more than ten days after the time and date stated in the notice without good cause as defined in the rules and regulations promulgated pursuant to subsection (6) of this section. If a stipulation is agreed upon at the review conference as to a modification of the obligor's duty of support, the delegate child support enforcement unit shall prepare a stipulation for approval by the obligee, or the delegate child support enforcement unit in a case where the custodian of the child is receiving aid to families with dependent children or Title IV-E foster care, and file the stipulation for approval by the appropriate court.

(b) A copy of the stipulation approved by the court shall be mailed to the obligor and obligee.

(c) If no stipulation is reached at the review conference or if the obligor fails to appear at the review conference or rescheduled review conference, the delegate child support enforcement unit shall file the notice of review and



proposed modification and proof of service with the court, and the matter shall be set for hearing in accordance with subsection (5) of this section.

(d) The determination of the monthly support obligation shall be based on the child support guidelines set forth in section ~~14-10-115, C.R.S.~~ 14-15-601. The delegate child support enforcement unit may issue an administrative subpoena to any person, corporation, partnership, financial institution, or labor union for an appearance or for the production of records and financial documents. The delegate child support enforcement unit may make application to the court to compel and enforce the appearance, production, and testimony relating to the review.

(5) (a) Any obligor who objects to the notice of review and proposed modification shall, within ten days after receipt of a notice, make a written request for a court hearing to the delegate child support enforcement unit. The request shall be served on the delegate child support enforcement unit by certified mail or in the same manner as a summons in a civil action.

(b) Upon receipt of an obligor's request for a court hearing, the delegate child support enforcement unit shall file the written request for a hearing, the notice, and proof of service in the appropriate court and shall request the court to set a hearing for the matter. The court shall send a notice to the obligor and delegate child support enforcement unit informing them of the date and location of the court hearing. The court shall hold a hearing and decide the

issue of child support only, within ninety days after service of the notice on the obligor. If the obligor fails to appear at the court hearing, the court may enter an order to increase the child support obligation based on the income information available, or if there is no income information available by an increment not to exceed ten percent per year for each year since the support order was entered or last modified. The notice of hearing shall direct the obligor to bring to the court hearing pay stubs for the last twelve consecutive months, tax returns with all attachments for the most recent tax year, and all documentation relevant to calculation of the monthly support obligation pursuant to section ~~14-10-115, C.R.S.~~ 14-15-601. Any documentary evidence provided by a party or by the delegate child support enforcement unit may be admitted into evidence by the court without the necessity of laying a foundation for its admissibility, and the court may determine the relative weight or credibility to give any such documentation.

(6) The state board OF HUMAN SERVICES shall adopt rules and regulations establishing uniform forms and procedures as necessary to implement the provisions of this ~~article~~ PART 2.

(7) This ~~article~~ PART 2 shall apply to all orders for support of a child on whose behalf the custodian of that child is receiving support enforcement services pursuant to this ~~article~~ PART 2.

(8) Nothing in this ~~section~~ PART 2 shall be construed to limit any party's right to seek modification of a child support order pursuant to ~~article 5 of title 14, section 14-10-122, section 19-4-119, or section 19-6-104, C.R.S.~~ ARTICLE 15.5 OF THIS TITLE OR SECTION 14-15-119, 14-15-504, OR 14-15-602.

~~(9) (Deleted by amendment, L. 92, p. 212, 16, effective August 1, 1992.)~~

14-15-221. [Formerly 26-13-122.] Administrative lien and attachment.

(1) The state child support enforcement agency may issue a notice of administrative lien and attachment to any person, insurance company, or agency providing workers' compensation insurance benefits for any employer to attach workers' compensation benefits of an obligor who is responsible for the support of a child on whose behalf the custodian of that child is receiving support enforcement services from the state's child support enforcement agency pursuant to this ~~article~~ PART 2. The notice shall include the following statements and information:

(a) The name and address of the person, insurance company, or agency providing workers' compensation insurance benefits;

(b) The name, last known address, and social security number of the obligor;

(c) The total amount owed for child support obligations, arrearages for child support, and child support debt;

(d) The percentage of benefits and the actual amount to be withheld from each payment;

(e) A statement that the notice of administrative lien and attachment is to take effect no later than the first payment after receipt of the notice;

(f) A statement that the person, insurance company, or agency providing workers' compensation insurance benefits may not withhold more than the limitations set forth in section 13-54-104 (3), C.R.S.;

(g) A statement that if more than one notice of administrative lien and attachment is received for the same obligor, the priorities set forth in subsection (2) of this section shall apply;

(h) Instruction on the disbursement of the withheld amounts, including the requirements that each disbursement:

(I) Shall be forwarded to the address indicated on the notice;

(II) Shall be forwarded within ten days after the date of each deduction and withholding;

(III) Shall be identified by the case number, the family support registry account number, and the name and social security number of each obligor and shall identify the date the deduction was made and the amount of the payment;

(IV) May be combined with other disbursements in a single payment to a single court or to the family support registry, if required to be sent to the



registry, if the individual account of each disbursement is identified, as required by subparagraph (III) of this paragraph (h);

(i) A statement that compliance with the notice of administrative lien and attachment shall not subject the person, insurance company, or agency providing workers' compensation insurance benefits to liability to the obligor for wrongful withholding;

(j) A statement that noncompliance with the notice of administrative lien and attachment may subject the person or insurance company providing workers' compensation insurance benefits to liability and sanctions. If any person or insurance company providing workers' compensation insurance benefits wrongfully fails to deduct and withhold benefits in accordance with the provisions of this section, it may be held liable for an amount up to the accumulated amount such person or insurance company should have withheld from the obligor's benefits.

(k) A statement that, as long as the obligor is receiving workers' compensation benefits, the notice of administrative lien and attachment shall not be terminated or modified, except upon written notice by the state child support enforcement agency.

(2) An administrative lien and attachment for the collection from workers' compensation benefits for child support obligations, child support arrearages, and child support debt shall be continuing and shall have priority

over any garnishment, lien, or wage assignment other than a notice previously served pursuant to this subsection (2) or a wage assignment activated pursuant to section ~~14-14-107 or 14-14-111, C.R.S.~~ 14-15-307 OR 14-15-310. Such administrative lien and attachment shall require the person, insurance company, or agency providing workers' compensation insurance benefits to withhold, pursuant to section 13-54-104 (3), C.R.S., the portion of earnings subject to attachment at each succeeding disbursement interval until such amount is satisfied or the attachment is released in writing by the state child support enforcement agency.

(3) In order to attach and collect workers' compensation income, the state child support enforcement agency shall file with the court that issued the order a verified entry of judgment pursuant to section ~~14-10-122 (1) (e), C.R.S.~~ 14-15-602 (1) (c), if one has not been previously filed, and the state child support enforcement agency is authorized to serve, by certified mail, a notice of administrative lien and attachment on any person, insurance company, or agency holding workers' compensation benefits which are owed to an obligor.

(4) At the time a claim for workers' compensation benefits is filed, the employee shall be notified that if a child support obligation is owed, benefits may be attached and payment of the child support obligation may be withheld and forwarded to the obligee.

(5) For purposes of this section, "insurance company" includes the Colorado compensation insurance authority.

PART 3

CHILD SUPPORT ENFORCEMENT PROCEDURES

14-15-301. [Formerly 14-14-101.] Short title. This ~~article~~ PART 3 shall be known and may be cited as the "Colorado Child Support Enforcement Procedures Act".

14-15-302. [Formerly 14-14-102.] Definitions - repeal. As used in this ~~article~~ PART 3, unless the context otherwise requires:

(1) "Court" means any court in this state having jurisdiction to determine the liability of persons for the support of another person.

(2) "Delegate child support enforcement unit" means the unit of a county department of social services or its contractual agent which is responsible for carrying out the provisions of ~~article 13 of title 26, C.R.S.~~ PART 2 OF THIS ARTICLE.

(3) "Dependent child" means any person who is legally entitled to or the subject of a court order for the provision of proper or necessary subsistence, education, medical care, or any other care necessary for ~~his~~ THE PERSON'S health, guidance, or well-being who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.

(4) "Duty of support" means a duty of support imposed by law or by order, decree, or judgment of any court, whether interlocutory or final, or whether incidental to an action for divorce, separation, separate maintenance or otherwise. "Duty of support" includes the duty to pay arrearages of support past-due and unpaid.

(4.5) ~~(a)~~ "Family support registry" means a central registry maintained and operated by the ~~state~~ department of human services pursuant to section ~~26-13-114, C.R.S.~~ 14-15-214, which receives, processes, disburses, and maintains a record of the payment of child support, child support when combined with maintenance, child support arrears, or child support debt.

~~(b) This subsection (4.5) is repealed, effective July 1, 1996.~~

(4.7) "Health insurance" means medical insurance or medical and dental insurance coverage or both of human beings against bodily injury or illness. Such coverage may be provided through a parent's employer or may be acquired individually by the parent.

(5) "Obligee" means any person or agency to whom a duty of support is owed or any person or agency who has commenced a proceeding for the establishment or enforcement of an alleged duty of support.

(6) "Obligor" means any person owing a duty of support, or against whom a proceeding for the establishment or enforcement of a duty of support is commenced.



(7) "Public assistance" means assistance payments and social services provided to or on behalf of eligible recipients through programs administered or supervised by the state department of human services, either in cooperation with the federal government or independently without federal aid, pursuant to article 2 of title 26, C.R.S.

(8) "Support order" means any judgment, decree, or order of support in favor of an obligee, whether temporary or final or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

(9) "Wages" means income to an obligor in any form, including, but not limited to, earnings from an employer, payment to an independent contractor for labor or services, commissions, tips calculated pursuant to the federal internal revenue service percentage of gross wages, rents, bonuses, retirement benefits and pensions, including, but not limited to, those paid pursuant to article 64 of title 22, articles 51, 54, 54.5, and 54.6 of title 24, article 30 of title 31, C.R.S., and section 35-65-402 (2), C.R.S., workers' compensation benefits, dividends, royalties, trust account distributions, and any moneys drawn by a self-employed individual for personal use. "Wages", for the purposes of child support enforcement, may also include unemployment compensation benefits, but only subject to the provisions and requirements of section 8-73-102 (5), C.R.S.

14-15-303. [Formerly 14-14-103.] Additional remedies. The remedies provided in this ~~article~~ PART 3 are in addition to and not in substitution for any other remedies.

14-15-304. [Formerly 14-14-104.] Recovery for child support debt.
 (1) Any payment of public assistance by a county department of social services made to or for the benefit of any dependent child or children creates a debt, which is due and owing to the county department of social services, recoverable by the county as a debt due to the state by the parent or parents who are responsible for support of the dependent child or children in an amount to be determined as follows:

(a) Where there has been a court order directed to a parent, the child support debt of that parent shall be an amount equal to the amount of public assistance paid to the extent of the full amount of arrearages under the order. However, the county department of social services through its delegate child support enforcement unit may petition for modification of the order on the same grounds as a party to the action.

(b) Where there has been no court or administrative order for child support, the county department of social services through its delegate child support enforcement unit may initiate a court or administrative action to establish the amount of child support debt accrued, and the court or delegate child support enforcement unit, after hearing or upon stipulation or upon a

default order, shall enter an order for child support debt. The debt shall be based on the amount of current child support due, or ~~which~~ THAT would be due if the obligor were an absent parent, under the current child support enforcement guidelines in effect on the date of the stipulation, default order, or hearing to establish the child support debt times the number of months the family received public assistance. The total amount of child support debt shall not exceed the total amount paid for public assistance. A child support debt established pursuant to this paragraph (b) shall be in addition to any subsequent child support debt accrued pursuant to paragraph (a) of this subsection (1).

(2) The county department of social services through its delegate child support enforcement unit shall be subrogated to the right of the dependent child or children or person having legal or physical custody of said child or children to pursue any child support action existing under the laws of this state to obtain reimbursement of public assistance expended. If a court enters a judgment for or orders the payment of any amount of child support to be paid by an obligor, the county department of social services shall be subrogated to the debt created by such judgment or order.

(3) No agreement between any one parent or custodial person and the obligor, either relieving the obligor of any duty of support or responsibility therefor or purporting to settle past, present, or future child support

obligations either as settlement or as prepayment, shall act to reduce or terminate any rights of the county department of social services to recover from that obligor for any public assistance provided unless the county department of social services through its delegate child support enforcement unit has consented to the agreement, in writing, and such written consent has been incorporated into and made a part of the agreement.

(4) Any parental rights with respect to custody or parenting time ~~which~~ THAT are granted by a court of competent jurisdiction or are subject to court review shall remain unaffected by the establishment or enforcement of a child support debt or obligation by the county department of social services or other person pursuant to the provisions of this article; and the establishment or enforcement of any such child support debt or obligation shall also remain unaffected by such parental rights with respect to custody or parenting time.

(5) No child support debt under this section shall be created in the case of, or at any time collected from, a parent who receives aid to families with dependent children on behalf of his or her dependent child or children, pursuant to section 26-2-111, C.R.S., for the period such parent is eligible for and receiving such assistance, unless by order of a court of competent jurisdiction.

(6) Creation of a child support debt under this section shall not modify or extinguish any rights ~~which~~ THAT the county department of social services



has obtained or may obtain under an assignment of child support rights, including the right to recover and retain unreimbursed public assistance.

(7) When a portion of a public assistance grant, paid to or for the benefit of a dependent child, includes moneys paid to provide the custodial parent or caretaker relative with necessities including but not limited to shelter, medical care, clothing, or transportation, then those moneys are deemed to be paid to or for the benefit of the dependent child.

(8) Notwithstanding rule 98 of the Colorado rules of civil procedure, venue for an action to establish child support debt is proper in any county where public assistance was or is being paid, in any county where the obligor parent resides, or in any county where the child resides.

(9) A copy of the computer printout obtained from the state department of human services of the record of payments of aid to families with dependent children made on behalf of a child whose custodian has been receiving child support enforcement services pursuant to section ~~26-13-106, C.R.S.~~ 14-15-206 shall be admissible into evidence as proof of such payments in any proceeding to establish child support debt and shall be prima facie evidence of the amount of child support debt owing on behalf of said child.

14-15-305. [Formerly 14-14-105.] Continuing garnishment. (1) A writ of garnishment for the collection from earnings of judgments for arrearages for child support, for maintenance when combined with child support, for

child support debts, or for maintenance shall be continuing; shall have priority over any garnishment, lien, or wage assignment other than a writ previously served on the same garnishee pursuant to this subsection (1) or a wage assignment activated pursuant to section ~~14-14-107~~ 14-15-307; and shall require the garnishee to withhold, pursuant to section 13-54-104 (3), C.R.S., the portion of earnings subject to garnishment at each succeeding earnings disbursement interval until such judgment is satisfied or the garnishment is released by the court or in writing by the judgment creditor.

(2) No employer may discharge an employee solely for the reason that his OR HER earnings have been subjected to garnishment pursuant to this section. Any such discharge in violation of this subsection (2) shall subject the employer to liability for damages.

14-15-306. [Formerly 14-14-106.] Interest. Interest per annum at four percent greater than the statutory rate set forth in section 5-12-101, C.R.S., on any arrearages and child support debt due and owing may be compounded monthly and may be collected by the judgment creditor; however, such interest may be waived by the judgment creditor, and such creditor shall not be required to maintain interest balance due accounts. In cases in which the delegate child support enforcement unit is providing support enforcement services pursuant to section ~~26-13-106, C.R.S.~~ 14-15-206, interest collected on arrearages and child support debt shall be treated as a child support

collection and distributed in accordance with federal regulations. Interest collected on obligations due recipients receiving aid to families with dependent children shall be deposited in the county social services fund and shall be distributed in accordance with the provisions of section ~~26-13-108~~, C.R.S. 14-15-208.

14-15-307. [Formerly 14-14-107.] Wage assignment - applicability.

(1) (a) As a part of any action in which support, including child support, maintenance when combined with child support, child support debts, or maintenance is ordered, whether temporary or permanent, a wage assignment shall be required to withhold from the obligor, subject to section 13-54-104 (3), C.R.S., such wages due or to become due in the future from the obligor's employer, employers, or successor employers to provide for the payment of the current support amount ordered, as well as the payment on any arrears owed.

(b) Any order for support shall include the following, if available:

(I) The names, dates of birth, and sexes of the children for whom the support is ordered;

(II) The obligee's name, mailing address, date of birth, social security number, and sex;

(III) The total amount of current support to be paid monthly in each category of support;

(IV) The date of commencement of the order and the date or dates of the month that the payments are due;

(V) The total amount of arrears that is due, if any, in each category of support as of the date of the order;

(VI) A statement that the parties have agreed to the immediate activation of a wage assignment or that the obligor has requested such activation or a statement that the obligor has received a notice of pending wage assignment or that such notice is not possible, specifying the reason why;

(VII) The obligor's name, social security number, mailing address, date of birth, and sex;

(VIII) The name and address of the obligor's employer or employers.

(2) The notice of pending wage assignment shall include the following information:

(a) That a wage assignment may be activated immediately or at any other time at the request of the obligor, by agreement of the parties, or at the request of the obligee in IV-D cases, in accordance with state procedures which provide that the obligee must request wage withholding in writing and that, after the delegate child support enforcement unit receives the request, it shall review the case to determine if it meets the criteria for requiring wage withholding which are that the obligor is not meeting the terms of a written agreement for an alternative arrangement, or the reason for the original good



cause determination no longer exists, or that the obligor is currently paying child support but has threatened to stop and the obligee documents and substantiates that there has been a change in the obligor's circumstances which will lead the obligor to stop paying child support; otherwise, the wage assignment shall remain pending unless the obligor fails to comply with the support order by not making a full payment on its due date;

(b) That the activation of a wage assignment is the notification of the obligor's employer or employers to withhold wages for payment of the support obligation, and arrears, if any;

(c) That, if any arrears accrue or already have accrued, an additional payment on the arrears shall be added to the wage assignment pursuant to paragraph (d) of subsection (6) of this section;

(d) That the obligor has a right to object to the activation of the wage assignment raising the defenses that are available pursuant to paragraph (b) of subsection (9) of this section;

(e) That the obligor shall notify the court or the family support registry, if payments are required to be made through the registry, in writing, of any change of address or employment within ten days of the change.

(3) For orders entered into before July 10, 1987, a notice of pending wage assignment shall be sent by certified mail to the last-known address of the obligor, or such notice shall be personally served upon the obligor prior

to the activation of a wage assignment; except that such notice shall not be required if the obligor was given such notice prior to July 10, 1987, which notice was in substantial compliance with the requirements of this section. The notice shall be given by the obligee.

(4) The clerk of the court shall provide, upon request, any information required by the parties about any support order or any order affecting an order for support, including judgments and registered orders.

(5) (a) For the purposes of this section, the "activation of a wage assignment" means the notification of the obligor's employer or employers to withhold wages for payment of support.

(b) A wage assignment shall not be activated unless:

(I) The obligor requests that the wage assignment be activated; or

(II) The parties agree at the time of the entry or modification of a support order, or at any other time, that the wage assignment is to be activated; or

(III) The obligee files an advance notice of activation with any court having jurisdiction to enforce the support order because a payment was due under a support order and the obligor has failed to make a payment in full as ordered.

(c) When a wage assignment is activated pursuant to subparagraph (III) of paragraph (b) of this subsection (5), a copy of the advance notice of activation and a form for the obligor to object to the activation listing the

available defenses shall be mailed by the obligee to the obligor's last-known address. The notice of activation shall contain the following information:

- (I) The court which issued the support order;
- (II) The case number;
- (III) The date of the support order;
- (IV) The facts establishing that a full support payment was not made on or before it became due;
- (V) The amount of overdue support owed;
- (VI) The amount of wages to be withheld for current support and the amount to be withheld for arrears per month;
- (VII) A statement that, if section 13-54-104 (3), C.R.S., applies, the employer may not withhold more than the limitations set by said section;
- (VIII) The name and address of the obligor's most recently known employer and a statement that the obligor is required to inform the court or the family support registry, if payments are to be made through the registry, of any new employment;
- (IX) A statement of the obligor's right to object to the activation of the wage assignment within ten days of the date the advance notice of activation is sent to the obligor and the procedures available for such objection;
- (X) The available defenses to the activation;

(XI) A statement that failure to object to the activation of a wage assignment within ten days of the date the advance notice of activation was sent to the obligor will result in the activation of the wage assignment pursuant to subsection (7) of this section;

(XII) A statement of the procedures the court will follow when an objection is filed by the obligor;

(XIII) A statement that, if the court denies the objection of the obligor, the wage assignment shall be activated pursuant to subsection (7) of this section;

(XIV) A statement that the wage assignment is a continuing assignment; and

(XV) A statement that, if arrears have accrued, an additional monthly payment shall be set pursuant to paragraph (d) of subsection (6) of this section and that this payment may be modified if additional arrears accrue.

(6) (a) A payment on arrears, plus interest, for support, if any, shall be included in an activated wage assignment; however, the combined payment on current support and arrears is subject to section 13-54-104 (3), C.R.S. For the purposes of this section, "arrears" means any past-due support.

(b) (I) The party activating a wage assignment shall prepare an affidavit of arrears, which shall state the type and amount of support ordered per month and the date upon which the payment was due and, if the payments were to



be made into the court registry, state that the full payment was not received by the registry on or before the due date or, if the payments were to be made to the obligee directly, state that the obligee did not receive the full payment on or before the due date, the date and amount of any modifications of the order, the period or periods of time the arrears accrued, the total amount of support that should have been paid, the total amount actually paid, and the total arrears, plus interest, due. If the wage assignment is being activated pursuant to subparagraph (I) or (II) of paragraph (b) of subsection (5) of this section, the affidavit shall be filed with the court at the time of activation. If payments were ordered to be made through the family support registry, a copy of the payment record maintained by the family support registry shall be sufficient proof of payments made, and no affidavit shall be required. If the wage assignment is being activated pursuant to subparagraph (III) of paragraph (b) of subsection (5) of this section, the affidavit shall be filed with the advance notice of activation.

(II) If the payments were to be made through the court registry, a copy of the payment record shall accompany the affidavit.

(III) If the payments were to be made through the family support registry, a copy of the payment record shall be sufficient and no affidavit shall be required.

(c) When a wage assignment is activated pursuant to subparagraph (I) or (II) of paragraph (b) of subsection (5) of this section and arrears are owed, as verified by the affidavit of arrears, the parties may agree to an amount of payment on the arrears, or the court may determine an appropriate amount for payment.

(d) When a wage assignment is activated pursuant to subparagraph (III) of paragraph (b) of subsection (5) of this section and arrears are owed, as verified by the affidavit of arrears, the wage assignment shall include a payment on the arrears in the amount of one-twenty-fourth of the total amount due up to the date of the activation of the wage assignment. The payment on the arrears shall remain the same until the arrears, plus interest, are paid unless the parties subsequently agree to a larger or smaller arrears payment amount or further arrears accrue. The total arrears due, plus interest, and the amount of payment may be updated periodically, as appropriate.

(7) After ten days from the date the advance notice of activation is mailed to the obligor, a wage assignment may be activated by the obligee by causing a notice to the employer or trustee to be served upon the employer or trustee by certified mail, return receipt requested, or in a case where the state department is the trustee for purposes of an unemployment benefit intercept pursuant to section 8-73-102 (5), C.R.S., by electronic service. Receipt of notice to the employer or trustee confers jurisdiction of the court upon the

employer. In circumstances in which the source of income to the obligor is unemployment compensation benefits and the custodian of the child is receiving support enforcement services pursuant to section ~~26-13-106, C.R.S.~~ 14-15-206, no notice to the employer shall be required. In such cases the state child support enforcement agency shall electronically intercept the unemployment compensation benefits through an automated interface with the department of labor and employment. In all other cases, the notice to the employer or trustee shall contain:

- (a) The name, address, and social security number of the obligor;
- (b) A statement that the wage assignment is to take effect no later than the first pay period after fourteen days from the mailing date on the notice to the employer;
- (c) Instructions concerning withholding the assigned amount, including:
 - (I) The amount to be withheld for current support and the amount to be withheld for arrears per month and, in the event that the pay periods of the employer are more frequent, that the employer shall withhold per pay period an appropriate percentage of the monthly amount due so that the total withheld during the month will total the monthly amount due;
 - (II) That the employer may extract a processing fee of up to five dollars per month from the remainder of the employee's earnings after withholding;

(III) That, if section 13-54-104 (3), C.R.S., applies, the employer may not withhold more than the limitations set by said section and the types of support to be withheld shall have the following priority: Current monthly child support and maintenance when included in the child support order; medical support; child support debt and arrears, including medical support arrears; orders for maintenance only; and processing fees, if any.

~~(IV) (Deleted by amendment, L. 92, p. 203, 11, effective August 1, 1992.)~~

(d) Instructions about disbursing the withheld amounts, including the requirements that each disbursement:

- (I) Shall be forwarded within ten days of the date of each withholding;
- (II) Shall be forwarded to the address indicated on the notice;
- (III) Shall be identified by the case number, the name and social security number of each obligor, the date the deduction was made, and the amount of the payment; and
- (IV) May be combined with other disbursements in a single payment to a single court or to the family support registry, if required to be sent to the registry, if the individual amount of each disbursement is identified, as required by subparagraph (III) of this paragraph (d);



(d.5) A statement from the delegate child support enforcement unit specifying whether or not the obligor is required to provide health insurance for the children who are the subject of the order;

(d.6) Instructions that the first disbursement shall contain an indication of whether dependent health insurance coverage is available to the obligor and whether the obligor has elected to enroll the dependents who are the subject of the order in such coverage, and that such information shall be included in a disbursement at least annually thereafter or at the next disbursement in the event of any change in the status of health insurance availability or coverage;

(e) A statement that compliance with the wage assignment shall not subject the employer to liability to the obligor for wrongful withholding;

(f) A statement that noncompliance with the wage assignment may subject the employer to the liability and sanctions specified in subsection (12) of this section;

(g) A statement that the employer shall notify the court or the family support registry, if payments are required to be made through the registry, in writing, within ten days after the obligor terminates employment and shall provide the court, in writing, with the obligor's last-known address and social security number and the name of the obligor's new employer, if known;

(h) A statement that, as long as the obligor is employed by the employer, the wage assignment shall not be terminated or modified, except upon written notice by the obligee or the court.

(8) Disbursements received from the employer by a child support enforcement unit shall be promptly distributed.

(9) (a) The obligor may file with the court a written objection to the activation of a wage assignment pursuant to subparagraph (III) of paragraph (b) of subsection (5) of this section within ten days after the advance notice of activation is sent to the obligor pursuant to paragraph (c) of subsection (5) of this section unless the obligor alleges that the notice was not received, in which case an objection may be filed no later than ten days after actual notice. The obligor shall mail a copy of the written objection to the obligee or the obligee's representative.

(b) The objection shall be limited to the defenses that there is a mistake of fact such as an error in the identity of the absent parent or in the amount of the support.

(c) If an objection is filed by the obligor, a hearing shall be set and held by the court within forty-five days of the date the notice was sent to the obligor pursuant to paragraph (c) of subsection (5) of this section. The court shall deny the objection without hearing if a defense in paragraph (b) of this subsection (9) is not alleged.

(d) At a hearing on an objection, the sole issue before the court is whether there was a mistake of fact as specified in paragraph (b) of this subsection (9).

(e) At a hearing on an objection, reasonable attorney fees and costs may be awarded to the prevailing party.

(f) If an objection is based on the amount of arrears, the wage assignment may be activated and enforced as to current support obligations, and the activation of the wage assignment as to arrears shall be stayed pending the outcome of a hearing on such objection.

(10) When activated, a wage assignment shall be a continuing wage assignment and shall remain in effect and shall be binding upon any employer or trustee upon whom it is served until further notice from the obligee or the court.

(11) (a) When activated, a wage assignment for support shall have priority over any garnishment, attachment, or lien.

(b) If there is more than one wage assignment for support for the same obligor, the total amount withheld, which is subject to the limits specified in section 13-54-104 (3), C.R.S., shall be distributed in accordance with the priorities set forth in this paragraph (b):

(I) (A) First priority shall be given to wage assignments for orders for current monthly child support obligations and maintenance when included in the child support order.

(B) If the amount withheld is sufficient to pay the current monthly support and maintenance for all orders, the employer shall distribute the amount to all orders and proceed to the second priority to distribute any remaining withholding. If the amount withheld is not sufficient to pay the current monthly support and maintenance in all orders, the employer shall add the current monthly support and maintenance in all orders for a total and then divide the amount of current monthly support and maintenance in each order by the total to determine the percent of the total for each order. The percentage for each order shall be multiplied by the total amount withheld to determine what proportionate share of the amount withheld shall be paid for each order.

(II) (A) Second priority shall be given to wage assignments for all orders for medical support when there is a specific amount ordered for medical support.

(B) If the amount withheld is sufficient to pay the medical support for all orders, the employer shall distribute the amount to all orders and proceed to the third priority to distribute any remaining withholding. If the amount withheld is not sufficient to pay the medical support in all orders, the



employer shall add the medical support in all orders for a total and then divide the amount of medical support in each order by the total to determine the percent of the total for each order. The percentage for each order shall be multiplied by the total amount withheld to determine what proportionate share of the amount withheld shall be paid for each order.

~~(III) (Deleted by amendment, L. 92, p. 203, 11, effective August 1, 1992.)~~

~~(IV)~~ (III) (A) Third priority shall be given to wage assignments for child support debt and support arrears, including medical support arrears.

(B) If the amount withheld is sufficient to pay the child support debt and support arrears for all orders, the employer shall distribute the amount to all orders and proceed to the fourth priority to distribute any remaining withholding. If the amount withheld is not sufficient to pay the child support debt and support arrears in all orders, the employer shall add the child support debt and support arrears in all orders for a total and then divide the amount of child support debt and support arrears in each order by the total to determine the percent of the total for each order. The percentage for each order shall be multiplied by the total amount withheld to determine what proportionate share of the amount withheld shall be paid for each order.

~~(V)~~ (IV) (A) Fourth priority shall be given to wage assignments for orders for maintenance only.

(B) If the amount withheld is sufficient to pay the maintenance only for all orders, the employer shall distribute the amount to all orders. If the amount withheld is not sufficient to pay the maintenance only in all orders, the employer shall add the maintenance only in all orders for a total and then divide the amount of maintenance only in each order by the total to determine the percent of the total for each order. The percentage for each order derived from such calculation shall be multiplied by the total amount withheld to determine what proportionate share of the amount withheld shall be paid for each order.

~~(e) and (d) (Deleted by amendment, L. 92, p. 203, 11, effective August 1, 1992.)~~

(12) An employer or trustee subject to this section who:

(a) Fails to abide by the terms enumerated in the notice to the employer may be held in contempt of court;

(b) Wrongfully fails to withhold wages in accordance with the provisions of this section may be held liable for an amount up to the accumulated amount the employer should have withheld from the obligor's wages;

(c) Discharges, refuses to hire, or takes disciplinary action against an employee because of the entry or service of a wage assignment pursuant to this section may be held in contempt of court;

(d) Discharges an employee in violation of the provisions of this section may be subject to a civil action brought against the employer by the employee within ninety days of discharge for the recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall be lost wages for a period of not more than six weeks, costs, and reasonable attorney fees.

(13) (a) The obligee or court shall promptly notify the employer, in writing, when a wage assignment is modified or terminated.

(b) A wage assignment shall be modified when:

(I) The support order is modified by the court;

(II) The arrears payment is modified by agreement between the parties pursuant to paragraph (d) of subsection (6) of this section;

(III) The arrears payment is modified when updated periodically pursuant to paragraph (d) of subsection (6) of this section.

(c) A wage assignment shall be terminated when the court order for support is terminated.

(14) The department of human services is hereby designated as the income withholding agency as required by the federal "Social Security Act", as amended.

(15) This section shall apply to any order for child support, maintenance, child support when combined with maintenance, child support arrears, or child

support debt where the custodian of the child is receiving support enforcement services pursuant to section ~~26-13-106, C.R.S.~~ 14-15-206, which is entered or modified prior to January 1, 1990, and shall apply to any order for child support, maintenance, child support when combined with maintenance, or child support arrears where the custodian of the child is not receiving support enforcement services pursuant to section ~~26-13-106, C.R.S.~~ 14-15-206, which is entered or modified prior to July 1, 1992. This section shall also apply to any orders issued or modified where an order for immediate deductions from income pursuant to section ~~14-14-111~~ 14-15-310 was not entered due to the obligor's lack of employment or self-employment or based on one of the grounds in section ~~14-14-111 (2) (e)~~ 14-15-310 (2) (c).

14-15-308. [Formerly 14-14-109.] Security, bond, or guarantee. (1) In any action in which child support is ordered, an interested party may apply to the court for an order requiring that the obligor post security, a bond, or other form of guarantee to secure payment of the child support ordered. In considering such request, the court shall consider, among other factors, the nature of the obligor's employment and whether the obligor's income is unreachable by a wage assignment pursuant to section ~~14-14-107~~ 14-15-307.

(2) If the request to post security, a bond, or other guarantee is made subsequent to the issuance of a child support order, a copy of the request shall be sent to the obligor at his last-known address by certified mail no later than



twenty days prior to the date set for a hearing on the issue. Such notice shall contain a statement of the obligor's rights to appear and contest the request.

(3) When a request to post security, a bond, or other guarantee is before the court, the court shall make findings on the appropriateness of the request based on the evidence presented and shall then either grant or deny the request.

14-15-308.5. Costs of collection. IN ANY ACTION TO ENFORCE THE PAYMENT OF CHILD SUPPORT ARREARS OR CHILD SUPPORT DEBT, THE COURT MAY ORDER THE OBLIGOR TO REIMBURSE THE OBLIGEE FOR THE COSTS ASSOCIATED WITH THE COLLECTION OF SUCH CHILD SUPPORT ARREARS OR CHILD SUPPORT DEBT IN AN AMOUNT DETERMINED TO BE REASONABLE WHICH AMOUNT SHALL NOT EXCEED THE CUSTOMARY RATE CHARGED BY COLLECTION AGENCIES FOR SUCH PURPOSES.

14-15-309. [Formerly 14-14-110.] Contempt of court. (1) Evidence of noncompliance with an order for child support, or maintenance when combined with child support, in the form of an affidavit from the clerk of the court or in the form of a copy of the record of payments certified by the clerk of the court or in the form of a copy of the record of payment maintained by the family support registry is prima facie evidence of contempt of court.

(2) In determining whether or not the obligor is in contempt of court, the court may consider that the required payment has been made prior to the

hearing to determine contempt or that owing to physical incapacity or other good cause the obligor was unable to furnish the support, care, and maintenance required by the order for the period of noncompliance alleged in the motion.

(3) If, after personal service of the citation and a copy of the motion and affidavit, the obligor fails to appear at the time so designated, the court may issue a warrant for the obligor's arrest. Upon issuance of the warrant, the court shall direct by endorsement thereon the amount of the bond required.

(4) Pursuant to subsection (3) of this section, where the obligor has been released upon deposit of cash, stocks, or bonds, or upon surety bond secured by property, if the obligor fails to appear in accordance with the primary condition of the bond, the court shall declare a forfeiture. Notice of the order of forfeiture shall be mailed immediately by the court to the obligor and sureties, if any, at the last-known address. If the obligor does not appear and surrender to the court having jurisdiction within thirty days after the date of the forfeiture, or within that period satisfy the court that appearance and surrender by the obligor is impossible and without the obligor's fault, the court shall enter judgment against the obligor for the amount of the bail and costs of the court proceedings.

(5) Any moneys collected or paid upon any such execution or in any case upon said bond shall be turned over to the clerk of the court in which the bond

is given to be applied to the child support obligation, including where the obligation is assigned to the department of human services pursuant to section 26-2-111-(3) (g), C.R.S.

14-15-310. [Formerly 14-14-111.] Immediate deductions for family support obligations - legislative declaration - procedures - applicability.

(1) The general assembly hereby finds and declares that for the good of the children of Colorado and to promote family self-sufficiency there is a need to strengthen Colorado's child support enforcement laws by supplementing and eventually replacing current wage assignment practices with immediate deductions from income. The general assembly also recognizes that, under the federal "Family Support Act of 1988", P.L. 100-485, the state of Colorado is required to implement immediate deductions from income in order to enforce child support. Immediate deductions from income is a nonpunitive support measure which treats child support and family support obligations as a standard income deduction identical to income tax or military allotment deductions. The method of immediate deductions from income is a sound fiscal practice and will increase collections and federal incentive payments and decrease welfare expenditures. Immediate deductions from income will also increase collections for families who do not receive public assistance but who need a method to enforce support obligations in order to remain self-sufficient.

The general assembly also finds that children represent the fastest growing

poverty group in the United States, and, as a result, new measures such as immediate deductions from income should be taken for their support.

(2) (a) With respect to child support orders for a child on whose behalf the custodian of that child is receiving support enforcement services from a delegate child support enforcement unit pursuant to section ~~26-13-106, C.R.S.~~ 14-15-206, and with respect to actions brought pursuant to ~~article 5~~ ARTICLE 15.5 of this title, on and after January 1, 1990, whenever an obligation for child support, maintenance, child support when combined with maintenance, child support arrears, or child support debt is initially determined, whether temporary or permanent, or modified by the court, the amount of child support, maintenance, child support when combined with maintenance, child support arrears, or child support debt shall be ordered by the court to be deducted and withheld, subject to section 13-54-104 (3), C.R.S., from the income, as defined in section ~~14-10-115 (7)~~ 14-15-601 (7), which is due or to become due in the future from the obligor's employer, employers, or successor employers, or other payor of funds, regardless of the source, of the person obligated to pay the child support, maintenance, child support when combined with maintenance, child support arrears, or child support debt.

(b) (†) With respect to all child support orders where the custodian of the child is not receiving support enforcement services from a delegate child support enforcement unit pursuant to section ~~26-13-106, C.R.S.~~ 14-15-206, on

and after January 1, 1994, whenever an obligation for child support, maintenance, child support when combined with maintenance, or child support arrears is initially determined, whether temporary or permanent, or modified by the court, the amount of child support, maintenance, child support when combined with maintenance, or child support arrears shall be ordered by the court to be deducted and withheld, subject to section 13-54-104 (3), C.R.S., from the income, as defined in section ~~14-10-115 (7)~~ 14-15-601 (7), which is due or to become due in the future from the obligor's employer, employers, or successor employers, or other payor of funds, regardless of the source, of the person obligated to pay the child support, maintenance, child support when combined with maintenance, or child support arrears.

~~(II) (Deleted by amendment, L. 93, p. 1562, 12, effective September 1, 1993.)~~

(c) Income shall not be subject to immediate deductions under this section in any case in which:

(I) One of the parties demonstrates, and the court or the delegate child support enforcement unit finds in writing, that there is good cause not to require immediate deductions. For the purposes of this subparagraph (I), "good cause" means:

(A) A written determination and explanation by the court or delegate child support enforcement unit stating why implementing immediate income withholding would not be in the best interests of the child; and

(B) That the obligor has signed a written agreement to keep the delegate child support enforcement unit informed of the obligor's current employer and information on any health insurance coverage to which the obligor has access; and

(C) Proof is provided that the obligor made timely payments without the necessity of wage withholding in previously ordered child support obligations;

(II) A written agreement is reached between both parties ~~which~~ THAT provides for an alternative arrangement. For purposes of this subparagraph (II), the delegate child support enforcement unit shall be considered a party in all cases in which the custodian of a child is receiving support enforcement services from a delegate child support enforcement unit pursuant to section ~~26-13-106, C.R.S.~~ 14-15-206 and as such is required to consent to the alternative written agreement.

(3) This section applies to any action brought under this ~~article~~ PART 3 OR PART 1, 5, OR 6 OF THIS ARTICLE or article ~~5, 6, or~~ 10 OR 15.5 of this title. ~~or under article 4 or 6 of title 19, C.R.S.~~

(4) (a) Every order for child support, maintenance, child support when combined with maintenance, child support arrears, or child support debt shall

include the obligor's social security number, date of birth, and the name and address of the obligor's employer or other payor of funds. Upon entry of the order for child support, maintenance, child support when combined with maintenance, child support arrears, or child support debt, the obligee or the obligee's representative shall mail to the employer or other payor of funds a notice to deduct income for family support obligations by certified mail, return receipt requested. For purposes of this section, "immediate deductions" means the same as a wage assignment as specified in section ~~14-14-107~~ 14-15-307; except that the deduction from and withholding of income due or to become due is activated immediately upon entry of an order as provided in this section. For the purposes of this section, "notice to deduct income for family support obligations" means a notice to the employer or other payor of funds to deduct and withhold from income due or to become due to the obligor for the purpose of an order for child support, maintenance, child support when combined with maintenance, child support arrears, or child support debt. In circumstances in which the source of income to the obligor is unemployment compensation benefits and the custodian of the child is receiving support enforcement services pursuant to section ~~26-13-106, C.R.S.~~ 14-15-206, no notice to the employer shall be required. In such cases, the state child support enforcement agency shall electronically intercept the unemployment

compensation benefits through an automated interface with the department of labor and employment.

(b) The notice to deduct income for family support obligations to the employer or other payor of funds shall contain:

(I) The name, address, and social security number of the obligor;

(II) A statement that the immediate deductions are to take effect no later than the first pay period after fourteen days from the mailing date on the notice to the employer;

(III) Instructions concerning the deductions including:

(A) The amount to be withheld for current support and the amount to be withheld for arrears per pay period;

(B) That the employer may extract a processing fee of up to five dollars per month from the remainder of the employee's earnings after the deductions and withholding;

(C) That if section 13-54-104 (3), C.R.S., applies, the employer may not deduct and withhold more than the limitations set by said section, and the types of support to be withheld shall have the following priority: Current monthly child support and maintenance when included in the child support order; medical support; child support debt and support arrears, including medical support arrears; orders for maintenance only; and processing fees, if any;

(D) That, if more than one immediate deduction, wage assignment, or garnishment is received for the same employee, the priorities in subsection (6) of this section shall apply;

(IV) Instructions about disbursing the withheld amounts, including the requirements that each disbursement:

(A) Shall be forwarded within ten days of the date of each deduction and withholding;

(B) Shall be forwarded to the address indicated on the notice;

(C) Shall be identified by the case number, the name and social security number of each obligor, the date the deduction was made, and the amount of the payment;

(D) May be combined with other disbursements in a single payment to a single court or to the family support registry, if required to be sent to the registry, if the individual amount of each disbursement is identified, as required by sub-subparagraph (C) of this subparagraph (IV);

(IV.5) A statement from the delegate child support enforcement unit specifying whether or not the obligor is required to provide health insurance for the children subject to the order;

(IV.6) Instructions that the first disbursement shall contain an indication of whether dependent health insurance coverage is available to the obligor and whether the obligor has elected to enroll the dependents who are the subject

of the order in such coverage, and that such information shall be included in a disbursement at least annually thereafter or at the next disbursement in the event of any change in the status of health insurance availability or coverage;

(V) A statement that compliance with the notice to deduct income for family support obligations shall not subject the employer to liability to the obligor for wrongful withholding;

(VI) A statement that noncompliance with the notice to deduct income for family support obligations may subject the employer to the liability and sanctions specified in subsection (9) of this section;

(VII) A statement that the employer shall promptly notify the court or the family support registry, if payments are required to be made through the registry, in writing, within ten days after the obligor terminates employment and shall provide the court or the family support registry, if applicable, in writing, with the obligor's last-known address and social security number and the name of the obligor's new employer, if known;

(VIII) A statement that, as long as the obligor is employed by the employer, the notice to deduct income for family support obligations shall not be terminated or modified, except upon written notice by the obligee or the court;

(IX) A statement that no employer shall discharge or refuse to hire or take disciplinary action against an employee because of the entry or service of

a notice to deduct income for family support obligations issued and executed pursuant to this section and that a violation of the same may result in a finding of contempt of court.

(5) The employer or other payor shall deduct, withhold, and forward the child support, maintenance, child support when combined with maintenance, child support arrears, or child support debt ordered in the manner and within the time limits provided in section ~~14-14-107 (7)~~ 14-15-307 (7).

(6) (a) A notice to deduct income for family support obligations issued and served pursuant to this section shall have priority over any garnishment, attachment, or lien.

(b) If there is more than one notice to deduct income for family support obligations for the same obligor, immediate deductions shall be distributed in accordance with the priorities set forth in this paragraph (b):

(I) (A) First priority shall be given to immediate deductions for current monthly child support obligations and maintenance when included in the child support order.

(B) If the amount withheld is sufficient to pay the current monthly support and maintenance for all orders, the employer shall distribute the amount to all orders and proceed to the second priority to distribute any remaining withholding. If the amount withheld is not sufficient to pay the current monthly support and maintenance in all orders, the employer shall add

the current monthly support and maintenance in all orders for a total and then divide the amount of current monthly support and maintenance in each order by the total to determine the percent of the total for each order. The percentage for each order shall be multiplied by the total amount withheld to determine what proportionate share of the amount withheld shall be paid for each order.

(II) (A) Second priority shall be given to immediate deductions for all orders for medical support when there is a specified amount ordered for medical support.

(B) If the amount withheld is sufficient to pay the medical support for all orders, the employer shall distribute the amount to all orders and proceed to the third priority to distribute any remaining withholding. If the amount withheld is not sufficient to pay the medical support in all orders, the employer shall add the medical support in all orders for a total and then divide the amount of medical support in each order by the total to determine the percent of the total for each order. The percentage for each order shall be multiplied by the total amount withheld to determine what proportionate share of the amount withheld shall be paid for each order.

~~(III) (Deleted by amendment, L. 92, p. 207, 12, effective August 1, 1992.)~~

(IV) (III) (A) Third priority shall be given to immediate deductions for child support debt and support arrears, including medical support arrears.

(B) If the amount withheld is sufficient to pay the child support debt and support arrears for all orders, the employer shall distribute the amount to all orders and proceed to the fourth priority to distribute any remaining withholding. If the amount withheld is not sufficient to pay the child support debt and support arrears in all orders, the employer shall add the child support debt and support arrears in all orders for a total and then divide the amount of child support debt and support arrears in each order by the total to determine the percent of the total for each order. The percentage for each order shall be multiplied by the total amount withheld to determine what proportionate share of the amount withheld shall be paid for each order.

(V) (IV) (A) Fourth priority shall be given to immediate deductions for orders for maintenance only.

(B) If the amount withheld is sufficient to pay the maintenance only for all orders, the employer shall distribute the amount to all orders. If the amount withheld is not sufficient to pay the maintenance only in all orders, the employer shall add the maintenance only in all orders for a total and then divide the amount of maintenance only in each order by the total to determine the percent of the total for each order. The percentage for each order shall be

multiplied by the total amount withheld to determine what proportionate share of the amount withheld shall be paid for each order.

~~(e) (Deleted by amendment, L. 92, p. 207, 12, effective August 1, 1992.)~~

(7) No employer or trustee who complies with a notice to deduct income for family support obligations issued pursuant to this section and as provided in subsection (4) of this section shall be liable to the obligor for wrongful withholding.

(8) No employer shall discharge or refuse to hire or take disciplinary action against an employee because of the entry or service of a notice to deduct income for family support obligations issued and executed pursuant to this section. Any person who violates this subsection (8) may be deemed by the court to be subject to contempt of court.

(9) An employer who wrongfully fails to deduct and withhold wages in accordance with the provisions of this section may be held liable for an amount up to the accumulated amount the employer should have withheld from the obligor's wages.

(10) When an employer is served with a notice to deduct income for family support obligations pursuant to this section, and the obligor is no longer employed by the employer, the employer shall promptly notify the court in

writing of the obligor's last-known address, social security number, and the name of the obligor's new employer, if known.

(11) An obligor shall notify the court or the family support registry, if payments are required to be made through the registry, and the delegate child support enforcement unit, in writing, of any change of address or employment within ten days of the change.

(12) If an employer discharges an employee in violation of the provisions of this section, the employee may, within ninety days, bring a civil action for the recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall be lost wages not to exceed six weeks, costs, and reasonable attorney fees.

(13) A notice to deduct income for family support obligations issued and served pursuant to subsection (4) of this section shall be continuing and shall remain in effect and be binding on any current or successor employer or trustee upon whom it is served until further notice by the court.

(14) The obligee or court shall promptly notify the employer, in writing, when a notice to deduct income for family support obligations is modified or terminated. A notice to deduct income for family support obligations shall be terminated when the court order for support is terminated.

(15) Nothing in this section shall affect the availability of any other method for collecting child support, maintenance, child support when combined with maintenance, child support arrears, or child support debt.

(16) ~~(a)~~ Immediate deductions from income under this section shall also be ordered by a delegate child support enforcement unit under the provisions of the "Colorado Administrative Procedure Act for the Establishment and Enforcement of Child Support", created in PART 4 OF THIS article. ~~13.5 of title 26, C.R.S.~~

~~(b) (Deleted by amendment, L. 92, p. 207, 12, effective August 1, 1992.)~~

(17) Except as otherwise noted, the terms used in this section are defined the same as defined in section ~~14-14-102~~ 14-15-302.

14-15-311. [Formerly 14-14-112.] Deductions for health insurance.

(1) In all orders which direct the obligor to provide health insurance for any child, the court or delegate child support enforcement unit shall include a provision directing the obligor's employer to enroll such child and the obligor, if enrollment of the obligor is a requirement of the plan, in the health insurance plan and to deduct from the wages due the obligor an amount sufficient to provide for premiums for health insurance when such insurance is offered by the employer, including any employer subject to the provisions of section 607 (1) of the federal "Employment Retirement Income Security Act

of 1974", as amended. For all orders entered prior to August 1, 1992, which direct the obligor to provide health insurance for any child, the obligee, the obligee's representative, or the delegate child support enforcement unit shall send a copy of the notice of the deduction for health insurance, by first class mail, to the obligor concurrent with mailing of the notice to the obligor's employer pursuant to subsection (2) of this section. The court or the delegate child support enforcement unit shall direct the obligor to notify the court or unit, in writing, of any change of address or employment within ten days of the change.

(2) Notice of the deduction for health insurance shall be mailed by certified mail, return receipt requested, by the obligee, the obligee's representative, or the delegate child support enforcement unit, to the obligor's employer. The notice of the deduction for health insurance shall contain:

- (a) The name, address, and social security number of the obligor;
- (b) The name, ~~birthdate~~ BIRTH DATE, and social security number of any of the children to be covered by the health insurance;
- (c) A statement that the employer shall enroll an obligor's child in the health insurance plan in which the obligor is enrolled if the child can be covered under that plan or, if the obligor is not enrolled, in the least costly plan otherwise available to the child, regardless of whether the child was born out of wedlock, is claimed as a dependent on the obligor's federal or state

income tax return, lives with the obligor, or lives within the insurer's service area, notwithstanding any other provision of law restricting enrollment to persons who reside in an insurer's service area;

(d) A statement that the deduction for health insurance is to take effect no later than the first pay period after fourteen days from the date on which the notice is mailed to the employer or from the date on which the obligor submits an oral or written request to the employer, whichever occurs sooner, and that the deduction for health insurance is treated as a significant life change under open enrollment requirements;

(e) A statement that compliance with the notice to deduct for health insurance shall not subject the employer to liability to the obligor for wrongful withholding;

(f) A statement that noncompliance with the notice to deduct for health insurance may subject the employer to the liability and sanctions specified in subsection (5) of this section;

(g) A statement that the employer shall promptly notify the court, obligee, or delegate child support enforcement unit in writing within ten days after the obligor terminates employment and shall provide, if known, the name of the obligor's new employer;

(h) A statement that, as long as the obligor is employed by the employer, the notice to deduct for health insurance shall not be terminated or modified, except as follows:

(I) Upon written notice by the court, obligee, or delegate child support enforcement unit;

(II) Upon written verification, provided by the obligor to the employer, the employer determines that the child has been enrolled in a comparable health insurance plan that takes effect no later than the effective date on which the child is no longer enrolled under the plan offered by the obligor's employer; or

(III) Upon the employer's elimination of family health coverage for all employees.

(i) A statement that the employer may not discharge or refuse to hire or take disciplinary action against an employee because of the entry or service of a notice to deduct for health insurance issued and executed pursuant to this section and that such a violation may result in a finding of contempt of court;

(j) A statement that if the obligor or employer enrolls the dependents who are the subject of the order in health insurance coverage available through the employer, the employer shall send a copy of such enrollment to the location identified on the notice.

(k) A statement that when a child is no longer enrolled under a family health plan for the reasons described in subparagraphs (I) to (III) of paragraph (h) of this subsection (2), the employer within fourteen days after the termination of coverage shall send to the location described on the health insurance premium notice a written notice of cancellation of enrollment or a copy of the verification provided by the obligor to the employer that the child is enrolled in a comparable health plan.

(3) No employer who complies with a notice to deduct for health insurance benefits pursuant to this section shall be liable to the obligor for wrongful withholding.

(4) No employer shall discharge or refuse to hire or take disciplinary action against an employee because of the entry or service of a notice to deduct for health insurance issued and executed pursuant to this section. Any person who violates this subsection (4) may be deemed by the court to be subject to contempt of court.

(5) An employer who wrongfully fails to deduct for health insurance in accordance with the provisions of this section may be held liable for an amount up to the accumulated amount of such premiums the employer or payor should have withheld from the obligor's wages.

(6) When an employer is served with a notice to deduct for health insurance pursuant to this section, and the obligor is no longer employed by

the employer, the employer shall promptly notify the court or delegate child support enforcement unit in writing of the obligor's last-known address, social security number, and the name of the obligor's new employer, if known.

(7) If an employer discharges an employee in violation of the provisions of this section, the employee may, within ninety days, bring a civil action for the recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall be lost wages not to exceed six weeks, costs, and reasonable attorney fees.

(8) A notice to deduct for health insurance issued and served pursuant to this section shall be continuing and shall remain in effect and be binding on any current or successor employer upon whom it is served until further notice by the court, obligee, obligee's representative, or delegate child support enforcement unit.

(9) The court, obligee, obligee's representative, or delegate child support enforcement unit shall promptly notify the employer, in writing, when a notice to deduct for health insurance is modified or terminated. A notice to deduct for health insurance shall be terminated when the court order requiring health insurance is terminated.

(10) Deductions for health insurance shall also be ordered by a delegate child support enforcement unit under the provisions of the "Colorado

Administrative Procedure Act for the Establishment and Enforcement of Child Support", created in ~~article 13.5 of title 26, C.R.S.~~ PART 4 OF THIS ARTICLE.

PART 4

ADMINISTRATIVE PROCEDURES FOR CHILD SUPPORT ENFORCEMENT

14-15-401. [Formerly 26-13.5-101.] Short title. This ~~article~~ PART 4 shall be known and may be cited as the "Colorado Administrative Procedure Act for the Establishment and Enforcement of Child Support".

14-15-402. [Formerly 26-13.5-102.] Definitions. As used in this ~~article~~ PART 4, unless the context otherwise requires:

(1) "Administrative order" means an order that involves payment or collection of support issued by a delegate child support enforcement unit or an administrative agency of another state or comparable jurisdiction with similar authority.

(2) "Arrears" or "arrearages" means amounts of past-due and unpaid monthly support obligations established by court or administrative order.

(3) "Child support debt" means, in the case in which there is no existing order for child support, an amount ordered by the court pursuant to section ~~14-14-104, C.R.S.~~ 14-15-304 or by a delegate child support enforcement unit pursuant to this ~~article~~ PART 4 for unreimbursed public assistance provided to a family that has received or is receiving aid to families with dependent

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children. In the case in which there is an existing court or administrative order for support, "child support debt" means an amount equal to the amount of public assistance paid to the extent of the full amount of arrearages which have accrued as of the date of the court or administrative order that determines the child support debt.

(4) "Costs of collection" means attorney fees, costs for administrative staff time, service of process fees, court costs, costs of blood tests, and costs for certified mail. Attorney fees and costs for administrative time shall only be collected in accordance with federal law and rules and regulations.

(5) "Court" or "judge" means any court or judge in this state having jurisdiction to determine the liability of persons for the support of another person. "Court" or "judge" includes a juvenile magistrate and a district court magistrate.

(6) "Custodian" means a parent, relative, legal guardian, or other person or agency having physical custody of a child.

(7) "Delegate child support enforcement unit" means the unit of a county department of social services or its contractual agent which is responsible for carrying out the provisions of ~~article 13 of this title~~ PART 2 OF THIS ARTICLE.

(8) "Dependent child" means any person who is legally entitled to or the subject of a court order for the provision of proper or necessary subsistence, education, medical care, or any other care necessary for his health, guidance,

or well-being who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.

(8.5) "District court" means any district court in this state and includes the juvenile court of the city and county of Denver and the juvenile division of the district court outside of the city and county of Denver.

(9) "Duty of support" means a duty of support imposed by law, by order, decree, or judgment of any court, or by administrative order, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise. "Duty of support" includes the duty to pay a monthly support obligation, a child support debt, support of children in foster care, and any arrearages.

(10) "Monthly support obligation" means the monthly amount of current child support that an obligor is ordered to pay by the court or by the delegate child support enforcement unit pursuant to this ~~article~~ PART 4.

(11) "Obligee" means any person or agency to whom a duty of support is owed or any person or agency having commenced a proceeding for the establishment or enforcement of an alleged duty of support.

(12) "Obligor" means any person owing a duty of support or against whom a proceeding for the establishment or enforcement of a duty of support is commenced.

(13) "Receipt of notice" means either the date on which service of process of a notice of financial responsibility is actually accomplished or the date on the return receipt if service is by certified mail, both in accordance with one of the methods of service specified in section ~~26-13.5-104~~ 14-15-404.

14-15-403. [Formerly 26-13.5-103.] Notice of financial responsibility issued - contents. (1) The delegate child support enforcement unit shall issue a notice of financial responsibility to an obligor who owes a child support debt or who is responsible for the support of a child on whose behalf the custodian of that child is receiving support enforcement services from the delegate child support enforcement unit pursuant to ~~article 13 of this title~~ PART 2 OF THIS ARTICLE. The notice shall advise the obligor:

(a) That the obligor is required to appear at the time and location stated in the notice for a negotiation conference to determine the obligor's duty of support;

(b) That the delegate child support enforcement unit shall issue an order of default setting forth the amount of the obligor's duty of support, if the obligor:

(I) Fails to appear for the negotiation conference as scheduled in the notice; and

(II) Fails to reschedule a negotiation conference prior to the date and time stated in the notice; and

(III) Fails to send the delegate child support enforcement unit a written request for a court hearing prior to the time scheduled for the negotiation conference;

(b.5) That, if the notice is issued for the purpose of establishing the paternity of and financial responsibility for a child, the delegate child support enforcement unit shall issue an order of default establishing paternity and setting forth the amount of the obligor's duty of support, if:

(I) The obligor fails to appear for the initial negotiation conference as scheduled in the notice of financial responsibility and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility; or

(II) The obligor fails to take a blood test or fails to appear for an appointment to take a blood test without good cause; or

(III) The results of the blood test indicate a ninety-seven percent or greater probability that the alleged father is the father of the child, and the obligor fails to appear for the negotiation conference as scheduled in the notice and fails to reschedule a negotiation conference prior to the date and time stated in the notice.

(e) ~~(Deleted by amendment, L. 92, p. 213, 17, effective August 1, 1992.)~~

~~(d)~~ (c) That the order of default shall be filed with the clerk of the district court in the county in which the notice of financial responsibility was issued; that, as soon as the order of default is filed, it shall have all the force, effect, and remedies of an order of the court, including, but not limited to, wage assignment or contempt of court; and that execution may be issued on the order in the same manner and with the same effect as if it were an order of the court;

~~(e)~~ (d) That a judgment may be entered on the order of financial responsibility issued pursuant to this ~~article~~ PART 4, and that if a judgment is not entered on the order of financial responsibility and needs to be enforced, the judgment creditor shall file with the court a verified entry of judgment specifying the period of time that the judgment covers and the total amount of the judgment for that period and that, notwithstanding the provisions of this paragraph ~~(e)~~ (d), no court order for judgment nor verified entry of judgment shall be required in order for the county and state child support enforcement units to certify past-due amounts of child support to the internal revenue service or state department of revenue for purposes of intercepting a federal or state tax refund;

~~(f)~~ (e) The name of the custodian of the child on whose behalf support is being sought and the name, birth date, and social security number of such child;

~~(g)~~ (f) That the amount of the monthly support obligation shall be based upon the child support guidelines as set forth in section ~~14-10-115, C.R.S.~~ 14-15-601;

~~(h)~~ (g) That, in calculating the amount of monthly support obligation pursuant to the child support guidelines as set forth in section ~~14-10-115, C.R.S.~~ 14-15-601, the delegate child support enforcement unit shall set the monthly support obligation based upon reliable information concerning the obligor's income, which may include wage statements or other wage information obtained from the department of labor and employment, tax records, and verified statements made by the obligee, and that, in the absence of any such information, the delegate child support enforcement unit shall set the monthly support obligation based on the current minimum wage for a forty-hour workweek;

~~(i)~~ (h) That the delegate child support enforcement unit may issue an administrative subpoena to obtain income information from the obligor;

~~(j)~~ (i) That the court or delegate child support enforcement unit may enter an order directing the obligor 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 prior to the entry of an order establishing paternity or for a time period prior

to the entry of the support order established pursuant to section ~~19-6-104~~,
~~C.R.S. 14-15-504~~;

- (j) The amount of the child support debt accrued and accruing;
- (k) The amount of arrears or arrearages ~~which~~ THAT have accrued under an administrative or a court order for support;
- (l) That the costs of collection, as defined in section ~~26-13.5-102 (3)~~ 14-15-402 (3), may be assessed against and collected from the obligor;
- (m) If applicable, that foster care maintenance may be collected against the obligor;
- (n) The interest rate on any support payments ~~which~~ THAT are not made on time;
- (o) That the obligor may assert the following objections in the negotiation conference and that, if such objections are not resolved, the delegate child support enforcement unit shall schedule a court hearing pursuant to section ~~26-13.5-105 (3)~~ 14-15-405 (3):
 - (I) That he is not the parent of the dependent child;
 - (II) That the dependent child has been adopted by a person other than the obligor;
 - (III) That the dependent child is emancipated; or
 - (IV) That there is an existing court or administrative order of support as to the monthly support obligation;

(p) That the duty to provide medical support shall be established under this ~~article~~ PART 4 in accordance with section ~~14-10-115 (2)~~, C.R.S. 14-15-601 (2);

(q) That an administrative order issued pursuant to this ~~article~~ PART 4 may also be modified under this article;

(r) That the obligor is responsible for notifying the delegate child support enforcement unit of any change of address or employment within ten days of such change;

(s) That, if the obligor has any questions, the obligor should telephone or visit the delegate child support enforcement unit;

(t) That the obligor has the right to consult an attorney and the right to be represented by an attorney at the negotiation conference; and

(u) Such other information as set forth in rules and regulations promulgated pursuant to section ~~26-13.5-113~~ 14-15-412.

14-15-404. [Formerly 26-13.5-104.] Service of notice of financial responsibility. (1) The delegate child support enforcement unit shall serve a notice of financial responsibility on the obligor not less than ten days prior to the date stated in the notice for the negotiation conference:

- (a) In the manner prescribed for service of process in a civil action; or
- (b) By an employee appointed by the delegate child support enforcement unit to serve such process; or

(c) By certified mail, return receipt requested, signed by the obligor only. The receipt shall be prima facie evidence of service.

(2) Service of process to establish paternity and financial responsibility may be made under this ~~article~~ PART 4 by certified mail as specified in subsection (1) of this section or by any of the other methods of service specified in said subsection (1).

(3) If process has been served pursuant to this section, no additional service of process shall be necessary if the case is referred to court for further review.

14-15-405. [Formerly 26-13.5-105.] Negotiation conference - issuance of order of financial responsibility - filing of order with district court.

(1) Every obligor who has been served with a notice of financial responsibility pursuant to section ~~26-13.5-104~~ 14-15-404 shall appear at the time and location stated in the notice for a negotiation conference or shall reschedule a negotiation conference prior to the date and time stated in the notice. The negotiation conference shall be scheduled not more than thirty days after the date of the issuance of the notice of financial responsibility. A negotiation conference shall not be rescheduled more than once and shall not be rescheduled for a date more than ten days after the date and time stated in the notice without good cause as defined in rules and regulations promulgated pursuant to section ~~26-13.5-113~~ 14-15-412. If a negotiation conference is

continued, the obligor shall be notified of such continuance by first class mail. If a stipulation is agreed upon at the negotiation conference as to the obligor's duty of support, the delegate child support enforcement unit shall issue an administrative order of financial responsibility setting forth the following:

(a) The amount of the monthly support obligation and instructions on the manner in which it shall be paid;

(b) The amount of child support debt due and owing to the state department and instructions on the manner in which it shall be paid;

(c) The amount of arrearages due and owing and instructions on the manner in which it shall be paid;

(d) The name of the custodian of the child and the name, birth date, and social security number of the child for whom support is being sought;

(e) The information required by section ~~14-14-107 (1) (b), C.R.S.~~ 14-15-307 (1);

(f) Such other information set forth in rules and regulations promulgated pursuant to section ~~26-13.5-113~~ 14-15-412.

(1.5) IF THE OBLIGOR ALLEGES THAT THE OBLIGEE WAS INELIGIBLE TO RECEIVE PUBLIC ASSISTANCE, THE FOLLOWING PROCEDURE APPLIES:

(a) THE OBLIGOR MAY STIPULATE TO AN AMOUNT OF SUPPORT AT THE NEGOTIATION CONFERENCE WITHOUT PREJUDICE TO HIS OR HER POSITION THAT

THE OBLIGEE WAS INELIGIBLE TO RECEIVE PUBLIC ASSISTANCE. IF A STIPULATION IS REACHED AT THE NEGOTIATION CONFERENCE:

(I) THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT SHALL ISSUE A TEMPORARY ADMINISTRATIVE ORDER OF FINANCIAL RESPONSIBILITY FOR CURRENT CHILD SUPPORT PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(II) THEREAFTER, THE OBLIGOR SHALL HAVE TWENTY DAYS AFTER THE DATE OF THE STIPULATION TO SUBMIT DOCUMENTATION SUCH AS AFFIDAVITS, CANCELED CHECKS, RECEIPTS, OR OTHER SUCH EVIDENCE TO THE COUNTY DEPARTMENT OF SOCIAL SERVICES IN SUPPORT OF THE OBLIGOR'S POSITION THAT THE OBLIGEE WAS INELIGIBLE TO RECEIVE PUBLIC ASSISTANCE.

(III) UPON RECEIPT OF SUCH DOCUMENTATION, THE OBLIGEE SHALL HAVE TWENTY DAYS WITHIN WHICH TO SUBMIT ANY DOCUMENTATION THE OBLIGEE MAY HAVE SUPPORTING HIS OR HER POSITION.

(IV) UPON RECEIPT OF THE INFORMATION, THE COUNTY DEPARTMENT OF SOCIAL SERVICES SHALL REVIEW THE ORIGINAL ELIGIBILITY DETERMINATION. IF THE DEPARTMENT DETERMINES THAT THE OBLIGEE WAS INELIGIBLE TO RECEIVE PUBLIC ASSISTANCE, THE DEPARTMENT SHALL CLOSE THE ACTION TO RECOVER CHILD SUPPORT DEBT FOR THAT PERIOD OF TIME DURING WHICH THE RECIPIENT WAS FOUND TO BE INELIGIBLE, AND THE DEPARTMENT SHALL ISSUE A REVISED TEMPORARY ADMINISTRATIVE ORDER OF FINANCIAL RESPONSIBILITY ELIMINATING ANY RESPONSIBILITY OF THE OBLIGOR FOR THE REPAYMENT OF

CHILD SUPPORT DEBT. IF THE DEPARTMENT DETERMINES THAT THE OBLIGEE WAS ELIGIBLE TO RECEIVE PUBLIC ASSISTANCE, THE DEPARTMENT SHALL RESCHEDULE A NEW NEGOTIATION CONFERENCE.

(b) (I) IF NO STIPULATION IS AGREED UPON AT THE NEGOTIATION CONFERENCE, THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT SHALL FILE THE NOTICE OF FINANCIAL RESPONSIBILITY AND PROOF OF SERVICE WITH THE CLERK OF THE DISTRICT COURT IN THE COUNTY IN WHICH THE NOTICE OF FINANCIAL RESPONSIBILITY WAS ISSUED OR IN THE DISTRICT COURT WHERE AN ACTION RELATING TO CHILD SUPPORT IS PENDING OR AN ORDER EXISTS BUT IS SILENT ON THE ISSUE OF CHILD SUPPORT AND SHALL REQUEST THE COURT TO SET A HEARING ON ALL MATTERS INCLUDING THE REPAYMENT OF CHILD SUPPORT DEBT.

(II) THE COURT SHALL ENTER A TEMPORARY ORDER FOR CURRENT CHILD SUPPORT AND PERMIT THE OBLIGOR TO SUBMIT DOCUMENTATION SUCH AS AFFIDAVITS, CANCELED CHECKS, RECEIPTS, OR OTHER SUCH EVIDENCE WITHIN TWENTY DAYS AFTER THE ISSUANCE OF THE COURT'S ORDER. UPON THE FILING OF SUCH DOCUMENTATION, THE OBLIGEE SHALL HAVE TWENTY DAYS WITHIN WHICH TO SUBMIT ANY DOCUMENTATION THE OBLIGEE MAY HAVE SUPPORTING HIS OR HER POSITION. THE COURT SHALL THEREAFTER HOLD AN EVIDENTIARY HEARING. IF THE COURT DETERMINES FROM THE EVIDENCE THAT THE OBLIGEE WAS INELIGIBLE TO RECEIVE PUBLIC ASSISTANCE, THE COURT SHALL MAKE THE

CHILD WELFARE

CHILD SUPPORT ORDER PERMANENT BUT SHALL NOT ENTER AN ORDER CONCERNING CHILD SUPPORT DEBT. HOWEVER, IF, AFTER THE EVIDENTIARY HEARING, THE COURT DETERMINES THAT THE OBLIGEE WAS ELIGIBLE TO RECEIVE PUBLIC ASSISTANCE, THE COURT SHALL MAKE THE CHILD SUPPORT ORDER PERMANENT AND ENTER APPROPRIATE ORDERS REGARDING THE REPAYMENT OF CHILD SUPPORT DEBT AND CHILD SUPPORT ARREARS, IF ANY.

(2) A copy of the administrative order of financial responsibility issued pursuant to subsection (1) of this section, along with proof of service, shall be filed with the clerk of the district court in the county in which the notice of financial responsibility was issued or in the district court where an action relating to support is pending or an order exists but is silent on the issue of child support. The clerk shall stamp the date of receipt of the copy of the order and shall assign the order a case number. The order of financial responsibility shall have all the force, effect, and remedies of an order of the court, including, but not limited to, wage assignment or contempt of court. Execution may be issued on the order in the same manner and with the same effect as if it were an order of the court. In order to enforce a judgment based on an order issued pursuant to this article, the judgment creditor shall file with the court a verified entry of judgment specifying the period of time that the judgment covers and the total amount of the judgment for that period. Notwithstanding the provisions of this subsection (2), no court order for

judgment nor verified entry of judgment shall be required in order for the county and state child support enforcement units to certify past-due amounts of child support to the internal revenue service or state department of revenue for purposes of intercepting a federal or state tax refund.

(3) If no stipulation is agreed upon at the negotiation conference because the obligor contests the issue of paternity, the delegate child support enforcement unit shall file the notice of financial responsibility and proof of service with the clerk of the district court in the county in which the notice of financial responsibility was issued or in the district court where an action relating to child support is pending or an order exists but is silent on the issue of child support, and shall request the court to set a hearing for the matter. If no stipulation is agreed upon at the negotiation conference and paternity is not an issue, the delegate child support enforcement unit shall issue temporary orders establishing current child support, child support debt, arrears, foster care maintenance, and medical support and shall file the notice of financial responsibility and proof of service with the clerk of the district court in the county in which the notice of financial responsibility was issued and shall request the court to set a hearing for the matter. Notwithstanding any rules of the Colorado rules of civil procedure, a complaint is not required in order to initiate a court action pursuant to this subsection (3). The court shall inform the delegate child support enforcement unit of the date and location of the

hearing and the court or the delegate child support enforcement unit shall send a notice to the obligor informing the obligor of the date and location of the hearing. In order to meet federal requirements of expedited process for child support enforcement, the court shall hold a hearing and decide only the issue of child support within ninety days after receipt of notice, as defined in section ~~26-13.5-102 (13)~~ 14-15-402 (13), or within one year after receipt of notice, as defined in section ~~26-13.5-102 (13)~~ 14-15-402 (13), if the obligor is contesting the issue of paternity. If the obligor raises issues relating to custody or parenting time and the court has jurisdiction to hear such matters, the court shall set a separate hearing for those issues after entry of the order of support. In any action, including an action for paternity, no additional service beyond that originally required pursuant to section ~~26-13.5-104~~ 14-15-404 shall be required if no stipulation is reached at the negotiation conference and the court is requested to set a hearing in the matter.

(4) The determination of the monthly support obligation shall be based on the child support guidelines set forth in section ~~14-10-115, C.R.S.~~ 14-15-601. The delegate child support enforcement unit may issue an administrative subpoena requesting income information, including but not limited to wage statements, pay stubs, and tax records. In the absence of reliable information, which may include such information as wage statements or other wage information obtained from the department of labor and

employment, tax records, and verified statements made by the obligee, the delegate child support enforcement unit shall set the amount included in the order of financial responsibility pursuant to section ~~14-10-115, C.R.S.~~ 14-15-601 based on the current minimum wage for a forty-hour workweek.

(5) 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), C.R.S.~~ PURSUANT TO THE PROVISIONS OF SECTION 14-15-601. 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 pursuant to section ~~19-6-104, C.R.S.~~ 14-15-504.

14-15-406. [Formerly 26-13.5-106.] Default - issuance of order of default - filing of order with district court. (1) (a) If an obligor fails to appear for a negotiation conference as scheduled in the notice of financial responsibility, and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility, the delegate child

support enforcement unit shall issue an order of default in accordance with the notice of financial responsibility. If an obligor fails to appear for a rescheduled negotiation conference, the delegate child support enforcement unit shall issue an order of default in accordance with the notice of financial responsibility.

(b) In an action to establish paternity and financial responsibility, the delegate child support enforcement unit shall issue an order of default establishing paternity and financial responsibility in accordance with the notice of financial responsibility if:

(I) The obligor fails to appear for the initial negotiation conference as scheduled in the notice of financial responsibility and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility; or

(II) The obligor fails to take a blood test or fails to appear for an appointment to take a blood test without good cause; or

(III) The results of the blood test indicate a ninety-seven percent or greater probability that the alleged father is the father of the child, and the obligor fails to appear for the negotiation conference as scheduled in the notice of financial responsibility and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility.

(b.5) The state board OF HUMAN SERVICES shall promulgate rules defining what constitutes good cause for failure to appear at a negotiation conference.

(c) Such order of default shall be approved by the court and shall include the following:

(I) The amount of the monthly support obligation and instructions on the manner in which it shall be paid;

(II) The amount of child support debt due and owing to the state department and instructions on the manner in which it shall be paid;

(III) The amount of arrearages due and owing and instructions on the manner in which it shall be paid;

(IV) The name of the custodian of the child and the name, birth date, and social security number of the child for whom support is being sought;

(V) The information required by section ~~14-14-107 (1) (b)~~, C.R.S. 14-15-307 (1) (b);

(VI) In a default order establishing paternity, a statement that the obligor has been determined to be the natural parent of the child;

(VII) Such other information set forth in rules and regulations promulgated pursuant to section ~~26-13.5-113~~ 14-15-412.

(d) Such order for default may direct the obligor 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 prior to the entry of the order establishing paternity.

(2) A copy of any order of default issued pursuant to subsection (1) of this section, along with proof of service, and in the case of a default order establishing paternity and financial responsibility under paragraph (b) of subsection (1) of this section, the obligee's verified affidavit regarding paternity and the blood test results, if any, shall be filed with the clerk of the district court in the county in which the notice of financial responsibility was issued or in the district court where an action relating to child support is pending or an order exists but is silent on the issue of child support. The clerk shall stamp the date of receipt of the copy of the order of default and shall assign the order a case number. The order of default shall have all the force, effect, and remedies of an order of the court, including, but not limited to, wage assignment or contempt of court. Execution may be issued on the order in the same manner and with the same effect as if it were an order of the court. In order to enforce a judgment based on an order issued pursuant to this article, the judgment creditor shall file with the court a verified entry of judgment specifying the period of time that the judgment covers and the total amount of the judgment for that period. Notwithstanding the provisions of this subsection (2), no court order for judgment nor verified entry of judgment shall be required in order for the county and state child support

enforcement units to certify past-due amounts of child support to the internal revenue service or state department of revenue for purposes of intercepting a federal or state tax refund.

14-15-407. [Formerly 26-13.5-107.] Orders - duration - effect of court determinations. (1) A copy of any order of financial responsibility or of any order of default or of any temporary order of financial responsibility issued by the delegate child support enforcement unit shall be sent by such unit by first-class mail to the obligor or his attorney of record and to the custodian of the child.

(2) Any order of financial responsibility, any order of default, and any temporary order of financial responsibility shall continue notwithstanding the fact that the child is no longer receiving benefits for aid to families with dependent children, unless the child is emancipated or is otherwise no longer entitled to support. Any order of financial responsibility, any order of default, and any temporary order of financial responsibility shall continue until modified by administrative order or court order or by emancipation of the child. In the event that the order of financial responsibility, order of default, or temporary order of financial responsibility is entered in a case at a time when there is a court action on the same case, the court may credit a portion of a monthly amount paid under the administrative process order towards future payments due in the court case only if the order in the court case is

established at a lower amount than the administrative process order and only to the extent of the difference between the amount of the court order and the amount of the administrative process order.

(3) Nothing contained in this ~~article~~ PART 4 shall deprive a court of competent jurisdiction from determining the duty of support of an obligor against whom an administrative order is issued pursuant to this ~~article~~ PART 4. Such a determination by the court shall supersede the administrative order as to support payments due subsequent to the entry of the order by the court but shall not affect any arrearage which may have accrued under the administrative order.

14-15-408. [Formerly 26-13.5-109.] Notice of financial responsibility - issued in which county. A notice of financial responsibility may be issued by a delegate child support enforcement unit pursuant to this ~~article~~ PART 4 in any county where public assistance was paid, the county where the obligor resides, the county where the obligee resides, or the county where the child resides as prescribed by rule and regulation pursuant to section ~~26-13.5-113~~ 14-15-412.

14-15-409. [Formerly 26-13.5-110.] Paternity - establishment - filing of order with court. (1) The delegate child support enforcement unit may issue an order establishing paternity of and financial responsibility for a child in the course of a support proceeding under this ~~article~~ PART 4 when both

parents sign sworn statements that the paternity of the child for whom support is sought has not been legally established and that the parents are the natural parents of the child and if neither parent is contesting the issue of paternity or may issue an order of default establishing paternity and financial responsibility in accordance with section ~~26-13.5-106~~ 14-15-406. Prior to issuing an order under this section, the delegate child support enforcement unit shall advise both parents in writing as prescribed by rule and regulation promulgated pursuant to section ~~26-13.5-113~~ 14-15-412 of their legal rights concerning the determination of paternity.

(2) A copy of the order establishing paternity and financial responsibility and the sworn statements of the parents and, in the case of a default order establishing paternity and financial responsibility, the obligee's verified affidavit regarding paternity and the blood test results, if any, shall be filed with the clerk of the district court in the county in which the notice of financial responsibility was issued or as otherwise provided in accordance with the provisions of section ~~26-13.5-105 (2)~~ 14-15-405 (2). The order establishing paternity and financial responsibility shall have all the force, effect, and remedies of an order of the district court, and the order may be executed upon and enforced in the same manner as set forth in section ~~26-13.5-105 (2)~~ 14-15-405 (2).

(3) If the order establishing paternity is at variance with the child's birth certificate, the delegate child support enforcement unit shall order that a new birth certificate be issued under section ~~19-4-124, C.R.S.~~ 14-15-123.

(4) Service of process to establish paternity and financial responsibility may be made under this article by certified mail as specified in section ~~26-13.5-104~~ 14-15-404 or by any of the other methods of service specified in said section.

14-15-410. [Formerly 26-13.5-111.] Establishment and enforcement of duties of support upon request of agency of another state. (1) The delegate child support enforcement unit may establish all duties of support, including the duty to pay arrearages and to pay child support debt and may enforce such duties of support from an obligor pursuant to the provisions of this ~~article~~ PART 4 if that action is requested by an agency of another state which is operating under Title IV-D of the federal "Social Security Act", as amended.

(2) If the delegate child support enforcement unit proceeds against an obligor under subsection (1) of this section, it shall seek establishment and enforcement of the liability imposed by the laws of the state where the obligor was located during the period for which support is sought. The obligor is presumed to have been present in this state during that period until otherwise shown.

(3) If the obligee is absent from this state and the obligor presents evidence which constitutes a defense, the obligor shall request a court hearing. ~~as provided in section 26-13.5-108.~~

(4) The remedies provided by this section are additional to those remedies provided by the "Uniform Interstate Family Support Act", ~~article 5 of title 14,~~ ~~C.R.S.~~ ARTICLE 15.5 OF THIS TITLE.

14-15-411. [Formerly 26-13.5-112.] Modification of an order. (1) At any time after the entry of an order of financial responsibility or an order of default under this article, in order to add, alter, or delete any provisions to such an order, the delegate child support enforcement unit may issue a notice of financial responsibility to an obligor requesting the modification of an existing administrative order issued pursuant to this ~~article~~ PART 4. The delegate child support enforcement unit shall serve the obligor with a notice of financial responsibility by first class mail and shall proceed as set forth in this ~~article~~ PART 4. The obligor or the obligee may file a written request for modification of an administrative order issued under this ~~article~~ PART 4 with the delegate child support enforcement unit by serving the delegate child support enforcement unit by first class mail or in person. If such unit objects to the request for modification based upon the failure to demonstrate a showing of changed circumstances required pursuant to section ~~14-10-122,~~ ~~C.R.S.~~ 14-15-602, the delegate child support enforcement unit shall advise the

requesting party of the party's right to request the court to set the matter for a court hearing. The court shall hold a hearing and decide only the issue of modification within ninety days of such request. If the delegate child support enforcement unit does not object to the obligor's or obligee's request for modification, the unit shall serve the obligor with a notice of financial responsibility by first class mail and shall proceed as set forth in this ~~article~~ PART 4. Within thirty days of receipt of the request for modification, the delegate child support enforcement unit shall either advise the requesting party of the party's right to request a court hearing or shall issue a notice of financial responsibility. If the child for whom the order applies is no longer in the custody of a person receiving public assistance or receiving support enforcement services from the delegate child support enforcement unit pursuant to ~~article 13 of this title~~ PART 2 OF THIS ARTICLE, the delegate child support enforcement unit shall certify the matter for hearing to the district court in which the order was filed.

(2) A request for modification made pursuant to this section shall not stay the delegate child support enforcement unit from enforcing and collecting upon the existing order pending the modification proceeding.

(3) Only payments accruing subsequent to the request for modification may be modified. Modification shall be based upon the standard set forth in section ~~14-10-122, C.R.S.~~ 14-15-602.

14-15-412. [Formerly 26-13.5-113.] Rules and regulations. The state board OF HUMAN SERVICES shall adopt rules and regulations establishing uniform forms and procedures to implement the administrative process set forth in this article and may adopt rules and regulations as may be necessary to carry out the provisions of this ~~article~~ PART 4.

14-15-413. [Formerly 26-13.5-114.] Applicability of administrative procedure act. Except for the promulgation of rules and regulations as authorized in section ~~26-13.5-113~~ 14-15-412, the provisions of this ~~article~~ PART 4 shall not be subject to the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

14-15-414. [Formerly 26-13.5-115.] Additional remedies. The remedies created by this ~~article~~ PART 4 are in addition to and not in substitution for any other existing remedies authorized by law to establish and enforce the duty of support.

PART 5

JUVENILE SUPPORT PROCEEDINGS

14-15-501. [Formerly 19-6-101.] Initiation of proceedings - support - repayment of birth-related debt - repeal. (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) (I) - Proceedings to compel a noncustodial parent, or other legally responsible persons, to repay birth-related costs incurred pursuant to section 25.5-1-202, C.R.S., may be commenced by the department of health care policy and financing or the department's agent 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.

(II) This paragraph (b) is repealed, effective June 30, 1999.

(2) A petition under this ~~article~~ PART 5 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~~ PART 5 shall be entitled, "The People of the State of Colorado in the Interest of, children, upon the Petition of, petitioner, and concerning, respondent.".

14-15-502. [Formerly 19-6-102.] Venue. A petition filed under this ~~section~~ PART 5 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.

14-15-503. Summons. (1) ALL PROCEEDINGS UNDER THIS PART 5 SHALL BE COMMENCED IN THE MANNER PROVIDED BY THE COLORADO RULES OF CIVIL PROCEDURE OR AS OTHERWISE PROVIDED IN THIS SECTION OR SECTION 14-15-405.

(2) UPON COMMENCEMENT OF A PROCEEDING UNDER THIS PART 5 BY ONE OF THE PARTIES, THE OTHER PARTIES SHALL BE SERVED IN THE MANNER SET FORTH IN THE COLORADO RULES OF CIVIL PROCEDURE OR AS OTHERWISE PROVIDED IN SECTION 14-15-405.

14-15-504. [Formerly 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)~~ PURSUANT TO THE PROVISIONS OF SECTION 14-15-601. 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~~ PART 5.

(2) If, at or before the hearing, the respondent waives his OR HER 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.

(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.~~ 14-15-602.

(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~~ PART 5 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.

(6) Any order made pursuant to this ~~article~~ PART 5 shall not be exclusive.

(7) The court may assess the costs of the action as part of its order.

14-15-505. [Formerly 19-6-105.] Failure to comply. (1) A person failing to comply with an order of the court entered under this ~~article~~ PART 5 shall be found in contempt of court in accordance with section ~~14-14-110,~~ ~~C.R.S.~~ 14-15-309.

(2) The court shall have authority to issue writs of execution for the collection of accrued and unpaid installments of support orders.

14-15-506. [Formerly 19-6-106.] Child support - guidelines - schedule of basic support obligations. The provisions of section ~~14-10-115, C.R.S.,~~ 14-15-601 shall apply to all child support obligations, established or modified, as a part of any proceeding under this ~~article~~ PART 5, whether filed on or subsequent to July 1, 1988.

PART 6

CHILD SUPPORT GUIDELINES

14-15-601. [Formerly 14-10-115.] Child support - guidelines - schedule of basic child support obligations. (1) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court may order

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either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for his support, without regard to marital misconduct, after considering all relevant factors including:

- (a) The financial resources of the child;
- (b) The financial resources of the custodial parent;
- (c) The standard of living the child would have enjoyed had the marriage not been dissolved;
- (d) The physical and emotional condition of the child and his OR HER educational needs; and
- (e) The financial resources and needs of the noncustodial parent.

(1.5) (a) Unless a court finds that a child is otherwise emancipated, emancipation occurs and child support terminates when the child attains nineteen years of age unless one or more of the following conditions exist:

- (I) The parties agree otherwise in a written stipulation after July 1, 1991;
- (II) If the child is mentally or physically disabled, the court or the delegate child support enforcement unit may order child support, including payments for medical expenses or insurance or both to continue beyond the age of nineteen;
- (III) If the child is still in high school or an equivalent program, support continues until the end of the month following graduation, unless there is an order for postsecondary education, in which case support continues through

postsecondary education as provided in subparagraph (I) of paragraph (b) of this subsection (1.5). A child who ceases to attend high school prior to graduation and later reenrolls is entitled to support upon reenrollment, but not beyond age twenty-one.

(b) (I) If the court finds that it is appropriate for the parents to contribute to the costs of a program of postsecondary education, then the court shall terminate child support and enter an order requiring both parents to contribute a sum determined to be reasonable for the education expenses of the child, taking into account the resources of each parent and the child. In determining the amount of each parent's contribution to the costs of a program of postsecondary education for a child, the court shall be limited to an amount not to exceed the amount listed under the schedule of basic child support obligations in paragraph (b) of subsection (10) of this section for the number of children receiving postsecondary education. The amount of contribution ~~which~~ THAT each parent is ordered to pay pursuant to this paragraph (b) shall be subtracted from the amount of each parent's gross income, respectively, prior to calculating the basic child support obligation for any remaining children pursuant to subsection (10) of this section. In no case shall the court issue orders providing for both child support and postsecondary education to be paid for the same time period for the same child regardless of the age of the child. Either parent or the child may move for such an order at any time

before the child attains the age of twenty-one years. Either a child seeking an order for postsecondary education expenses or on whose behalf postsecondary education expenses are sought, or the parent from whom the payment of postsecondary education expenses are sought, may request that the court order the child and such parent to seek mediation prior to a hearing on the issue of postsecondary education expenses. Mediation services shall be provided in accordance with section 13-22-305, C.R.S. The court may order the parties to seek mediation if the court finds that mediation is appropriate. Postsecondary education includes college and vocational education programs. If such an order is entered, the parents shall contribute to the total sum determined by the court in proportion to their adjusted gross incomes as defined in subparagraph (II) of paragraph (a) of subsection (10) of this section. The order for postsecondary education support may not extend beyond the earlier of the child's twenty-first birthday or the completion of an undergraduate degree. The court may order the support paid directly to the educational institution, to the child, or in such other fashion as is appropriate to support the education of the child. If the child resides in the home of one parent while attending school or during periods of time in excess of thirty days when school is not in session, the court may order payments from one parent to the other for room and board until the child attains the age of nineteen. A

child shall not be considered emancipated solely by reason of living away from home while in postsecondary education.

(II) If the court orders support pursuant to subparagraph (I) of this paragraph (b), the court or delegate child support enforcement unit may also order that the parents provide health insurance for the child or pay medical expenses of the child or both for the duration of such order. Such order shall provide that these expenses be paid in proportion to their adjusted gross incomes as defined in subparagraph (II) of paragraph (a) of subsection (10) of this section. The court or delegate child support enforcement unit shall order a parent to provide health insurance if the child is eligible for coverage as a dependent on that parent's insurance policy or if health insurance coverage for the child is available at reasonable cost.

(c) This subsection (1.5) shall apply to all child support obligations established or modified as a part of any proceeding, including but not limited to ~~articles 5, 6, and 10 of this title and articles 4 and 6 of title 19, C.R.S.~~ THIS PART 6, PARTS 1, 5, AND 7 OF THIS ARTICLE, AND ARTICLE 15.5 OF THIS TITLE, whether filed on, prior to, or subsequent to July 1, 1991; except that paragraph (a) of this subsection (1.5) does not apply to modifications of child support obligations with respect to a child whose nineteenth birthday falls before July 1, 1991.



(d) Postsecondary education support may be established or modified in the same manner as child support under this ~~article~~ PART 6.

(e) For the purposes of this section, "postsecondary education support" means support for the following expenses associated with attending a college, university, or vocational education program: Tuition, books, and fees.

(2) (a) In orders issued pursuant to this section, the court shall order that either parent or both parents initiate the inclusion of the child under a medical insurance policy or medical and dental insurance policies currently in effect for their benefit, purchase medical insurance or medical and dental insurance for the child, or in some other manner provide for the current and future medical needs of the child. At the same time, the court shall order payment of medical insurance or medical and dental insurance deductibles and copayments. If a court has ordered a parent to provide medical insurance or medical and dental insurance, the court shall order that parent to provide separate coverage for any children who are not covered by that parent's insurance because the children reside outside the geographic coverage area of the policy if the court determines that such separate coverage is available at reasonable cost.

(b) Where the application of the premium payment on the child support guidelines results in a child support order of fifty dollars or less, or the premium payment is twenty percent or more of the parent's gross income, the

court or delegate child support enforcement unit may elect not to require the parent to include the child or children on an existing policy or to purchase insurance. The parent shall, however, be required to provide insurance when it does become available at a reasonable rate.

(3) (a) In any action to establish or modify child support, whether temporary or permanent, the child support guideline as set forth in this section shall be used as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guideline where its application would be inequitable, unjust, or inappropriate. Any such deviation shall be accompanied by written or oral findings by the court specifying the reasons for the deviation and the presumed amount under the guidelines without a deviation. These reasons may include, but are not limited to, the extraordinary medical expenses incurred for treatment of either parent or a current spouse, the gross disparity in income between the parents, the ownership by a parent of a substantial nonincome-producing asset, consistent overtime not considered in gross income under sub-subparagraph (C) of subparagraph (I) of paragraph (a) of subsection (7) of this section, or income from employment that is in addition to a full-time job. The existence of a factor enumerated in this section does not require the court to deviate from the guidelines, but is a factor to be considered in the decision to deviate. The

court may deviate from the guidelines even if no factor enumerated in this section exists.

(b) (I) Stipulations presented to the court shall be reviewed by the court for approval. No hearing shall be required; however, the court shall use the guideline to review the adequacy of child support orders negotiated by the parties as well as the financial affidavit which fully discloses the financial status of the parties as required for use of the guideline.

(II) When a child support order is entered or modified, the parties may agree, or the court may require the parties to exchange financial information pursuant to paragraph (c) of subsection (7) of this section and other appropriate information once a year or less often, by regular mail, for the purpose of updating and modifying the order without a court hearing. The parties shall use the approved standardized child support guideline forms in exchanging such financial information. Such forms shall be included with any agreed modification or an agreement that a modification is not appropriate at the time. If the agreed amount departs from the guidelines, the parties shall furnish statements of explanation, which shall be included with the forms and shall be filed with the court. The court shall review the agreement pursuant to this subparagraph (II) and inform the parties by regular mail whether or not additional or corrected information is needed, or that the modification is granted, or that the modification is denied. If the parties cannot agree, no

modification pursuant to this subparagraph (II) shall be entered; however, either party may move for or the court may schedule, upon its own motion, a modification hearing.

(III) Upon request of the noncustodial parent, the court may order the custodial parent to submit an annual update of financial information using the approved standardized child support guideline forms, including information on the actual expenses relating to the children of the marriage for whom support has been ordered. The court shall not order the custodial parent to update such financial information pursuant to this subparagraph (III) in circumstances where the noncustodial parent has failed to exercise parenting time rights or when child support payments are in arrears or where there is documented evidence of domestic violence, child abuse, or a violation of a restraining order on the part of the noncustodial parent. The court may order the noncustodial parent to pay the costs involved in preparing an update to the financial information. If the noncustodial parent claims, based upon the information in the updated form, that the custodial parent is not spending the child support for the benefit of the children, the court may refer the parties to a mediator to resolve the differences. If there are costs for such mediation, the court shall order that the party requesting the mediation pay such costs.

(c) The child support guideline has the following purposes:

(I) To establish as state policy an adequate standard of support for children, subject to the ability of parents to pay;

(II) To make awards more equitable by ensuring more consistent treatment of persons in similar circumstances; and (III) To improve the efficiency of the court process by promoting settlements and giving courts and the parties guidance in establishing levels of awards.

(3.5) All child support orders entered pursuant to this article shall provide the social security numbers and dates of birth of the parties and of the children who are the subject of the order.

(4) The child support guideline does the following:

(a) Calculates child support based upon the parents' combined adjusted gross income estimated to have been allocated to the child if the parents and children were living in an intact household;

(b) Adjusts the child support based upon the needs of the children for extraordinary medical expenses and work-related child care costs;

(c) Allocates the amount of child support to be paid by each parent based upon physical custody arrangements.

(5) The child support guideline shall be used with standardized child support guideline forms to be issued by the supreme court on or before November 1, 1986, which shall be periodically updated when necessary.

(6) The child support guideline may be used by the parties as the basis for periodic updates of child support obligations.

(7) **Determination of income.** (a) For the purposes of the guideline specified in subsections (3) to (14) of this section, "income" means actual gross income of a parent, if employed to full capacity, or potential income, if unemployed or underemployed. Gross income of each parent shall be determined according to the following guidelines:

(I) (A) "Gross income" includes income from any source and includes, but is not limited to, income from salaries, wages, including tips calculated pursuant to the federal internal revenue service percentage of gross wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, and alimony or maintenance received. Gross income does not include child support payments received.

(B) "Gross income" does not include benefits received from means-tested public assistance programs, including but not limited to aid to families with dependent children, supplemental security income, food stamps, and general assistance.

(C) "Gross income" includes overtime pay only if the overtime is required by the employer as a condition of employment.

(II) (A) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required to produce such income.

(B) "Ordinary and necessary expenses" does not include amounts allowable by the internal revenue service for the accelerated component of depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining gross income for purposes of calculating child support.

(III) Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business shall be counted as income if they are significant and reduce personal living expenses.

(b) (I) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income; except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a child two years of age or younger for whom the parents owe a joint legal responsibility.

~~(II) Repealed.~~

~~(III)~~ (II) For the purposes of this section PARAGRAPH (b), a parent shall not be deemed "underemployed" if:

(A) The employment is temporary and is reasonably intended to result in higher income within the foreseeable future; or

(B) The employment is a good faith career choice ~~which~~ THAT is not intended to deprive a child of support and does not unreasonably reduce the support available to a child; or

(C) The parent is enrolled in an educational program ~~which~~ THAT is reasonably intended to result in a degree or certification within a reasonable period of time and ~~which~~ THAT will result in a higher income, so long as the educational program is a good faith career choice which is not intended to deprive the child of support and which does not unreasonably reduce the support available to a child.

(c) Income statements of the parents shall be verified with documentation of both current and past earnings. Suitable documentation of current earnings includes pay stubs, employer statements, or receipts and expenses if self-employed. Documentation of current earnings shall be supplemented with copies of the most recent tax return to provide verification of earnings over a longer period. A copy of wage statements or other wage information obtained from the computer data base maintained by the department of labor and employment shall be admissible into evidence for purposes of determining income under this subsection (7).

(d) The amount of child support actually paid by a parent with an order for support of other children shall be deducted from that parent's gross income. For the purposes of this section, "other children" means children who are not the subject of this particular child support determination.

(d.5) (I) At the time of the initial establishment of a child support order, or in any proceeding to modify a support order, if a parent is also legally responsible for the support of other children for whom the parents do not share joint legal responsibility, an adjustment shall be made revising such parent's income prior to calculating the basic child support obligation for the children who are the subject of the support order if the children are living in the home of the parent seeking the adjustment or if the children are living out of the home, and the parent seeking the adjustment provides documented proof of money payments of support of those children. The amount shall not exceed the guidelines listed in this section. An amount equal to the amount listed under the schedule of basic child support obligations in paragraph (b) of subsection (10) of this section which would represent a support obligation based only upon the responsible parent's gross income, without any other adjustments, for the number of such other children for whom such parent is also responsible shall be subtracted from the amount of such parent's gross income prior to calculating the basic child support obligation based on both parents' gross income as provided in subsection (10) of this section.

(II) The adjustment pursuant to this paragraph (d.5), based on the responsibility to support other children, shall not be made to the extent that the adjustment contributes to the calculation of a support order lower than a previously existing support order for the children who are the subject of the modification hearing at which an adjustment is sought.

~~(e) Repealed and deleted by amendment, L. 92, pp. 198, 166, 3, 1, effective August 1, 1992.~~

(8) **Shared physical custody.** For the purposes of this section, "shared physical custody" means that each parent keeps the children overnight for more than ninety-two overnights each year and that both parents contribute to the expenses of the children in addition to the payment of child support.

(9) **Split custody.** For the purposes of this section, "split custody" means that each parent has physical custody of at least one of the children.

(10) **Basic child support obligation.** (a) (I) The basic child support obligation shall be determined using the schedule of basic child support obligations contained in paragraph (b) of this subsection (10). The basic child support obligation shall be divided between the parents in proportion to their adjusted gross incomes.

(II) The category entitled "combined gross income" in the schedule means the combined monthly adjusted gross incomes of both parents. For the purposes of subsections (3) to (14) of this section, "adjusted gross income"

means gross income less preexisting child support obligations and less alimony or maintenance actually paid by a parent. For combined gross income amounts falling between amounts shown in the schedule, basic child support amounts shall be extrapolated. The category entitled "number of children due support" in the schedule means children for whom the parents share joint legal responsibility and for whom support is being sought. The judge may use his OR HER judicial discretion in determining child support in circumstances where a parent is living below a minimum subsistence level; except that a minimum child support payment of twenty to fifty dollars per month, based on resources and living expenses of the obligor, shall be required even in such instances. The judge may use his OR HER judicial discretion in determining child support in circumstances where combined adjusted gross income exceeds the uppermost levels of the guideline.

(b) Schedule of basic child support obligations:

| COMBINED GROSS INCOME | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX OR MORE CHILDREN |
|-----------------------------|--------------------------------|-----------------|-------------------|------------------|------------------|----------------------------|
| 100 | \$20 - \$50 PER MONTH, BASED | | | | | |
| 200 | ON RESOURCES AND LIVING | | | | | |
| 300 | EXPENSES OF OBLIGOR AND NUMBER | | | | | |
| 400 | OF CHILDREN DUE SUPPORT | | | | | |
| 500 | 20 | 31 | 39 | 44 | 48 | 51 |
| 600 | 89 | 109 | 191 | 341 | 38 | 141 |

| COMBINED GROSS INCOME | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX OR MORE CHILDREN |
|-----------------------------|--------------|-----------------|-------------------|------------------|------------------|----------------------------|
| 700 | 157 | 187 | 199 | 224 | 228 | 232 |
| 800 | 171 | 265 | 279 | 314 | 318 | 323 |
| 900 | 184 | 286 | 359 | 404 | 408 | 414 |
| 1000 | 198 | 307 | 385 | 434 | 473 | 505 |
| 1100 | 210 | 327 | 410 | 463 | 504 | 538 |
| 1200 | 223 | 346 | 434 | 490 | 534 | 570 |
| 1300 | 235 | 366 | 459 | 517 | 563 | 602 |
| 1400 | 248 | 385 | 483 | 544 | 593 | 634 |
| 1500 | 260 | 404 | 506 | 570 | 622 | 665 |
| 1600 | 271 | 422 | 528 | 595 | 649 | 695 |
| 1700 | 286 | 444 | 555 | 626 | 684 | 730 |
| 1750 | 293 | 454 | 568 | 641 | 700 | 747 |
| 1800 | 299 | 464 | 581 | 655 | 715 | 763 |
| 1850 | 306 | 474 | 593 | 669 | 730 | 780 |
| 1900 | 312 | 484 | 606 | 683 | 746 | 796 |
| 1950 | 319 | 494 | 618 | 697 | 761 | 812 |
| 2000 | 325 | 504 | 630 | 711 | 776 | 829 |
| 2050 | 331 | 514 | 643 | 725 | 791 | 845 |
| 2100 | 338 | 524 | 655 | 739 | 807 | 861 |
| 2150 | 344 | 533 | 668 | 753 | 822 | 878 |
| 2200 | 350 | 542 | 678 | 765 | 835 | 892 |
| 2250 | 355 | 550 | 688 | 776 | 847 | 905 |
| 2300 | 360 | 558 | 699 | 788 | 860 | 918 |



| COMBINED GROSS INCOME | SIX OR MORE CHILDREN | | | | | |
|-----------------------------|----------------------------|-----------------|-------------------|------------------|------------------|----------------------------|
| | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX OR MORE CHILDREN |
| 2350 | 365 | 566 | 709 | 799 | 872 | 932 |
| 2400 | 371 | 574 | 719 | 811 | 885 | 945 |
| 2450 | 376 | 583 | 729 | 822 | 897 | 958 |
| 2500 | 381 | 591 | 739 | 834 | 910 | 972 |
| 2550 | 386 | 599 | 749 | 845 | 922 | 985 |
| 2600 | 392 | 607 | 760 | 857 | 935 | 999 |
| 2650 | 397 | 615 | 770 | 868 | 947 | 1012 |
| 2700 | 402 | 623 | 780 | 880 | 960 | 1025 |
| 2750 | 407 | 631 | 790 | 891 | 972 | 1039 |
| 2800 | 413 | 639 | 800 | 903 | 985 | 1052 |
| 2850 | 418 | 648 | 811 | 914 | 997 | 1065 |
| 2900 | 423 | 656 | 821 | 926 | 1010 | 1079 |
| 2950 | 428 | 664 | 831 | 937 | 1022 | 1092 |
| 3000 | 434 | 672 | 841 | 949 | 1035 | 1106 |
| 3050 | 439 | 680 | 852 | 961 | 1047 | 1119 |
| 3100 | 445 | 689 | 863 | 973 | 1061 | 1134 |
| 3150 | 450 | 698 | 874 | 986 | 1075 | 1148 |
| 3200 | 456 | 707 | 885 | 998 | 1088 | 1163 |
| 3250 | 462 | 716 | 896 | 1011 | 1102 | 1178 |
| 3300 | 468 | 724 | 907 | 1023 | 1116 | 1192 |
| 3350 | 473 | 733 | 918 | 1036 | 1129 | 1207 |
| 3400 | 479 | 742 | 930 | 1048 | 1143 | 1221 |
| 3450 | 485 | 751 | 941 | 1061 | 1156 | 1236 |

| COMBINED GROSS INCOME | SIX OR MORE CHILDREN | | | | | |
|-----------------------------|----------------------------|-----------------|-------------------|------------------|------------------|----------------------------|
| | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX OR MORE CHILDREN |
| 3500 | 491 | 760 | 952 | 1073 | 1170 | 1251 |
| 3550 | 496 | 769 | 963 | 1086 | 1184 | 1265 |
| 3600 | 502 | 777 | 974 | 1098 | 1197 | 1280 |
| 3650 | 508 | 786 | 985 | 1111 | 1211 | 1294 |
| 3700 | 513 | 795 | 996 | 1123 | 1225 | 1309 |
| 3750 | 519 | 804 | 1007 | 1136 | 1238 | 1324 |
| 3800 | 525 | 813 | 1018 | 1148 | 1252 | 1338 |
| 3850 | 531 | 822 | 1029 | 1161 | 1265 | 1353 |
| 3900 | 536 | 831 | 1041 | 1173 | 1279 | 1367 |
| 3950 | 542 | 839 | 1052 | 1186 | 1293 | 1382 |
| 4000 | 548 | 848 | 1063 | 1198 | 1306 | 1397 |
| 4050 | 554 | 857 | 1074 | 1211 | 1320 | 1411 |
| 4100 | 559 | 866 | 1085 | 1224 | 1333 | 1426 |
| 4150 | 565 | 875 | 1096 | 1236 | 1347 | 1440 |
| 4200 | 571 | 884 | 1107 | 1249 | 1361 | 1455 |
| 4250 | 576 | 892 | 1118 | 1261 | 1374 | 1470 |
| 4300 | 582 | 901 | 1129 | 1274 | 1388 | 1484 |
| 4350 | 588 | 910 | 1140 | 1286 | 1402 | 1499 |
| 4400 | 594 | 919 | 1152 | 1299 | 1415 | 1513 |
| 4450 | 599 | 928 | 1163 | 1311 | 1429 | 1528 |
| 4500 | 606 | 938 | 1175 | 1325 | 1444 | 1544 |
| 4550 | 612 | 947 | 1187 | 1339 | 1459 | 1560 |
| 4600 | 618 | 957 | 1199 | 1352 | 1474 | 1576 |

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| COMBINED GROSS INCOME | COMBINED GROSS INCOME | | | | | | SIX OR MORE CHILDREN |
|-----------------------------|-----------------------------|-----------------|-------------------|------------------|------------------|----------------------------|----------------------------|
| | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX OR MORE CHILDREN | |
| 4650 | 624 | 966 | 1211 | 1365 | 1488 | 1591 | 1907 |
| 4700 | 630 | 975 | 1222 | 1379 | 1502 | 1607 | 1920 |
| 4750 | 636 | 985 | 1234 | 1392 | 1517 | 1622 | 1934 |
| 4800 | 642 | 994 | 1246 | 1405 | 1531 | 1637 | 1947 |
| 4850 | 648 | 1003 | 1258 | 1418 | 1545 | 1653 | 1960 |
| 4900 | 655 | 1013 | 1270 | 1431 | 1559 | 1668 | 1974 |
| 4950 | 660 | 1021 | 1280 | 1442 | 1572 | 1681 | 1987 |
| 5000 | 665 | 1029 | 1290 | 1454 | 1584 | 1694 | 2000 |
| 5050 | 670 | 1037 | 1300 | 1465 | 1596 | 1708 | 2013 |
| 5100 | 675 | 1045 | 1310 | 1477 | 1609 | 1721 | 2027 |
| 5150 | 680 | 1054 | 1320 | 1488 | 1621 | 1734 | 2040 |
| 5200 | 685 | 1062 | 1331 | 1499 | 1634 | 1748 | 2053 |
| 5250 | 691 | 1070 | 1341 | 1511 | 1646 | 1761 | 2067 |
| 5300 | 696 | 1078 | 1351 | 1522 | 1658 | 1774 | 2080 |
| 5350 | 701 | 1086 | 1361 | 1534 | 1671 | 1787 | 2093 |
| 5400 | 706 | 1094 | 1371 | 1545 | 1683 | 1801 | 2106 |
| 5450 | 711 | 1102 | 1381 | 1557 | 1695 | 1814 | 2120 |
| 5500 | 716 | 1110 | 1391 | 1568 | 1708 | 1827 | 2133 |
| 5550 | 721 | 1118 | 1401 | 1579 | 1720 | 1841 | 2146 |
| 5600 | 726 | 1126 | 1412 | 1591 | 1733 | 1854 | 2159 |
| 5650 | 732 | 1134 | 1422 | 1602 | 1745 | 1867 | 2169 |
| 5700 | 737 | 1142 | 1432 | 1614 | 1757 | 1880 | 2180 |
| 5750 | 742 | 1150 | 1442 | 1625 | 1770 | 1894 | 2190 |



| COMBINED GROSS INCOME | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX OR MORE CHILDREN |
|-----------------------|-----------|--------------|----------------|---------------|---------------|----------------------|
| 6950 | 861 | 1336 | 1676 | 1888 | 2057 | 2201 |
| 7000 | 865 | 1343 | 1684 | 1898 | 2067 | 2212 |
| 7050 | 870 | 1349 | 1692 | 1907 | 2077 | 2222 |
| 7100 | 874 | 1356 | 1700 | 1916 | 2087 | 2233 |
| 7150 | 878 | 1362 | 1708 | 1925 | 2097 | 2244 |
| 7200 | 883 | 1369 | 1716 | 1934 | 2107 | 2254 |
| 7250 | 887 | 1375 | 1724 | 1943 | 2117 | 2265 |
| 7300 | 891 | 1382 | 1732 | 1952 | 2127 | 2275 |
| 7350 | 895 | 1388 | 1740 | 1961 | 2137 | 2286 |
| 7400 | 900 | 1395 | 1748 | 1970 | 2147 | 2297 |
| 7450 | 904 | 1401 | 1756 | 1979 | 2157 | 2307 |
| 7500 | 908 | 1408 | 1764 | 1988 | 2167 | 2318 |
| 7550 | 913 | 1414 | 1772 | 1997 | 2177 | 2328 |
| 7600 | 917 | 1421 | 1780 | 2006 | 2187 | 2339 |
| 7650 | 921 | 1427 | 1788 | 2015 | 2197 | 2350 |
| 7700 | 925 | 1434 | 1796 | 2025 | 2207 | 2360 |
| 7750 | 930 | 1440 | 1804 | 2034 | 2217 | 2371 |
| 7800 | 934 | 1447 | 1812 | 2043 | 2227 | 2381 |
| 7850 | 938 | 1453 | 1820 | 2052 | 2237 | 2392 |
| 7900 | 943 | 1460 | 1828 | 2061 | 2248 | 2403 |
| 7950 | 947 | 1466 | 1836 | 2070 | 2258 | 2413 |
| 8000 | 950 | 1472 | 1843 | 2078 | 2266 | 2422 |
| 8050 | 953 | 1477 | 1849 | 2084 | 2273 | 2430 |

| COMBINED GROSS INCOME | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX OR MORE CHILDREN |
|-----------------------|-----------|--------------|----------------|---------------|---------------|----------------------|
| 8100 | 956 | 1482 | 1855 | 2091 | 2280 | 2438 |
| 8150 | 959 | 1486 | 1861 | 2098 | 2288 | 2446 |
| 8200 | 962 | 1491 | 1867 | 2104 | 2295 | 2453 |
| 8250 | 965 | 1496 | 1873 | 2111 | 2302 | 2461 |
| 8300 | 968 | 1501 | 1879 | 2118 | 2309 | 2469 |
| 8350 | 971 | 1505 | 1885 | 2124 | 2317 | 2477 |
| 8400 | 974 | 1510 | 1891 | 2131 | 2324 | 2484 |
| 8450 | 977 | 1515 | 1897 | 2138 | 2331 | 2492 |
| 8500 | 980 | 1519 | 1903 | 2144 | 2339 | 2500 |
| 8550 | 983 | 1524 | 1909 | 2151 | 2346 | 2508 |
| 8600 | 987 | 1529 | 1915 | 2158 | 2353 | 2515 |
| 8650 | 990 | 1534 | 1921 | 2164 | 2360 | 2523 |
| 8700 | 993 | 1538 | 1926 | 2171 | 2368 | 2531 |
| 8750 | 996 | 1543 | 1932 | 2178 | 2375 | 2539 |
| 8800 | 999 | 1548 | 1938 | 2184 | 2382 | 2546 |
| 8850 | 1002 | 1552 | 1944 | 2191 | 2390 | 2554 |
| 8900 | 1005 | 1557 | 1950 | 2198 | 2397 | 2562 |
| 8950 | 1008 | 1562 | 1956 | 2204 | 2404 | 2570 |
| 9000 | 1011 | 1567 | 1962 | 2211 | 2411 | 2577 |
| 9050 | 1014 | 1571 | 1968 | 2218 | 2419 | 2585 |
| 9100 | 1017 | 1576 | 1974 | 2224 | 2426 | 2593 |
| 9150 | 1020 | 1581 | 1980 | 2231 | 2433 | 2601 |
| 9200 | 1023 | 1586 | 1986 | 2238 | 2441 | 2608 |

| COMBINED GROSS INCOME | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX OR MORE CHILDREN |
|-----------------------------|--------------|-----------------|-------------------|------------------|------------------|----------------------------|
| 9250 | 1025 | 1589 | 1991 | 2243 | 2446 | 2614 |
| 9300 | 1027 | 1592 | 1995 | 2247 | 2452 | 2620 |
| 9350 | 1030 | 1596 | 1999 | 2252 | 2457 | 2625 |
| 9400 | 1032 | 1599 | 2003 | 2257 | 2462 | 2631 |
| 9450 | 1034 | 1602 | 2008 | 2262 | 2467 | 2637 |
| 9500 | 1036 | 1606 | 2012 | 2266 | 2473 | 2642 |
| 9550 | 1038 | 1609 | 2016 | 2271 | 2478 | 2648 |
| 9600 | 1040 | 1612 | 2020 | 2276 | 2483 | 2653 |
| 9650 | 1042 | 1616 | 2025 | 2281 | 2488 | 2659 |
| 9700 | 1044 | 1619 | 2029 | 2285 | 2493 | 2665 |
| 9750 | 1047 | 1622 | 2033 | 2290 | 2499 | 2670 |
| 9800 | 1049 | 1626 | 2037 | 2295 | 2504 | 2676 |
| 9850 | 1051 | 1629 | 2042 | 2300 | 2509 | 2681 |
| 9900 | 1053 | 1632 | 2046 | 2304 | 2514 | 2687 |
| 9950 | 1055 | 1636 | 2050 | 2309 | 2520 | 2693 |
| 10000 | 1057 | 1639 | 2054 | 2314 | 2525 | 2698 |
| 10050 | 1059 | 1642 | 2059 | 2319 | 2530 | 2704 |
| 10100 | 1061 | 1646 | 2063 | 2323 | 2535 | 2709 |
| 10150 | 1064 | 1649 | 2067 | 2328 | 2540 | 2715 |
| 10200 | 1066 | 1653 | 2072 | 2333 | 2546 | 2721 |
| 10250 | 1068 | 1656 | 2076 | 2338 | 2551 | 2726 |
| 10300 | 1070 | 1659 | 2080 | 2342 | 2556 | 2732 |
| 10350 | 1072 | 1663 | 2084 | 2347 | 2561 | 2737 |

| COMBINED GROSS INCOME | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX OR MORE CHILDREN |
|-----------------------------|--------------|-----------------|-------------------|------------------|------------------|----------------------------|
| 10400 | 1074 | 1666 | 2089 | 2352 | 2567 | 2743 |
| 10450 | 1076 | 1669 | 2093 | 2357 | 2572 | 2749 |
| 10500 | 1079 | 1673 | 2097 | 2362 | 2577 | 2754 |
| 10550 | 1081 | 1676 | 2102 | 2366 | 2583 | 2760 |
| 10600 | 1083 | 1680 | 2106 | 2371 | 2588 | 2766 |
| 10650 | 1085 | 1683 | 2110 | 2376 | 2593 | 2772 |
| 10700 | 1087 | 1686 | 2115 | 2381 | 2599 | 2777 |
| 10750 | 1089 | 1690 | 2119 | 2386 | 2604 | 2783 |
| 10800 | 1092 | 1693 | 2123 | 2391 | 2609 | 2789 |
| 10850 | 1094 | 1697 | 2128 | 2396 | 2615 | 2795 |
| 10900 | 1096 | 1700 | 2132 | 2400 | 2620 | 2800 |
| 10950 | 1098 | 1704 | 2136 | 2405 | 2625 | 2806 |
| 11000 | 1100 | 1707 | 2141 | 2410 | 2631 | 2812 |
| 11050 | 1102 | 1710 | 2145 | 2415 | 2636 | 2817 |
| 11100 | 1105 | 1714 | 2149 | 2420 | 2641 | 2823 |
| 11150 | 1107 | 1717 | 2154 | 2425 | 2647 | 2829 |
| 11200 | 1109 | 1721 | 2158 | 2430 | 2652 | 2835 |
| 11250 | 1111 | 1724 | 2162 | 2434 | 2657 | 2840 |
| 11300 | 1113 | 1727 | 2167 | 2439 | 2663 | 2846 |
| 11350 | 1116 | 1731 | 2171 | 2444 | 2668 | 2852 |
| 11400 | 1118 | 1734 | 2176 | 2449 | 2673 | 2858 |
| 11450 | 1120 | 1738 | 2180 | 2454 | 2679 | 2863 |
| 11500 | 1122 | 1741 | 2184 | 2459 | 2684 | 2869 |



| COMBINED GROSS INCOME | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX OR MORE CHILDREN |
|-----------------------------|--------------|-----------------|-------------------|------------------|------------------|----------------------------|
| 11550 | 1124 | 1745 | 2189 | 2464 | 2689 | 2875 |
| 11600 | 1126 | 1748 | 2193 | 2469 | 2695 | 2880 |
| 11650 | 1129 | 1751 | 2197 | 2473 | 2700 | 2886 |
| 11700 | 1131 | 1755 | 2202 | 2478 | 2705 | 2892 |
| 11750 | 1133 | 1758 | 2206 | 2483 | 2711 | 2898 |
| 11800 | 1135 | 1762 | 2210 | 2488 | 2716 | 2903 |
| 11850 | 1137 | 1765 | 2215 | 2493 | 2721 | 2909 |
| 11900 | 1139 | 1769 | 2219 | 2498 | 2727 | 2915 |
| 11950 | 1142 | 1772 | 2223 | 2503 | 2732 | 2921 |
| 12000 | 1144 | 1775 | 2228 | 2507 | 2737 | 2926 |
| 12050 | 1146 | 1779 | 2232 | 2512 | 2743 | 2932 |
| 12100 | 1148 | 1782 | 2236 | 2517 | 2748 | 2938 |
| 12150 | 1150 | 1786 | 2241 | 2522 | 2754 | 2943 |
| 12200 | 1153 | 1789 | 2245 | 2527 | 2759 | 2949 |
| 12250 | 1155 | 1793 | 2250 | 2532 | 2764 | 2955 |
| 12300 | 1157 | 1796 | 2254 | 2537 | 2770 | 2961 |
| 12350 | 1159 | 1799 | 2258 | 2541 | 2775 | 2966 |
| 12400 | 1161 | 1803 | 2263 | 2546 | 2780 | 2972 |
| 12450 | 1163 | 1806 | 2267 | 2551 | 2786 | 2978 |
| 12500 | 1166 | 1810 | 2271 | 2556 | 2791 | 2984 |
| 12550 | 1168 | 1813 | 2276 | 2561 | 2796 | 2989 |
| 12600 | 1170 | 1817 | 2280 | 2566 | 2802 | 2995 |
| 12650 | 1172 | 1820 | 2284 | 2571 | 2807 | 3001 |

| COMBINED GROSS INCOME | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX OR MORE CHILDREN |
|-----------------------------|--------------|-----------------|-------------------|------------------|------------------|----------------------------|
| 12700 | 1174 | 1823 | 2289 | 2576 | 2812 | 3007 |
| 12750 | 1176 | 1827 | 2293 | 2580 | 2818 | 3012 |
| 12800 | 1179 | 1830 | 2297 | 2585 | 2823 | 3018 |
| 12850 | 1181 | 1834 | 2302 | 2590 | 2828 | 3024 |
| 12900 | 1183 | 1837 | 2306 | 2595 | 2834 | 3029 |
| 12950 | 1185 | 1840 | 2310 | 2600 | 2839 | 3035 |
| 13000 | 1187 | 1844 | 2315 | 2605 | 2844 | 3041 |
| 13050 | 1190 | 1847 | 2319 | 2610 | 2850 | 3047 |
| 13100 | 1192 | 1851 | 2323 | 2614 | 2855 | 3052 |
| 13150 | 1194 | 1854 | 2328 | 2619 | 2860 | 3058 |
| 13200 | 1196 | 1858 | 2332 | 2624 | 2866 | 3064 |
| 13250 | 1198 | 1861 | 2337 | 2629 | 2871 | 3070 |
| 13300 | 1200 | 1864 | 2341 | 2634 | 2876 | 3075 |
| 13350 | 1203 | 1868 | 2345 | 2639 | 2882 | 3081 |
| 13400 | 1205 | 1871 | 2350 | 2644 | 2887 | 3087 |
| 13450 | 1207 | 1875 | 2354 | 2649 | 2892 | 3092 |
| 13500 | 1208 | 1878 | 2356 | 2651 | 2895 | 3098 |
| 13550 | 1210 | 1880 | 2358 | 2654 | 2898 | 3104 |
| 13600 | 1211 | 1881 | 2360 | 2657 | 2901 | 3110 |
| 13650 | 1212 | 1883 | 2363 | 2660 | 2904 | 3115 |
| 13700 | 1213 | 1885 | 2365 | 2662 | 2907 | 3121 |
| 13750 | 1215 | 1887 | 2368 | 2665 | 2910 | 3127 |
| 13800 | 1216 | 1889 | 2370 | 2668 | 2913 | 3133 |

| COMBINED GROSS INCOME | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX OR MORE CHILDREN |
|-----------------------------|--------------|-----------------|-------------------|------------------|------------------|----------------------------|
| 13850 | 1217 | 1891 | 2372 | 2671 | 2916 | 3138 |
| 13900 | 1218 | 1893 | 2375 | 2673 | 2919 | 3144 |
| 13950 | 1220 | 1895 | 2377 | 2676 | 2922 | 3150 |
| 14000 | 1221 | 1897 | 2379 | 2679 | 2925 | 3155 |
| 14050 | 1222 | 1898 | 2382 | 2682 | 2928 | 3161 |
| 14100 | 1223 | 1900 | 2384 | 2684 | 2931 | 3167 |
| 14150 | 1225 | 1902 | 2387 | 2687 | 2934 | 3173 |
| 14200 | 1226 | 1904 | 2389 | 2690 | 2937 | 3178 |
| 14250 | 1227 | 1906 | 2391 | 2693 | 2940 | 3184 |
| 14300 | 1228 | 1908 | 2394 | 2695 | 2943 | 3190 |
| 14350 | 1230 | 1910 | 2396 | 2698 | 2946 | 3196 |
| 14400 | 1231 | 1912 | 2398 | 2701 | 2949 | 3201 |
| 14450 | 1232 | 1914 | 2401 | 2704 | 2952 | 3207 |
| 14500 | 1233 | 1915 | 2403 | 2706 | 2955 | 3213 |
| 14550 | 1235 | 1917 | 2405 | 2709 | 2958 | 3218 |
| 14600 | 1236 | 1919 | 2408 | 2712 | 2961 | 3224 |
| 14650 | 1237 | 1921 | 2410 | 2715 | 2964 | 3230 |
| 14700 | 1238 | 1923 | 2413 | 2717 | 2967 | 3236 |
| 14750 | 1240 | 1925 | 2415 | 2720 | 2970 | 3241 |
| 14800 | 1241 | 1927 | 2417 | 2723 | 2973 | 3247 |
| 14850 | 1242 | 1929 | 2420 | 2726 | 2976 | 3253 |
| 14900 | 1243 | 1931 | 2422 | 2728 | 2979 | 3259 |
| 14950 | 1245 | 1932 | 2424 | 2731 | 2982 | 3264 |
| 15000 | 1246 | 1934 | 2427 | 2734 | 2985 | 3270 |

(c) **Basic child support obligation.** Because shared physical custody presumes that certain basic expenses for the children will be duplicated, an adjustment for shared physical custody is made by multiplying the basic child support obligation by one and fifty one-hundredths (1.50).

(11) **Child care costs.** (a) Net child care costs incurred on behalf of the children due to employment or job search of either parent shall be added to the basic obligation and shall be divided between the parents in proportion to their adjusted gross incomes.

(b) Child care costs shall not exceed the level required to provide quality care from a licensed source for the children. The value of the federal income tax credit for child care shall be subtracted from actual costs to arrive at a figure for net child care costs.

(12) **Extraordinary medical expenses.** (a) Any extraordinary medical expenses incurred on behalf of the children shall be added to the basic child support obligation and shall be divided between the parents in proportion to their adjusted gross incomes.

(b) Extraordinary medical expenses are uninsured expenses in excess of one hundred dollars for a single illness or condition. Extraordinary medical expenses shall include, but need not be limited to, such reasonable costs as are reasonably necessary for orthodontia, dental treatment, asthma treatments, physical therapy, and any uninsured chronic health problem. At the discretion of the court, professional counseling or psychiatric therapy for diagnosed mental disorders may also be considered as an extraordinary medical expense.

(13) **Extraordinary adjustments to schedule.** (a) By agreement of the parties or by order of court, the following reasonable and necessary expenses

incurred on behalf of the child shall be divided between the parents in proportion to their adjusted gross income:

(I) Any expenses for attending any special or private elementary or secondary schools to meet the particular educational needs of the child;

(II) Any expenses for transportation of the child between the homes of the parents.

~~(III) (Deleted by amendment, L. 91, p. 234, 1, effective July 1, 1991.)~~

(b) Any additional factors that actually diminish the basic needs of the child may be considered for deductions from the basic child support obligation.

(13.5) **Health insurance premiums.** (a) The payment of a premium to provide health insurance coverage on behalf of the children subject to the order shall be added to the basic child support obligation and shall be divided between the parents in proportion to their adjusted gross income.

(b) The actual amount to be added to the basic child support obligation shall be the actual amount of the total insurance premium that is attributable to the child who is the subject of the order. If this premium is not available or cannot be verified, the total cost of the premium should be divided by the total number of persons covered by the policy. The cost per person derived from this calculation shall be multiplied by the number of children who are the subject of the order and who are covered under the policy. This amount shall be added to the basic child support obligation and shall be divided between the parents in proportion to their adjusted gross incomes.

(c) After the total child support obligation is calculated and divided between the parents in proportion to their adjusted gross incomes, the amount

calculated in paragraph (b) of this subsection (13.5) shall be deducted from the obligor's share of the total child support obligation if the obligor is actually paying the premium. If the obligee is actually paying the premium, no further adjustment is necessary. (d) Prior to allowing the health insurance adjustment, the parent requesting the adjustment must submit proof that the child has been enrolled in a health insurance plan and must submit proof of the cost of the premium. The court shall require the parent receiving the adjustment to submit annually proof of continued coverage of the child to the court or delegate child support enforcement unit.

(14) **Computation of child support.** (a) Except in cases of shared physical custody or split custody as defined in subsections (8) and (9) of this section, a total child support obligation is determined by adding each parent's respective obligations for the basic child support obligation, work-related net child care costs, extraordinary medical expenses, and extraordinary adjustments to the schedule. The custodial parent shall be presumed to spend his or her total child support obligation directly on the children. The noncustodial parent shall owe his or her total child support obligation as child support to the custodial parent minus any ordered payments included in the calculations made directly on behalf of the children for work-related net child care costs, extraordinary medical expenses, or extraordinary adjustments to the schedule.

(b) In cases of shared physical custody, each parent's adjusted basic child support obligation obtained by application of paragraph (c) of subsection (10) of this section shall first be divided between the parents in proportion to their respective adjusted gross incomes. Each parent's share of the adjusted basic

child support obligation shall then be multiplied by the percentage of time the children spend with the other parent to determine the theoretical basic child support obligation owed to the other parent. To these amounts shall be added each parent's proportionate share of work-related net child care costs, extraordinary medical expenses, and extraordinary adjustments to the schedule. The parent owing the greater amount of child support shall owe the difference between the two amounts as a child support order minus any ordered direct payments made on behalf of the children for work-related net child care costs, extraordinary medical expenses, or extraordinary adjustments to schedule. In no case, however, shall the amount of child support ordered to be paid exceed the amount of child support which would otherwise be ordered to be paid if the parents did not share physical custody.

(c) (I) In cases of split physical custody, a child support obligation shall be computed separately for each parent based upon the number of children living with the other parent in accordance with subsections (10), (11), (12), and (13) of this section. The amount so determined shall be a theoretical support obligation due each parent for support of the child or children for whom he or she has primary physical custody. The obligations so determined shall then be offset, with the parent owing the larger amount owing the difference between the two amounts as a child support order.

(II) If the parents also share physical custody as outlined in paragraph (b) of this subsection (14), an additional adjustment for shared physical custody shall be made as provided in paragraph (b) of this subsection (14).

(14.5) **Dependency exemptions.** Unless otherwise agreed upon by the parties, the court shall allocate the right to claim dependent children for

income tax purposes between the parties. These rights shall be allocated between the parties in proportion to their contributions to the costs of raising the children. A parent shall not be entitled to claim a child as a dependent if he or she has not paid all court-ordered child support for that tax year or if claiming the child as a dependent would not result in any tax benefit.

~~(15) and (16) Repealed.~~

~~(16.5)~~ (15) In cases where the custodial parent receives periodic disability benefits granted by the federal "Old-age, Survivors, and Disability Insurance Act" on behalf of dependent children due to the disability of the noncustodial parent or receives employer-paid retirement benefits from the federal government on behalf of dependent children due to the retirement of the noncustodial parent, the noncustodial parent's share of the total child support obligation as determined pursuant to subsection (14) of this section shall be reduced in an amount equal to the amount of such benefits.

~~(17)~~ (16) This section shall apply to all child support obligations, established or modified, as a part of any proceeding, including, but not limited to, ~~articles 5, 6, and 10 of this title and articles 4 and 6 of title 19, C.R.S., THIS PART 6, PARTS 1, 5, AND 7 OF THIS ARTICLE, AND ARTICLE 15.5 OF THIS TITLE, whether filed on, prior to, or subsequent to July 10, 1987.~~

~~(18)(a)~~ (17) The child support guidelines and general child support issues shall be reviewed and the results of such review and any recommended changes shall be reported to the governor and to the general assembly on or before December 1, 1991, and at least every four years thereafter by a child support commission, which commission is hereby created. As part of its review, the commission must consider economic data on the cost of raising



children and analyze case data on the application of, and deviations from, the guidelines to be used in the commission's review to ensure that deviations from the guidelines are limited. The child support commission shall consist of no more than seventeen members. Fifteen members of the commission appointed by the governor shall include a male custodial parent, a female custodial parent, a male noncustodial parent, a female noncustodial parent, a joint custodial parent, a parent in an intact family, a judge, a court magistrate, the state court administrator or his OR HER designee, the director of the division in the state department of human services ~~which~~ THAT is responsible for child support enforcement or his OR HER designee, a representative of the family law section of the Colorado bar association, an attorney who is knowledgeable in child support, a director of a county department of social services, an administrator of a county delegate child support enforcement unit, and one public member. The remaining two members of the commission shall be a member of the house of representatives appointed by the speaker of the house of representatives and a member of the senate appointed by the president of the senate and shall not be members of the same political party. The parent representatives, bar association representative, public member, and the legislative members shall not be employees of public agencies or courts which deal with child support issues. Members of the child support commission shall not be compensated for their services on the commission; except that members shall be reimbursed for actual and necessary expenses for travel and mileage incurred in connection with their duties. The child support commission is authorized, subject to appropriation, to incur expenses related to its work,

including the costs associated with public hearings, printing, travel, and research.

~~(b) (Deleted by amendment, L. 92, p. 188, 1, effective August 1, 1992.)~~

~~(e) (Deleted by amendment, L. 91, p. 234, 1, effective July 1, 1991.)~~

~~(d) (Deleted by amendment, L. 92, p. 188, 1, effective August 1, 1992.)~~

~~(e) (Deleted by amendment, L. 94, p. 1536, 5, effective July 1, 1994.)~~

14-15-602. [Formerly 14-10-122.] Modification and termination of provisions for maintenance, support, and property disposition.

(1) (a) Except as otherwise provided in section 14-10-112 (6), the provisions of any decree respecting maintenance may be modified only as to installments accruing subsequent to the motion for modification and only upon a showing of changed circumstances so substantial and continuing as to make the terms unfair, and the provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of changed circumstances that are substantial and continuing or on the ground that the order does not contain a provision regarding medical support, such as insurance coverage, payment for medical insurance deductibles and copayments, or unreimbursed medical expenses. The provisions as to property disposition may not be revoked or modified unless the court finds the existence of conditions that justify the reopening of a judgment.

(b) Application of the child support ~~guideline~~ GUIDELINES set forth in section ~~14-10-115 (3) to (16)~~ 14-15-601 (3) TO (14) to the circumstances of the parties at the time of the filing of a motion for modification of the child support order ~~which~~ THAT results in less than a ten percent change in the

amount of support due per month shall be deemed not to be a substantial and continuing change of circumstances.

(c) In any action or proceeding in any court of this state in which child support, maintenance when combined with child support, or maintenance is ordered, a payment becomes a final money judgment when it is due and not paid. Such payment shall not be retroactively modified except pursuant to paragraph (a) of this subsection (1) and may be enforced as other judgments without further action by the court. A support judgment is entitled to full faith and credit and may be enforced in any court of this state or any other state. In order to enforce a judgment, the judgment creditor shall file with the court that issued the order a verified entry of judgment specifying the period of time that the judgment covers and the total amount of the judgment for that period. A verified entry of judgment is not required to be signed by an attorney. A verified entry of judgment may be used to enforce a judgment for debt entered pursuant to section ~~14-14-104~~ 14-15-304. Notwithstanding the provisions of this paragraph (c), no court order for judgment nor verified entry of judgment shall be required in order for the county and state child support enforcement units to certify past-due amounts of child support to the internal revenue service or to the department of revenue for purposes of intercepting a federal or state tax refund or lottery winnings.

(d) If maintenance or child support is modified pursuant to this section, the modification should be effective as of the date of the filing of the motion, unless the court finds that it would cause undue hardship or substantial injustice. In no instance shall the order be retroactively modified prior to the date of filing. The court may modify installments of maintenance or child

support due between the filing of the motion and the entry of the order even if the circumstances justifying the modification no longer exist at the time the order is entered.

(2) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child but not by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances.

(4) Notwithstanding the provisions of subsection (1) of this section, the provisions of any decree respecting child support may be modified as a result of the change in age for the duty of support as provided in section ~~14-10-115~~ ~~(4-5)~~ 14-15-601 (1.5), but only as to installments accruing subsequent to the filing of the motion for modification; except that section ~~14-10-115~~ ~~(4-5)~~ ~~(4)~~ 14-15-601 (1.5) (a) does not apply to modifications of child support orders with respect to a child who has already achieved the age of nineteen as of July 1, 1991.

(5) When a voluntary change of physical custody occurs, the provisions for support, if modified pursuant to this section, will be modified as of the date when physical custody was changed. When a voluntary change of physical custody occurs, parties are encouraged to avail themselves of the provision for updating and modifying a child support order without a court

hearing, which is set forth in section ~~14-10-115 (3) (b) (II)~~ 14-15-601 (3) (b).

PART 7

CRIMINAL NONSUPPORT

14-15-701. [Formerly 14-6-101.] Nonsupport of spouse and children - penalty. (4) Any person who willfully neglects, fails, or refuses to provide reasonable support and maintenance for his spouse or for his children under eighteen years of age, whether natural, adopted, or whose parentage has been judicially determined, or who willfully fails, refuses, or neglects to provide proper care, food, and clothing in case of sickness for ~~his~~ THE PERSON'S spouse or such children or any such children being legally the inmates of a state or county home or school for children in this state, or who willfully fails or refuses to pay to a trustee, who may be appointed by the court to receive such payment, or to the board of control of such home or school the reasonable cost of keeping such children in said home, or any person, being the father or mother of children under eighteen years of age, who leaves such children with intent to abandon such children, or any man who willfully neglects, fails, or refuses to provide proper care, food, and clothing to the mother of his child during childbirth and attendant illness is guilty of a class 5 felony. It shall be an affirmative defense, as defined in section 18-1-407, C.R.S., to a prosecution under this section that owing to physical incapacity or other good cause the defendant is unable to furnish the support, care, and maintenance required by this section. No child shall be deemed to lack proper care for the sole reason that he OR SHE is being provided remedial treatment in accordance with section ~~19-3-103~~ 19-4-104, C.R.S.

~~(2) Repealed.~~

14-15-702. [Formerly 14-6-103.] Extradition. It is the duty of the district attorney or other proper officer, in any such case where the defendant is beyond the state of Colorado, to take all necessary and proper steps and proceedings to extradite such defendant and to obtain a requisition from the governor of the state of Colorado to the governor of the state in which such defendant may be found in order to secure his return from such state to the jurisdiction in which the case is being prosecuted. Extradition under this ~~article~~ PART 7 shall be governed in accordance with the provisions of article 19 of title 16, C.R.S.

14-15-703. [Formerly 14-6-104.] Jurisdiction. Courts of record in this state shall have jurisdiction under this ~~article~~ PART 7 as provided in this section, and a complaint or information for the violation of this ~~article~~ PART 7 may be filed in any court of record by the prosecuting attorney or other appropriate agency or before the county court of the county in which such offense defined in section ~~14-6-101~~ 14-15-701 is committed.

14-15-704. [Formerly 14-6-105.] Spouse competent witness. In all proceedings or prosecutions under this ~~article~~ PART 7, a wife or husband shall be a competent witness against his OR HER spouse with or without his OR HER consent.

14-15-705. [Formerly 14-6-106.] Venue. If the offense charged is desertion or abandonment or neglect or refusal to provide such children or spouse with the necessary and proper home, care, food, and clothing, as provided in section ~~14-6-101~~ 14-15-701, the offense shall be held to have been

committed in any county of this state in which such children or spouse may be at the time such complaint is made.

14-15-706. [Formerly 14-6-107.] Venue - home or school of child. If the offense charged is the neglect or refusal to pay to the trustees of a child's home or school or the trustee who may be appointed by the court to receive such payment the reasonable cost of keeping such child, the offense shall be held to have been committed in the county where the child's home or school may be situated.

14-15-707. [Formerly 14-6-108.] Citizenship - residence. Citizenship or residence once acquired in this state by any parent of any legitimate or illegitimate child living in this state shall be deemed for all the purposes of this article to continue until such child has arrived at the age of sixteen years, so long as said child continues to live in this state. In case of prosecution under this ~~article~~ PART 7 for the violation of any of the provisions of this ~~article~~ PART 7, such citizenship or residence shall likewise be deemed to continue so long as such spouse or parent resides in this state and is entitled to the support or maintenance provided for in section ~~14-6-101~~ 14-15-701.

14-15-708. [Formerly 14-6-109.] Forfeiture of bond - disposition of fines. (1) In accordance with the laws of this state, bond shall be set by the court. Pursuant to subsection (2) of this section, where the defendant has been released upon deposit of cash, stocks, or bonds, or upon surety bond secured by property, if the defendant fails to appear in accordance with the primary condition of the bond, the court shall declare a forfeiture. Notice of the order of forfeiture shall be mailed immediately by the court to the defendant and sureties, if any, at ~~last known~~ LAST-KNOWN address. If the defendant does not

appear and surrender to the court having jurisdiction within thirty days from the date of the forfeiture, or within that period satisfy the court that appearance and surrender by the defendant is impossible and without his fault, the court shall enter judgment against the defendant for the amount of the bail and costs of the court proceedings.

(2) Any moneys collected or paid upon any such execution or in any case upon said bond shall be turned over to the clerk of the court in which the bond is given to be applied to the child support obligation, including where the obligation is assigned to the department of human services pursuant to section 26-2-111 (3) (g), C.R.S.

14-15-709. [Formerly 14-6-110.] Joint liability for family expenses. The expenses of the family and the education of the children are chargeable upon the property of both husband and wife, or either of them, and in relation thereto they may be sued jointly or separately.

14-15-710. [Formerly 14-6-111.] Legislative declaration. It is hereby declared to be the policy of the state of Colorado that, in order to promote the life, health, property, and public welfare of this state, it is necessary to establish procedures to assist in the collection of child support, maintenance where combined with child support, and maintenance.

ARTICLE 15.5

Uniform Interstate Family Support Act

PART 1

GENERAL PROVISIONS

14-15.5-101. [Formerly 14-5-101.] Definitions. As used in this article, unless the context otherwise requires:



(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(6) "Income-withholding order" means an order or other legal process to withhold support from the income of the obligor directed to an obligor's employer, employers, or successor employers or other payor of funds as described in section ~~14-14-107~~ 14-15-307 relating to wage assignments and in section ~~14-14-111~~ 14-15-310 relating to immediate deductions for family support obligations.

(7) "Initiating state" means a state in which a proceeding under this article or a law substantially similar to this article, the "Uniform Reciprocal Enforcement of Support Act", or the "Revised Uniform Reciprocal Enforcement of Support Act" is filed for forwarding to a responding state.

(8) "Initiating tribunal" means the authorized tribunal in an initiating state.

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:

(i) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(ii) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(iii) An individual seeking a judgment determining parentage of the individual's child.

(13) "Obligor" means an individual, or the estate of a decedent:

(i) Who owes or is alleged to owe a duty of support;

(ii) Who is alleged but has not been adjudicated to be a parent of a child;

or

(iii) Who is liable under a support order.

(14) "Register" means to file a support order or judgment determining parentage in the appropriate location for the filing of foreign support orders.

(15) "Registering tribunal" means a tribunal in which a support order is registered.

(16) "Responding state" means a state to which a proceeding is forwarded under this article or a law substantially similar to this article, the "Uniform Reciprocal Enforcement of Support Act", or the "Revised Uniform Reciprocal Enforcement of Support Act".

(17) "Responding tribunal" means the authorized tribunal in a responding state.

(18) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(19) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe and includes a foreign jurisdiction that has established procedures for issuance and enforcement of support orders ~~which~~ THAT are substantially similar to the procedures under this article.

(20) "Support enforcement agency" means a public official or agency authorized to seek:

- (i) Enforcement of support orders or laws relating to the duty of support;
- (ii) Establishment or modification of child support;
- (iii) Determination of parentage; or
- (iv) To locate obligors or their assets.

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

14-15.5-102. [Formerly 14-5-102.] Tribunals of this state. The court and the administrative agency are the tribunals of this state.

14-15.5-103. [Formerly 14-5-103.] Remedies cumulative. Remedies provided by this article are cumulative and do not affect the availability of remedies under other law.

PART 2 JURISDICTION

PART A. EXTENDED PERSONAL JURISDICTION

14-15.5-201. [Formerly 14-5-201.] Bases for jurisdiction over nonresident. In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

- (1) The individual is personally served with a summons within this state;
- (2) The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;



- (3) The individual resided with the child in this state;
- (4) The individual resided in this state and provided prenatal expenses or support for the child;
- (5) The child resides in this state as a result of the acts or directives of the individual;
- (6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; or
- (7) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

14-15.5-202. [Formerly 14-5-202.] Procedure when exercising jurisdiction over nonresident. A tribunal of this state exercising personal jurisdiction over a nonresident under section ~~14-5-201~~ 14-15.5-201 may apply section ~~14-5-316~~ 14-15.5-316 (special rules of evidence and procedure) to receive evidence from another state, and section ~~14-5-318~~ 14-15.5-318 (assistance with discovery) to obtain discovery through a tribunal of another state. In all other respects, parts 3 to 7 of this article do not apply, and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this article.

PART B. PROCEEDINGS INVOLVING TWO OR MORE STATES

14-15.5-203. [Formerly 14-5-203.] Initiating and responding tribunal of this state. Under this article, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

14-15.5-204. [Formerly 14-5-204.] Simultaneous proceedings in another state. (a) A tribunal of this state may exercise jurisdiction to

establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

- (1) The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;
- (2) The contesting party timely challenges the exercise of jurisdiction in the other state; and
- (3) If relevant, this state is the home state of the child.

(b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

- (1) The petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;
- (2) The contesting party timely challenges the exercise of jurisdiction in this state; and
- (3) If relevant, the other state is the home state of the child.

14-15.5-205. [Formerly 14-5-205.] Continuing, exclusive jurisdiction.

(a) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

- (1) As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued;
- or

(2) Until each individual party has filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to this article.

(c) If a child support order of this state is modified by a tribunal of another state pursuant to a law substantially similar to this article, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

- (1) Enforce the order that was modified as to amounts accruing before the modification;
- (2) Enforce nonmodifiable aspects of that order; and
- (3) Provide other appropriate relief for violations of that order ~~which~~ THAT occurred before the effective date of the modification.

(d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state ~~which~~ THAT has issued a child support order pursuant to a law substantially similar to this article.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may

not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

14-15.5-206. [Formerly 14-5-206.] Enforcement and modification of support order by tribunal having continuing jurisdiction. (a) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section ~~14-5-316~~ 14-15.5-316 (special rules of evidence and procedure) to receive evidence from another state and section ~~14-5-318~~ 14-15.5-318 (assistance with discovery) to obtain discovery through a tribunal of another state.

(c) A tribunal of this state ~~which~~ THAT lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

PART C. RECONCILIATION WITH ORDERS OF OTHER STATES

14-15.5-207. [Formerly 14-5-207.] Recognition of child support orders. (a) If a proceeding is brought under this article and one or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:



(1) If only one tribunal has issued a child support order, the order of that tribunal must be recognized.

(2) If two or more tribunals have issued child support orders for the same obligor and child and only one of the tribunals would have continuing, exclusive jurisdiction under this article, the order of that tribunal must be recognized.

(3) If two or more tribunals have issued child support orders for the same obligor and child and more than one of the tribunals would have continuing, exclusive jurisdiction under this article, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.

(4) If two or more tribunals have issued child support orders for the same obligor and child and none of the tribunals would have continuing, exclusive jurisdiction under this article, the tribunal of this state may issue a child support order, which must be recognized.

(b) The tribunal that has issued an order recognized under subsection (a) of this section is the tribunal having continuing, exclusive jurisdiction.

14-15.5-208. [Formerly 14-5-208.] Multiple child support orders for two or more obligees. In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

14-15.5-209. [Formerly 14-5-209.] Credit for payments. Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.

PART 3

CIVIL PROVISIONS OF GENERAL APPLICATIONS

14-15.5-301. [Formerly 14-5-301.] Proceedings under this article.

(a) Except as otherwise provided in this article, this part 3 applies to all proceedings under this article.

(b) This article provides for the following proceedings:

(1) Establishment of an order for spousal support or child support pursuant to part 4 of this article; except that the support enforcement agency shall not be authorized to establish a spousal support order.

(2) Enforcement of a support order and income-withholding order of another state without registration pursuant to part 5 of this article;

(3) Registration of an order for spousal support or child support of another state for enforcement pursuant to part 6 of this article;

(4) Modification of an order for child support or spousal support issued by a tribunal of this state pursuant to part B of part 2 of this article;

(5) Registration of an order for child support of another state for modification pursuant to part 6 of this article;

(6) Determination of parentage pursuant to part 7 of this article; and

(7) Assertion of jurisdiction over nonresidents pursuant to part A of part 2 of this article.

(c) A petitioner or a support enforcement agency may commence a proceeding authorized under this article by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which THAT has or can obtain personal jurisdiction over the respondent.

14-15.5-302. [Formerly 14-5-302.] Action by minor parent. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

14-15.5-303. [Formerly 14-5-303.] Application of law of this state. Except as otherwise provided by this article, a responding tribunal of this state:

(1) Shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) Shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

14-15.5-304. [Formerly 14-5-304.] Duties of initiating tribunal. Upon the filing of a petition authorized by this article, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

(1) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

14-15.5-305. [Formerly 14-5-305.] Duties and powers of responding tribunal. (a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section ~~14-5-301~~ (e) 14-15.5-301 (c) (Proceedings under this article), it shall cause the petition or pleading to be filed and notify the petitioner by first class mail where and when it was filed.

(b) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(1) Issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(2) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) Order income withholding;

(4) Determine the amount of any arrearages, and specify a method of payment;

(5) Enforce orders by civil or criminal contempt, or both;

(6) Set aside property for satisfaction of the support order;

(7) Place liens and order execution on the obligor's property;

(8) Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;



(9) Issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) Order the obligor to seek appropriate employment by specified methods;

(11) Award reasonable attorney's fees and other fees and costs; and

(12) Grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under this article, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under this article upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under this article, the tribunal shall send a copy of the order by first class mail to the petitioner and the respondent and to the initiating tribunal, if any.

14-15.5-306. [Formerly 14-5-306.] Inappropriate tribunal. If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner by first class mail where and when the pleading was sent.

14-15.5-307. [Formerly 14-5-307.] Duties of support enforcement agency. (a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this article.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(1) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(2) Request an appropriate tribunal to set a date, time, and place for a hearing;

(3) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice by first class mail to the petitioner;

(5) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first class mail to the petitioner; and

(6) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) This article does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

14-15.5-308. [Formerly 14-5-308.] Duty of attorney general. If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this article or may provide those services directly to the individual

14-15.5-309. [Formerly 14-5-309.] Private counsel. An individual may employ private counsel to represent the individual in proceedings authorized by this article.

14-15.5-310. [Formerly 14-5-310.] Duties of state information agency. (a) The state department of human services is the state information agency under this article.

(b) The state information agency shall:

(1) Compile and maintain a current list, including addresses, of the tribunals in this state ~~which~~ THAT have jurisdiction under this article and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) Maintain a register of tribunals and support enforcement agencies received from other states;

(3) Forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this article received from an initiating tribunal or the state information agency of the initiating state; and

(4) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

14-15.5-311. [Formerly 14-5-311.] Pleadings and accompanying documents. (a) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this article must verify the petition. Unless otherwise ordered under section ~~14-5-312~~ 14-15.5-312 (Nondisclosure of information in exceptional circumstances), the petition or accompanying documents must provide, so far as known, the names, residential addresses, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

14-15.5-312. [Formerly 14-5-312.] Nondisclosure of information in exceptional circumstances. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this article.

14-15.5-313. [Formerly 14-5-313.] Costs and fees. (a) The petitioner may not be required to pay a filing fee or other costs.



(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under part 6 of this article (enforcement and modification of support order after registration), a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

14-15.5-314. [Formerly 14-5-314.] Limited immunity of petitioner.

(a) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this article.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this article committed by a party while present in this state to participate in the proceeding.

14-15.5-315. [Formerly 14-5-315.] Nonparentage as defense. A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this article.

14-15.5-316. [Formerly 14-5-316.] Special rules of evidence and procedure. (a) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an

original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this article, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this article.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this article.

14-15.5-317. [Formerly 14-5-317.] Communications between tribunals. A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.

14-15.5-318. [Formerly 14-5-318.] Assistance with discovery. A tribunal of this state may:

(1) Request a tribunal of another state to assist in obtaining discovery; and

(2) Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

14-15.5-319. [Formerly 14-5-319.] Receipt and disbursement of payments. A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

PART 4

ESTABLISHMENT OF SUPPORT ORDER

14-15.5-401. [Formerly 14-5-401.] Petition to establish support order.

(a) If a support order entitled to recognition under this article has not been issued, a responding tribunal of this state may issue a support order if:

(1) The individual seeking the order resides in another state; or

(2) The support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child support order if:

(1) The respondent has signed a verified statement acknowledging parentage;

(2) The respondent has been determined by or pursuant to law to be the parent; or

(3) There is other clear and convincing evidence that the respondent is the child's parent.



(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section ~~14-5-305~~ 14-15.5-305 (Duties and powers of responding tribunal).

PART 5

DIRECT ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION

14-15.5-501. [Formerly 14-5-501.] Recognition of income-withholding order of another state. (a) An income-withholding order issued in another state may be sent by first class mail to the person or entity ~~which~~ THAT is the obligor's employer under the income-withholding law of this state without first filing a petition or comparable pleading or registering the order with a tribunal of this state. Upon receipt of the order, the employer shall:

(1) Treat an income-withholding order issued in another state ~~which~~ THAT appears regular on its face as if it had been issued by a tribunal of this state;

(2) Immediately provide a copy of the order to the obligor; and

(3) Distribute the funds as directed in the withholding order.

(b) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this state. Section ~~14-5-604~~ 14-15.5-604 (Choice of law) applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:

(1) The person or agency designated to receive payments in the income-withholding order; or

(2) If no person or agency is designated, the obligee.

PART 6

ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER AFTER REGISTRATION

PART A. REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER

14-15.5-601. [Formerly 14-5-601.] Registration of order for enforcement. A support order or an income-withholding order issued by a tribunal of another state may be registered in this state for enforcement.

14-15.5-602. [Formerly 14-5-602.] Procedure to register order for enforcement. (a) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the appropriate tribunal in this state:

(1) A letter of transmittal to the tribunal requesting registration and enforcement;

(2) Two copies, including one certified copy, of all orders to be registered, including any modification of an order;

(3) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) The name of the obligor and, if known:

(i) The obligor's address and social security number;

(ii) The name and address of the obligor's employer and any other source of income of the obligor; and

(iii) A description and the location of property of the obligor in this state not exempt from execution; and

(5) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

14-15.5-603. [Formerly 14-5-603.] Effect of registration for enforcement. (a) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in this part 6, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

14-15.5-604. [Formerly 14-5-604.] Choice of law. (a) The law of the issuing state governs the nature, extent, amount, and duration of current

payments and other obligations of support and the payment of arrearages under the order.

(b) In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.

PART B. CONTEST OF VALIDITY OR ENFORCEMENT

14-15.5-605. [Formerly 14-5-605.] Notice of registration of order.

(a) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by first class, certified, or registered mail or by any means of personal service authorized by the law of this state. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

(1) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after the date of mailing or personal service of the notice;

(3) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) Of the amount of any alleged arrearages.



(c) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to the income-withholding law of this state.

14-15.5-606. [Formerly 14-5-606.] Procedure to contest validity or enforcement of registered order. (a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section ~~14-5-607~~ 14-15.5-607 (Contest of registration or enforcement).

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties by first class mail of the date, time, and place of the hearing.

14-15.5-607. [Formerly 14-5-607.] Contest of registration or enforcement. (a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) The issuing tribunal lacked personal jurisdiction over the contesting party;

- (2) The order was obtained by fraud;
- (3) The order has been vacated, suspended, or modified by a later order;
- (4) The issuing tribunal has stayed the order pending appeal;
- (5) There is a defense under the law of this state to the remedy sought;
- (6) Full or partial payment has been made: or
- (7) The statute of limitation under section ~~14-5-604~~ 14-15.5-604 (Choice of law) precludes enforcement of some or all of the arrearages.

(b) If a party presents evidence establishing a full or partial defense under subsection (a) of this section, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under subsection (a) of this section to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

14-15.5-608. [Formerly 14-5-608.] Confirmed order. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

PART C. REGISTRATION AND MODIFICATION
OF CHILD SUPPORT ORDER

14-15.5-609. [Formerly 14-5-609.] Procedure to register child support order of another state for modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order

issued in another state shall register that order in this state in the same manner provided in ~~Part A of this article~~ PART A OF THIS PART 6 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

14-15.5-610. [Formerly 14-5-610.] Effect of registration for modification. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of section ~~14-5-611~~ 14-15.5-611 (Modification of child support order of another state) have been met.

14-15.5-611. [Formerly 14-5-611.] Modification of child support order of another state. (a) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

(1) The following requirements are met:

(i) The child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) A petitioner who is a nonresident of this state seeks modification; and

(iii) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(2) An individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this state may modify the support order and assume continuing, exclusive jurisdiction over the order.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state.

(d) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

(e) Within thirty days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered.

14-15.5-612. [Formerly 14-5-612.] Recognition of order modified in another state. A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to this article and, upon request, except as otherwise provided in this article, shall:

(1) Enforce the order that was modified only as to amounts accruing before the modification;

(2) Enforce only nonmodifiable aspects of that order;

(3) Provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) Recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

PART 7

DETERMINATION OF PARENTAGE

14-15.5-701. [Formerly 14-5-701.] Proceeding to determine parentage.

(a) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this article or a law substantially similar to this article, the "Uniform Reciprocal Enforcement of Support Act", or the "Revised Uniform Reciprocal Enforcement of Support Act" to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this state shall apply the "Uniform Parentage Act" and the rules of this state on choice of law.

PART 8

INTERSTATE RENDITION

14-15.5-801. [Formerly 14-5-801.] Grounds for rendition. (a) For purposes of this part 8, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this article.

(b) The governor of this state may:

(1) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) On the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this article applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

14-15.5-802. [Formerly 14-5-802.] Conditions of rendition. (a) Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to this article or that the proceeding would be of no avail.

(b) If, under this article or a law substantially similar to this article, the "Uniform Reciprocal Enforcement of Support Act", or the "Revised Uniform Reciprocal Enforcement of Support Act", the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

PART 9

MISCELLANEOUS PROVISIONS

14-15.5-901. [Formerly 14-5-901.] 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.

14-15.5-902. [Formerly 14-5-902.] Short title. This article may be cited as the "Uniform Interstate Family Support Act".

14-15.5-903. [Formerly 14-5-903.] Severability clause. If any provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

PART 10

COLORADO IMPLEMENTATION PROVISIONS

14-15.5-1001. [Formerly 14-5-1001.] Venue. Venue in an initiating proceeding is proper in any county in which the child resides or is physically present, or in any county where a child support order exists, or in any county where public assistance is or was being paid on behalf of the child. Venue in a responding proceeding is proper in any county where the obligor parent

resides, or in any county where the obligor parent is employed or derives income, or in any county where a child support order exists, or in any county where public assistance is or was being paid on behalf of the child. The tribunal shall not decline or refuse to accept and forward the complaint on the ground that it should be filed with some other tribunal of this or any other state where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody between the same parties.

14-15.5-1002. [Formerly 14-5-1002.] Jurisdiction by arrest. (1) If the tribunal of this state believes that the obligor may flee, it may:

(a) As an initiating tribunal, request in its certificate that the responding tribunal obtain the body of the obligor by appropriate process; or

(b) As a responding tribunal, obtain the body of the obligor by appropriate process. Thereupon, it may release the obligor upon such obligor's own recognizance or upon such obligor's giving a bond in an amount set by the tribunal to assure the obligor's appearance at the hearing.

14-15.5-1003. [Formerly 14-5-1003.] Duty of officials of this state as responding state. (1) The support enforcement agency shall prosecute the case diligently, shall take all action necessary in accordance with the laws of this state to enable the tribunal to obtain jurisdiction over the obligor or the obligor's property, and shall request the tribunal to set a time and place for a hearing and give notice thereof to the obligor in accordance with law. The support enforcement agency does not represent the obligee but represents the people of the state of Colorado. The actions of the support enforcement agency shall not be construed to create an attorney-client relationship between the attorney and any party other than the people of the state of Colorado.



(2) For purposes of this article, "support enforcement agency" also means any district attorney of this state or the public official in the appropriate place who has a duty to enforce criminal laws relating to the failure to provide for the support of any person. "Support enforcement agency" also includes any private attorney or county attorney of this state hired or contracted for by the state enforcement agency to provide child support services under this article.

14-15.5-1004. [Formerly 14-5-1004.] Proceedings not to be stayed. A responding tribunal shall not stay the proceeding or refuse a hearing under this article because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The tribunal shall hold a hearing and may issue a support order pendente lite. In aid thereof, the tribunal may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the complaint being heard, the tribunal shall conform its support order to the amount allowed in the other action or proceeding. Thereafter, the tribunal shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the tribunal in the other action or proceeding.

14-15.5-1005. [Formerly 14-5-1005.] Declaration of reciprocity. When the attorney general is satisfied that reciprocal provisions will be made by any foreign jurisdiction for the enforcement therein of support orders made within this state, the attorney general may declare the foreign jurisdiction to be a reciprocating state for the purpose of this section, and any such declaration

may be revoked by the attorney general. Such a declaration by the attorney general may be reviewed by the tribunal in an action brought pursuant to this title.

14-15.5-1006. [Formerly 14-5-1006.] Interstate central registry - duties as the responding and initiating state. (1) For purposes of this section, "interstate central registry" means a single unit or office within the state department of human services which receives, disseminates, and has oversight responsibility for initiated and responding interstate actions filed under Title IV-D of the federal "Social Security Act", as amended, including any proceedings filed pursuant to this article.

(2) The interstate central registry shall receive filings under title IV-D of the federal "Social Security Act", as amended, and shall transmit such filings for processing as the responding state to the appropriate delegate child support enforcement unit or transmit the filings to the other state's interstate central registry as the initiating state.

14-15.5-1007. [Formerly 14-5-1007.] Enforcement of interstate income withholding. (1) If direct enforcement of an income withholding order is not utilized, a support enforcement agency in another state seeking the enforcement of a support order may compile and transmit to the clerk of the court all documentation required to enter a support order for the purpose of obtaining income withholding. The central interstate registry shall receive filings under Title IV-D of the federal "Social Security Act", as amended, and shall transmit such filings to the delegate child support enforcement unit, which shall promptly refer the documents to the clerk of the court. The clerk of the court shall file the documents which shall constitute entry of the support

order under this article. A support order entered pursuant to this section does not nullify and is not nullified by a support order made by a court of this state or by a support order made by a court of any other state. However, a support order entered pursuant to this section shall be modified in accordance with subsection (5) of this section.

(2) The following documentation is required for the entry of a support order of any jurisdiction:

(a) A certified copy of the support order with all modifications;

(b) A certified copy of an income withholding order, if any, still in effect;

(c) A copy of the portion of the income withholding statute of the jurisdiction which issued the support order stating the requirements for obtaining income withholding under the law of that jurisdiction;

(d) A sworn statement of the obligee or a certified statement of the agency regarding the arrearages and assignment of support rights, if any; and

(e) A statement which includes:

(I) The name, address, date of birth, sex, and social security number of the obligor, if known, and the date of collection;

(II) The name and address of the obligor's employer or of any other source of income of the obligor derived in this state against which income withholding is sought; and

(III) The name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.

(3) If the documentation received by the clerk of the court in subsection (2) of this section does not conform to the requirements, the court or the

delegate child support enforcement unit shall remedy any defect which the court or child support unit is able to remedy without the assistance of the requesting agency. If corrections cannot be made, the requesting agency shall immediately be notified of the necessary additions or corrections. In neither case shall the documentation be returned. The court or the delegate child support enforcement unit shall accept the documentation required by subsection (2) of this section even if it is not in the usual form required by state or local rules, so long as the substantive requirements are met.

(4) A support order entered under this section shall be enforceable by a wage assignment against income derived in this state in the same manner, beginning with an advance notice of activation and with the same effect as set forth in section ~~14-14-107~~ 14-15-307. Entry of the order shall not confer jurisdiction on a court of this state or the delegate child support enforcement unit for any purpose other than income withholding of wages, as defined in section ~~14-14-102~~ 14-15-302, state income tax refund offset, and interception of lottery winnings.

(5) (a) The clerk of the court or delegate child support enforcement unit, upon receiving a certified copy of any amendment or modification to a support order which was entered pursuant to this section for the purpose of obtaining income withholding, shall initiate, as though it were a support order of this state, necessary procedures to amend or modify the wage assignment to conform to the modified support order.

(b) If the court or the delegate child support enforcement unit determines that the obligor has obtained employment in another state or has a new or additional source of income in another state, the court or child support



enforcement unit shall promptly notify the agency which requested the income withholding of the changes and shall forward to that agency all information the court or child support enforcement unit has or can obtain with respect to the obligor's new address and the name and address of the obligor's new employer or all information the court or unit has or can obtain with respect to the obligor's other source of income. The court or the delegate child support enforcement unit shall include a certified copy of the income withholding order in effect in this state with the notice.

SECTION 15. 13-25-126 (1) (d), (1) (e) (I), and (1) (e) (IV), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended to read:

13-25-126. Blood tests to determine parentage. (1) (d) ~~An objection to the tests performed on the blood or tissue specimens taken pursuant to this section, or the results thereof, shall be made prior to trial.~~

(e) The results of such tests shall have the following effect:

(I) If the court finds that the conclusion of the experts conducting the tests, as disclosed by the evidence based upon the tests, is that the alleged parent is not the parent of the child, the question of parentage shall MAY be resolved accordingly.

(IV) The presumption of legitimacy of a child born during wedlock is MAY BE overcome if the court finds that the conclusion of the experts conducting the tests, as disclosed by the evidence based upon the tests, shows that the husband or wife is not the parent of the child. HOWEVER, THE COURT MAY, IN AN APPROPRIATE CASE, FIND THAT THE MARITAL PRESUMPTION OF PARENTAGE MAY PREVAIL IF BASED ON THE WEIGHTIER CONSIDERATIONS OF POLICY AND LOGIC, CONSIDERING THE BEST INTERESTS OF THE CHILD AND

INCLUDING CONSIDERATION OF THE CHILD'S AGE AND ESTABLISHED RELATIONSHIPS, AND THE CHILD'S PHYSICAL, EMOTIONAL, AND DEVELOPMENTAL NEEDS.

SECTION 16. The introductory portion to 25-2-112 (3) (a), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

25-2-112. Certificates of birth - filing - establishment of paternity - repeal. (3) (a) If the mother was married either at the time of conception or birth, OR THE CHILD WAS BORN WITHIN THREE HUNDRED DAYS AFTER THE MOTHER'S 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, the name of the husband shall be entered on the certificate as the father of the child unless:

SECTION 17. Repeal. Article 3.5 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is repealed.

SECTION 18. Repeal of provisions being relocated in this act. Articles 5, 6, and 14 of title 14, Colorado Revised Statutes, 1987 Repl. Vol., as amended; 14-10-115 and 14-10-122, Colorado Revised Statutes, 1987 Repl. Vol., as amended; article 6 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended; and articles 13 and 13.5 of title 26, Colorado Revised Statutes, 1989 Repl. Vol., as amended, are repealed.

SECTION 19. Repeal of provisions not being relocated in this act. Sections 19-3-504 and 19-4-107.5, Colorado Revised Statutes, 1986 Repl. Vol., as amended, are repealed.

SECTION 20. Effective date. This act shall take effect July 1, 1996.

SECTION 21. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



BY REPRESENTATIVES Reeser, Adkins, and George;
also SENATORS Tanner, Hopper, and Wham.

A BILL FOR AN ACT

CONCERNING THE MANAGEMENT OF INFORMATION RELATED TO CHILDREN WHO
RECEIVE SERVICES UNDER THE COLORADO CHILDREN'S CODE.

Bill Summary

"Children's Code: Information Management"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Colorado Children's Code Legislative Oversight Committee

AUDIT REVIEW AND EVALUATION

Effective July 1, 1996, requires the state auditor's office, with assistance from the joint budget committee staff and the legislative council staff, to conduct a programmatic review and evaluation of the state-funded prevention and intervention programs for children and families. Allows the state auditor to contract with one or more public or private entities to conduct the program review. Requires the state auditor to submit an annual report of the review of each program to the appropriate legislative committee of reference and an annual executive summary to the general assembly.

Beginning with the sixty-first general assembly, requires each committee of reference, on the basis of the auditor's evaluation, to review the performance of each state-funded program that is appropriate to the committee and make a recommendation to the joint budget committee concerning whether the state should continue funding the program. Exempts any program that already receives annual legislative review.

CONFIDENTIALITY

Allows agencies that maintain information about children and their families in connection with the performance of duties and functions under the

"Colorado Children's Code" to exchange certain information with similar agencies. Authorizes school personnel to obtain information necessary to complete their legal duties and requires them to maintain the confidentiality of the information obtained. Requires the executive directors of affected agencies to develop a consent and release form that persons who are the subjects of agency records may sign voluntarily. Requires the executive directors to design a process for exchanging information. Requires service agencies and providers to inform persons about the consent and release form and the consequences of signing a form. Describes a procedure for authorizing the exchange of information in involuntary cases. Specifies that a person who signs a consent and release form waives the notice that is required to be given to persons in involuntary cases.

Consolidates records and information provisions throughout the "Colorado Children's Code" into a single statutory part.

INFORMATION MANAGEMENT

Creates a planning team, representative of various agencies and the judicial department, to jointly develop a strategic plan for the implementation and maintenance of a centralized integrated data base system to track children subject to the Colorado Children's Code. Requires the team to meet certain criteria in adopting a strategic plan for the development and implementation of such a computer system. Directs the team to submit the strategic plan to the commission on information management and further directs the commission to submit a final plan in the form of a legislative proposal to the joint budget committee and the judiciary committees of the general assembly by a specified date for approval and submission to the legislative council no later than the deadline for approval of interim committee bills.

Creates the division of children's information management within the department of human services to collect and maintain certain information concerning formal contact with a child by identified agencies or service providers. Identifies the head of said division and authorizes such person to appoint the necessary personnel to carry out the functions and duties of the office. Identifies those agencies and service providers that shall submit information to the division of children's information management. Specifies that those agencies and service providers may access information about a child from the division of children's information management for the purpose of providing treatment to that child.

Directs the department of human services, if necessary, to seek a waiver from the federal government for purposes of making ongoing reimbursements to service providers contingent upon strict compliance with reporting requirements. Directs the state board of human services to promulgate rules related to the division of children's information management including, but not limited to, making ongoing reimbursement contingent upon strict compliance with reporting requirements, subject to receipt of a federal waiver, and imposing fiscal sanctions against agencies or service providers that fail to report as required. Subject to federal waivers, sanctions may include, but need not be limited to, reducing or eliminating ongoing state and federal reimbursement to agencies or providers that fail to report.

Makes conforming amendments.

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

SECTION 1. Part 1 of article 3 of title 2, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

2-3-112. Prevention programs - programmatic review.

(1) BEGINNING JULY 1, 1996, IT IS THE DUTY OF THE STATE AUDITOR TO CAUSE TO BE CONDUCTED A PROGRAMMATIC REVIEW AND EVALUATION OF THE PERFORMANCE OF STATE-FUNDED PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND FAMILIES, TO DETERMINE WHETHER THE PROGRAMS ARE EFFECTIVELY AND EFFICIENTLY MEETING THEIR STATED GOALS. THE PROGRAMMATIC REVIEW AND EVALUATION SHALL INCLUDE ALL STATE-FUNDED PREVENTION AND INTERVENTION PROGRAMS, WHETHER OPERATED DIRECTLY BY A STATE AGENCY OR BY A PRIVATE ENTITY OR LOCAL GOVERNMENT AGENCY THAT RECEIVES STATE OR FEDERAL FUNDS FOR THE PROVISION OF SERVICES TO CHILDREN AND FAMILIES. IN REVIEWING AND EVALUATING THE PREVENTION AND INTERVENTION PROGRAMS, THE AUDITOR SHALL SPECIFY ALL OCCURRENCES OF DUPLICATION BETWEEN PREVENTION AND

INTERVENTION PROGRAMS THAT RESULT IN THE PROVISION OF SERVICES TO THE SAME POPULATION OR PERSON OR THAT COULD RESULT IN THE PROVISION OF SERVICES TO THE SAME POPULATION OR PERSON.

(2) THE STATE AUDITOR MAY CONTRACT WITH ONE OR MORE PUBLIC OR PRIVATE ENTITIES IN CAUSING TO BE CONDUCTED THE PROGRAM REVIEW AND EVALUATION AND PREPARING THE ANNUAL REPORTS AS PROVIDED IN THIS SECTION.

(3) THE JOINT BUDGET COMMITTEE STAFF AND THE LEGISLATIVE COUNCIL STAFF SHALL WORK WITH THE STATE AUDITOR'S OFFICE, UNDER THE DIRECTION OF THE STATE AUDITOR, IN CONDUCTING THE PROGRAMMATIC REVIEW AND EVALUATION OF PREVENTION AND INTERVENTION PROGRAMS.

(4) BEGINNING JANUARY 30, 1997, AND ON OR BEFORE JANUARY 30 OF EACH YEAR THEREAFTER, THE STATE AUDITOR'S OFFICE SHALL SUBMIT TO THE APPROPRIATE COMMITTEES OF REFERENCE A REPORT ON THE PROGRAMMATIC REVIEW AND EVALUATION OF PREVENTION AND INTERVENTION PROGRAMS PERFORMED PURSUANT TO SUBSECTION (1) OF THIS SECTION. IN ADDITION, THE STATE AUDITOR'S OFFICE SHALL SUBMIT TO THE GENERAL ASSEMBLY AN ANNUAL EXECUTIVE SUMMARY OF THE PROGRAMMATIC REVIEW AND EVALUATION.

SECTION 2. Part 3 of article 2 of title 2, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

2-2-324. Committees of reference - program review. (1) BEGINNING WITH THE SIXTY-FIRST GENERAL ASSEMBLY, EACH LEGISLATIVE COMMITTEE OF REFERENCE SHALL REVIEW THE PERFORMANCE OF EACH STATE-FUNDED



PREVENTION AND INTERVENTION PROGRAM FOR CHILDREN AND FAMILIES THAT IS APPROPRIATE TO THE LEGISLATIVE COMMITTEE OF REFERENCE. THE COMMITTEE'S REVIEW SHALL BE BASED ON THE PROGRAMMATIC REVIEW AND EVALUATION PREPARED BY THE STATE AUDITOR'S OFFICE PURSUANT TO SECTION 2-3-112. FOLLOWING REVIEW, THE COMMITTEE OF REFERENCE SHALL MAKE A RECOMMENDATION TO THE JOINT BUDGET COMMITTEE CONCERNING WHETHER THE PROGRAM SHOULD CONTINUE TO RECEIVE STATE FUNDING. IF THE COMMITTEE RECOMMENDS THAT A PROGRAM SHOULD NOT CONTINUE TO RECEIVE STATE FUNDING, SAID PROGRAM SHALL NOT BE INCLUDED IN THE ANNUAL GENERAL APPROPRIATIONS BILL. IF NECESSARY, THE JOINT BUDGET COMMITTEE SHALL CORRESPONDINGLY SUBMIT A LEGISLATIVE PROPOSAL TO DISCONTINUE STATUTORY AUTHORITY FOR A PROGRAM OR SERVICE FOR WHICH FUNDING IS DISCONTINUED. THE CHAIRPERSON OF THE COMMITTEE OF REFERENCE MAY DETERMINE WHETHER TO TAKE PUBLIC TESTIMONY CONCERNING THE EVALUATION OF ANY PROGRAM.

(2) THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION SHALL NOT APPLY TO ANY PROGRAM WHOSE EFFECTIVENESS IS OTHERWISE ANNUALLY EVALUATED BY MEMBERS OF THE GENERAL ASSEMBLY.

SECTION 3. 2-3-204, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

2-3-204. Staff director, assistants, and consultants. (1) The committee shall interview persons applying for the position of staff director as to qualifications and ability and shall make recommendations thereon to the executive committee, which shall appoint the staff director as provided in section 2-3-303 (3). The staff director shall be responsible to the committee

for the collection and assembling of all data and the preparation of reports and recommendations. The staff director shall also be responsible for preparing for consideration by the committee analyses of all requests for funds. With the approval of the committee, the staff director may appoint such additional professional, technical, clerical, or other employees necessary to perform the functions assigned to the committee. The staff director and such additional personnel shall be appointed without reference to party affiliation and solely on the basis of ability to perform the duties of the position. They shall be employees of the general assembly and shall not be subject to the state personnel system laws. The committee shall establish appropriate qualifications and compensation for all positions. With the consent of the committee, the ~~chairman~~ CHAIRPERSON may contract for professional services by private consultants as needed.

(2) EFFECTIVE JULY 1, 1996, IN ADDITION TO THE DUTIES SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE STAFF OF THE JOINT BUDGET COMMITTEE SHALL ASSIST THE STATE AUDITOR'S OFFICE, UNDER THE DIRECTION OF THE STATE AUDITOR, IN CONDUCTING A PROGRAMMATIC REVIEW AND EVALUATION OF PREVENTION AND INTERVENTION PROGRAMS PURSUANT TO SECTION 2-3-112.

SECTION 4. 2-3-304, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

2-3-304. Director of research - assistants. (6) EFFECTIVE JULY 1, 1996, THE LEGISLATIVE COUNCIL STAFF SHALL ASSIST THE STATE AUDITOR'S OFFICE, UNDER THE DIRECTION OF THE STATE AUDITOR, IN CONDUCTING A

PROGRAMMATIC REVIEW AND EVALUATION OF PREVENTION AND INTERVENTION PROGRAMS PURSUANT TO SECTION 2-3-112.

SECTION 5. Article 1 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

19-1-124. Providers of children's services using state moneys - use of state accounting system. IN ORDER TO ENSURE FINANCIAL ACCOUNTABILITY, ON AND AFTER JULY 1, 1996, 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 SYSTEM OF THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD.

SECTION 6. 24-30-1702 (1), Colorado Revised Statutes, 1988 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-30-1702. Commission's purposes, powers, and duties. (1) The purposes of the commission on information management are to oversee strategic planning and set policy for the state's information systems and to assure continuity in planning and controlling the state's investment in information systems. In furtherance of these purposes, the commission shall have the following powers and duties:

(g) TO CARRY OUT THE PROVISIONS SET FORTH IN SECTION 19-1-211, C.R.S., CONCERNING THE CENTRALIZED INTEGRATED DATA BASE SYSTEM FOR CHILDREN AND FAMILIES.

SECTION 7. Part 1 of article 1 of title 25, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

25-1-111.5. Reporting requirements for children's services programs - compliance required. ON AND AFTER JULY 1, 1996, ANY ALLOCATION OF STATE MONEYS PURSUANT TO THIS TITLE FOR THE PROVISION OF SERVICES TO CHILDREN WHO ARE SUBJECT TO THE "COLORADO CHILDREN'S CODE", TITLE 19, C.R.S., SHALL BE MADE IN ACCORDANCE WITH THE REPORTING REQUIREMENTS SET FORTH IN SECTION 19-1-212 (5), C.R.S.

SECTION 8. Part 1 of article 1 of title 25.5, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read: amended to read:

25.5-1-110. Reporting requirements for children's services programs - compliance required. ON AND AFTER JULY 1, 1996, ANY ALLOCATION OF STATE MONEYS PURSUANT TO THIS TITLE FOR THE PROVISION OF SERVICES TO CHILDREN WHO ARE SUBJECT TO THE "COLORADO CHILDREN'S CODE", TITLE 19, C.R.S., SHALL BE MADE IN ACCORDANCE WITH THE REPORTING REQUIREMENTS SET FORTH IN SECTION 19-1-212, C.R.S.

SECTION 9. 26-1-107 (6), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-1-107. State board of human services. (6) The state board shall:

(g) ADOPT RULES AND REGULATIONS TO CARRY OUT THE DUTIES AND REPORTING REQUIREMENTS RELATED TO THE DIVISION OF CHILDREN'S

INFORMATION MANAGEMENT, CREATED IN SECTION 19-1-212, C.R.S., AND TO CREATE FISCAL SANCTIONS AGAINST AGENCIES AND SERVICE PROVIDERS THAT FAIL TO REPORT AS DESCRIBED IN SECTION 19-1-212, C.R.S.

SECTION 10. Part 1 of article 1 of title 26, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

26-1-130. Reporting requirements for children's services programs - compliance required. ON AND AFTER JULY 1, 1996, ANY ALLOCATION OF STATE MONEYS PURSUANT TO THIS TITLE FOR THE PROVISION OF SERVICES TO CHILDREN WHO ARE SUBJECT TO THE "COLORADO CHILDREN'S CODE", TITLE 19, C.R.S., SHALL BE MADE IN ACCORDANCE WITH THE REPORTING REQUIREMENTS SET FORTH IN SECTION 19-1-212, C.R.S.

SECTION 11. Article 1 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PART CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

PART 2

RECORDS AND INFORMATION

19-1-201. Short title. THIS PART 2 SHALL BE KNOWN AND MAY BE CITED AS THE "CHILDREN'S CODE RECORDS AND INFORMATION ACT".

19-1-202. Legislative declaration. 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". 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 RESULTS IN DUPLICATED SERVICES IN SOME CASES, FRAGMENTED SERVICES IN OTHERS, AND INEFFECTIVE AND COSTLY PROGRAMS. IN ADDITION, DISCLOSURE MAY RESULT IN SERVING THE BEST INTERESTS OF THE CHILD AND MAY BE IN THE PUBLIC INTEREST SUCH AS WHERE A JUVENILE HAS COMMITTED AN ACT THAT WOULD BE A CRIME OF VIOLENCE IF COMMITTED BY AN ADULT. THEREFORE, IN A 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 THE NEED TO PROTECT THE PUBLIC SAFETY, THE GENERAL ASSEMBLY ENACTS THE PROVISIONS OF THIS PART 2.

19-1-203. General provisions - delinquency and dependency and neglect cases. (1) (a) ANY AGENCY THAT PERFORMS DUTIES AND FUNCTIONS UNDER THIS TITLE WITH RESPECT TO JUVENILE DELINQUENCY OR DEPENDENCY AND NEGLECT CASES MAY PROVIDE INFORMATION TO AND OBTAIN INFORMATION FROM ANY OTHER AGENCY THAT PERFORMS DUTIES AND FUNCTIONS UNDER THIS TITLE WITH RESPECT TO SUCH CASES. AGENCIES SHALL EXCHANGE INFORMATION IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION.

(b) SCHOOL PERSONNEL MAY OBTAIN FROM AGENCIES DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) ANY INFORMATION REQUIRED TO

PERFORM THEIR LEGAL DUTIES AND RESPONSIBILITIES. SAID PERSONNEL SHALL MAINTAIN THE CONFIDENTIALITY OF THE INFORMATION OBTAINED.

(2) AN AGENCY DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL EXCHANGE INFORMATION WITH SIMILAR AGENCIES 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. THE EXECUTIVE DIRECTORS OF THE AFFECTED AGENCIES SHALL DESIGN A PROCESS FOR EXCHANGING INFORMATION PURSUANT THIS SECTION.

(3) THE EXECUTIVE DIRECTORS OF THE AFFECTED AGENCIES SHALL JOINTLY DEVELOP AN INFORMED CONSENT AND WRITTEN RELEASE OF INFORMATION FORM. AN AGENCY SHALL PRESENT THE FORM TO A PERSON AT THE TIME THE PERSON APPLIES FOR SERVICES, PROVIDES INTAKE INFORMATION TO A SERVICE PROVIDER, OR AT THE TIME OF AN INITIAL ASSESSMENT FOR IDENTIFYING SERVICE NEEDS, WHICHEVER OCCURS FIRST. A SIGNED FORM SHALL BE DEEMED A WAIVER OF THE NOTICE REQUIREMENT SET FORTH IN SUBSECTION (4) OF THIS SECTION AND SHALL BE LIMITED TO THE EXCHANGE OF INFORMATION DESCRIBED IN SUBSECTION (2) OF THIS SECTION, AND THE PERIOD DURING WHICH THE CONSENT RELEASE FORM APPLIES SHALL BE LIMITED TO NO MORE THAN ONE YEAR. THE EXECUTIVE DIRECTORS SHALL REQUIRE AGENCIES AND SERVICE PROVIDERS TO EXPLAIN THE CONTENTS OF THE CONSENT AND RELEASE FORM TO THE PERSON WHO IS THE SUBJECT OF THE INFORMATION AND EXPLAIN THE CONSEQUENCES OF THE PERSON'S SIGNING THE CONSENT AND RELEASE FORM. NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO PROHIBIT THE DEVELOPMENT BY AND USE OF WRITTEN RELEASE OF

INFORMATION AND CONSENT FORMS BY THE AGENCY WITH RESPECT TO OTHER INFORMATION MAINTAINED BY AN AGENCY.

(4) IF THE PERSON WHO IS THE SUBJECT OF THE INFORMATION MAINTAINED BY AN AGENCY HAS NOT SIGNED A CONSENT AND RELEASE FORM, NOTICE OF THE EXCHANGE OF INFORMATION SHALL BE GIVEN TO THE PERSON IN CONNECTION WITH ANY INITIAL CORRESPONDENCE TO THAT PERSON FROM AN AGENCY IN CONNECTION WITH AN ADMINISTRATIVE ACTION OR FROM THE COURT IN CONNECTION WITH A JUDICIAL PROCEEDING, WHICHEVER APPLIES AND OCCURS FIRST. THE PERSON GIVEN NOTICE SHALL HAVE TEN DAYS AFTER THE DATE OF THE RECEIPT OF NOTICE TO OBJECT IN WRITING TO THE EXCHANGE OF THE INFORMATION DESCRIBED IN SUBSECTION (2) OF THIS SECTION. IF A PERSON FAILS TO FILE A WRITTEN OBJECTION WITHIN TEN DAYS AFTER RECEIVING NOTICE, THE AGENCY SHALL PROCEED IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION. UPON RECEIPT OF AN OBJECTION, THE AGENCY OR THE COURT SHALL SET A HEARING AT WHICH TIME THE AGENCY OR THE COURT SHALL MAKE A DETERMINATION CONCERNING THE EXCHANGE OF INFORMATION. IN MAKING A DETERMINATION, THE AGENCY OR THE COURT SHALL CONSIDER THE BEST INTERESTS OF THE CHILD, THE SAFETY OF THE PUBLIC IF APPLICABLE, AND THE PRIVACY INTEREST OF THE PERSON OBJECTING TO THE EXCHANGE OF INFORMATION. IF THE BEST INTERESTS OF THE CHILD OR THE PUBLIC SAFETY OUTWEIGHS A PERSON'S PRIVACY INTEREST BY A PREPONDERANCE OF THE EVIDENCE, THE AGENCY OR THE COURT SHALL AUTHORIZE THE EXCHANGE OF INFORMATION. THE AGENCY'S FINAL ACTION OR THE COURT'S ORDER SHALL PROVIDE FOR THE LEAST INVASIVE MEASURES FOR EXCHANGING INFORMATION. NOTHING IN THIS SUBSECTION (4) SHALL BE



CONSTRUED TO PROHIBIT A PERSON FROM SIGNING A CONSENT AND RELEASE FORM AT ANY TIME. IN ADDITION, A PERSON MAY SEEK JUDICIAL REVIEW OF FINAL AGENCY ACTION PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

(5) THE PROVISIONS OF THIS SECTION SHALL BE IN ADDITION TO AND NOT IN LIEU OF OTHER STATUTORY PROVISIONS OF THIS PART 2. ACCESS TO INFORMATION NOT OTHERWISE ADDRESSED BY THIS SECTION SHALL BE GOVERNED AS OTHERWISE PROVIDED BY LAW.

19-1-204. [Formerly 19-1-119.] Juvenile delinquency records.

(1) (a) **Court records - open.** Except as provided in paragraph (b.5) of this subsection (1), court records in juvenile delinquency proceedings or proceedings concerning a juvenile charged with the violation of any municipal ordinance except a traffic ordinance shall be open to inspection to the following persons without court order:

- (I) The juvenile named in said record;
- (II) The juvenile's parent, guardian, or legal custodian;
- (III) Any attorney of record;
- (IV) The juvenile's guardian ad litem;
- (V) The juvenile probation department;
- (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;
- (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 a custody evaluation pursuant to section 14-10-127, C.R.S.;

(XII) All members of a child protection team;

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

(A) 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

(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.

(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) **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:

(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) 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.

(c) **Probation records - limited access.** EXCEPT AS OTHERWISE AUTHORIZED BY SECTION 19-1-203, a juvenile probation officer's records, whether or not part of the court file, shall not be open to inspection except as provided in subparagraphs (I) to (IX) of this paragraph (c):

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

(II) To law enforcement officers, as defined in section 19-1-103 (17.5), and to fire investigators, as defined in section 19-1-103 (12.3), 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.

(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 a custody evaluation pursuant to section 14-10-127, C.R.S.;

(VII) To all members of a child protection team;

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

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

(d) **Social and clinical studies - closed - court authorization.** EXCEPT AS OTHERWISE AUTHORIZED BY SECTION 19-1-203, 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.

(2) (a) **Law enforcement records in general - closed.** Except as otherwise provided by paragraph (b.5) of subsection (1) of this section AND



OTHERWISE AUTHORIZED BY SECTION 19-1-203, the records of law enforcement officers concerning juveniles, including identifying information, shall be identified as juvenile records and shall not be inspected by or disclosed to the public, except:

- (I) To the juvenile and the juvenile's parent, guardian, or legal custodian;
- (II) To other law enforcement agencies who have a legitimate need for such information;
- (III) To the victim 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 a custody evaluation pursuant to section 14-10-127, C.R.S.;
- (XII) To all members of a child protection team;
- (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) 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
- (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.
 - (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.
- (3) 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 19-1-122, 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.
- (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 19-1-120, 19-1-121, and 19-1-122. 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 child between the ages of fourteen to eighteen years has committed an offense that would constitute a crime of violence, as defined in section 16-11-309, C.R.S., if committed by an adult or whenever charges filed in district court allege that a child 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 person's physical description, concerning such child 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 child 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.

(6) 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.

19-1-205. [Formerly 19-2-1104.5.] Confidentiality of records - operation of juvenile facilities. (1) EXCEPT AS OTHERWISE AUTHORIZED BY SECTION 19-1-203, all records prepared or obtained by the department of human services in the course of carrying out its duties pursuant to ~~this~~ article 2 OF THIS TITLE shall be 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 ~~this~~ 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; and

(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.



(2) Nothing in this section shall be construed to limit the effect of any other provision of this ~~article~~ PART 2 which requires the confidentiality of records under the control of the department of human services.

19-1-206. [Formerly 19-2-902.] Expungement of juvenile records.

(1) For the purposes of this section, "expungement" means the designation of records whereby such records are deemed never to have existed. Upon the entry of an expungement order, the person, agency, and court may properly indicate that no record exists.

(2) (a) The court shall advise any person of the right to petition the court for the expungement of such person's record at the time of adjudication, or the court, on its own motion or the motion of the juvenile probation department or the juvenile parole department, may initiate expungement proceedings concerning the record of any child 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) 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, and the department of human services; 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. ~~Court records in juvenile delinquency proceedings concerning a juvenile who is adjudicated a juvenile delinquent for the commission of a delinquent act which would constitute a class 1, 2, 3, or 4 felony if such juvenile were an adult shall not be subject to expungement pursuant to this section; except, however, any such juvenile who was adjudicated a juvenile delinquent for the commission of a delinquent act which would constitute any offense other than a class 1 felony and who is not convicted of or adjudicated a juvenile delinquent for the commission of any offense for a period of five years from the date of such juvenile's release from the jurisdiction of the juvenile court may make a petition pursuant to this paragraph (a) requesting an order for expungement.~~ Any such record which 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.

(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 ~~shall~~ 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 ~~juvenile~~ PETITIONER who is the subject of the hearing has not been convicted of a felony or of a misdemeanor and has not been adjudicated a juvenile delinquent since the termination of the court's jurisdiction or ~~his~~ THE PETITIONER'S unconditional release from parole supervision;

(II) No proceeding concerning a felony, misdemeanor, or delinquency action is pending or being instituted against ~~him~~ THE PETITIONER; and

(III) The rehabilitation of the ~~juvenile~~ 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.

(6) A person is eligible to petition for an expungement order:

- (a) Immediately upon a finding of not guilty at an adjudicatory trial;
- (b) One year from:

(I) The date of a law enforcement contact that did not result in a referral to another agency;

(II) THE COMPLETION OF A JUVENILE DIVERSION PROGRAM OR INFORMAL ADJUSTMENT;

(c) ~~Two~~ FOUR years from the date of:

(I) ~~A law enforcement contact that resulted in a referral to another agency, except as otherwise provided in this paragraph~~ (e) THE TERMINATION OF THE COURT'S JURISDICTION OVER THE PETITIONER;

(II) ~~The completion of a juvenile diversion program or informal adjustment~~ THE PETITIONER'S UNCONDITIONAL RELEASE FROM COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES; OR

(III) ~~The termination of the court's jurisdiction over the juvenile; or~~ THE PETITIONER'S UNCONDITIONAL RELEASE FROM PAROLE SUPERVISION.

(IV) ~~The juvenile's unconditional release from parole supervision;~~

(d) ~~Seven years from the date of the termination of the court's jurisdiction over the juvenile or his unconditional release from parole supervision if the juvenile has been adjudicated a violent, repeat, or mandatory juvenile offender.~~

(7) ~~A person who has been adjudicated as an aggravated juvenile offender is not eligible to petition for the expungement of any juvenile record.~~

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, A VIOLENT JUVENILE OFFENDER, A REPEAT JUVENILE OFFENDER, OR A MANDATORY JUVENILE OFFENDER;

(b) ANY PERSON WHO HAS BEEN ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A CRIME OF VIOLENCE UNDER SECTION 16-11-309, C. R. S., HAD THE PERSON BEEN AN ADULT AT THE TIME THE OFFENSE WAS COMMITTED;

(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 19-2-805.

(8) A PERSON MAY FILE A PETITION WITH THE COURT FOR EXPUNGEMENT OF HIS OR HER RECORD ONLY ONCE DURING ANY TWELVE-MONTH PERIOD.



19-1-207. [Formerly 19-1-120.] Dependency and neglect records and information. (1) (a) **Identifying information - confidential.** Except as OTHERWISE provided in this section AND SECTION 19-1-203, 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 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.** Only the following persons or agencies shall be given 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, and, in addition to said reports and records, the law enforcement agency, district attorney, coroner, or county department shall

have access to the state central registry of child protection for information under the name of the child or the suspected perpetrator:

(b) A physician who has before him a child whom he 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;

(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 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, with protection for the identity of reporters and other appropriate persons;

(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) The state central registry of child protection;

(h) All members of a child protection team;

(i) Such other persons as a court may determine, for good cause;

(j) The state department 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 reports of child abuse or neglect or to review the state central registry of child protection. Access to the state central registry granted to the named department or agencies shall serve only as the basis for further investigation.

(k) The state central registry of child protection, when requested in writing by any operator of a facility or agency that is licensed by the department of human services pursuant to section 26-6-107, C.R.S., to check the state central registry of child protection 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 18-1-106, C.R.S. Within ten days of the operator's request, the central registry shall provide the incident date, 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 section 19-3-313 (10) and shall be subject to the penalty therefor.

(l) The state central registry of child protection, when requested in writing by the department of education to check the central registry for the purpose of aiding the department in its investigation of an allegation of abuse by an employee of a school district in this state. Within ten days of the

department's request, the central registry shall provide the incident date, 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. 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 section 19-3-313 (10) and shall be subject to the penalty therefor.

(m) The state departments of health care policy and financing and 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 respective departments, if such person's responsibilities include direct contact with children;

(II) Conducting custody evaluations;

(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, for the purpose of screening prospective adoptive parents;



(o) A person, agency, or organization engaged in a bona fide research or evaluation project or audit, 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;

(p) The governing body as defined in section 19-3-211 (6) (e) 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.

(2.5) Any person or agency provided information from the state central registry pursuant to paragraphs (d), (e), (i), and (k) to (o) of subsection (2) of this section shall be assessed a fee which shall be established and collected pursuant to section 19-3-313 (14).

(3) After a child who is the subject of a report to the central registry 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. The amount and type of information released shall depend upon the source of the report and shall be determined by regulations established by the director of the central registry. However, under no circumstances shall the information be released unless the person requesting such information is entitled thereto as confirmed by the director of the central registry and the information released states whether or not the report is founded or unfounded.

A person given access to the names or other information identifying the subject of a report shall not divulge or make public any identifying information unless he is a district attorney or other law enforcement official and the purpose is to initiate court action or unless he is the subject of a report.

19-1-208. [Formerly 19-3-313.] Central registry. (1) There shall be established a state central registry of child protection in the state department for the purpose of maintaining a registry of information concerning each case of confirmed child abuse reported under ~~this part 3~~ PART 4 OF THIS ARTICLE, except as provided in section 19-3-305. This shall be the only central registry in this state.

(2) The central registry shall contain but shall not be limited to:

(a) All information in any written report of confirmed child abuse or neglect received under ~~this part 3~~ PART 4 OF THIS ARTICLE;

(b) The record of the final disposition of the report, including services offered and services accepted;

(c) The plan for rehabilitative treatment;

(d) The name and identifying data, date, and circumstance of any person requesting or receiving information from the central registry;

(e) Any other information which might be helpful in furthering the purposes of ~~this part 3~~ PART 4 OF THIS ARTICLE.

(3) The state board shall appoint, subject to section 13 of article XII of the state constitution, a director of the central registry who shall have charge of said registry. Subject to available appropriations, the director shall equip his office so that data in the central registry may be made available on a statewide basis during nonbusiness hours through the use of computer

technology. The director of the central registry may designate a person to act for the director in performing the functions and duties of the director as set forth in this section. Any reference in this section to the director of the central registry shall include the person designated to act on the director's behalf pursuant to this subsection (3).

(4) Unless an investigation of a report conducted pursuant to ~~this part 3~~ PART 4 OF THIS ARTICLE determines there is a preponderance of evidence to support a finding of abuse or neglect, all information identifying the subject of the report shall be expunged from the central registry forthwith. The decision to expunge the record shall be made by the director of the central registry based upon the investigation made by the county department or the local law enforcement agency.

(5) (a) In all other cases, except as otherwise provided in paragraph (b) of this subsection (5), the record of the reports to the central registry shall be sealed no later than ten years after the child's eighteenth birthday. Once sealed, the record shall not otherwise be available unless the director of the central registry, pursuant to rules promulgated by the state board and upon notice to the subject of the report, gives his personal approval for an appropriate reason. In any case and at any time, except as otherwise provided in paragraph (b) of this subsection (5) and paragraph (b) of subsection (7) of this section, the director may amend, seal, or expunge any record upon good cause shown and notice to the subject of the report.

(b) No record of a report of sexual abuse shall be sealed pursuant to paragraph (a) of this subsection (5). Such record, however, may be sealed,

expunged, or amended pursuant to paragraph (a) of subsection (7) of this section.

(6) (a) The director of the central registry shall send a written notice to each subject placed on the central registry that such subject has been listed on the registry as responsible for child abuse or neglect. Such notice shall include the name of the child, type of abuse, date of the incident, county department that filed a report with the registry, information as to persons or agencies that have access to the report, and information concerning the subject's rights and responsibilities in regard to amending, sealing, or expunging the report.

(b) At any time the subject of a report may receive, upon a written notarized request or upon personal request with proof of identification, a report of all information pertinent to the subject's case contained in the central registry, but the director of the central registry is authorized to prohibit the release of data that would identify the person who made the report or who cooperated in a subsequent investigation and that he reasonably finds to be detrimental to the safety or interests of such person. A person requesting registry information pursuant to this paragraph (b) shall be assessed a fee which shall be established and collected in accordance with subsection (14) of this section.

(c) At any time, any person may obtain, upon written notarized request or upon personal request with proof of identification, a verification from the state registry that such person is not listed on the registry. A person requesting such verification shall be assessed a fee which shall be established and collected in accordance with subsection (14) of this section.



(7) (a) Except as otherwise provided in paragraph (b) of this subsection (7), the subject of the report may request the director to amend, seal, or expunge the record of the report. A request shall be written and shall be made within two years after the date of the mailing of the notice sent to the subject in accordance with paragraph (a) of subsection (6) of this section. The decision to expunge the record shall be made by the director of the central registry based on the investigation made by the county department or the local law enforcement agency. If the director refuses or does not act within a reasonable time, but in no event later than thirty days after such request, the subject shall have the right to a fair hearing as provided under the "State Administrative Procedure Act" to determine whether the record of the report in the central registry should be amended, sealed, or expunged on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with ~~this part 3~~ PART 4 OF THIS ARTICLE. The appropriate county department shall be given notice of the hearing. The burden of proof in such a hearing shall be on the state department. At such hearings, the fact that a county department, law enforcement agency, or entity authorized to investigate institutional abuse made a finding of confirmed child abuse or neglect shall be presumptive evidence that the report was accurate.

(b) (I) On and after July 1, 1993, a record related to a first-time listing of a subject on the registry and which is based on a minor offense reported on or after July 1, 1991, shall be examined by the director of the central registry and, on the basis of such examination, shall be expunged by said director if two years have lapsed since the date the reported incident was entered into the

registry records upon a determination by the director that good cause exists for expunging such record.

(II) On and after July 1, 1991, a record related to a first-time listing of a subject on the registry and which is based on a minor offense reported before said date shall be examined by the director of the central registry upon request by the subject for expungement and, on the basis of such examination, may be expunged by said director if two years have lapsed since the date the reported incident was entered into the registry record upon a determination by the director that good cause exists for expunging such record.

(III) The state department, through rule-making, shall define minor offense and good cause; except that minor offense shall not include any incident involving sexual abuse. Each subject provided a notice in accordance with paragraph (a) of subsection (6) of this section shall be informed about expungement pursuant to this paragraph (b). In addition, each subject shall be notified of the director's decision concerning expungement pursuant to this paragraph (b) no later than ninety days after the expiration of the two years. A subject denied expungement pursuant to this paragraph (b) may seek to amend, expunge, or seal a record pursuant to paragraph (a) of this subsection (7). Such appeal shall be made no later than ninety days after the date of the mailing to the subject of the notice of denial.

(8) Any peace officer, level I, or probation officer, who was the subject of a report submitted to the central registry prior to July 1, 1987, for an act as described in section 19-3-303 (1) (b) and who was not criminally prosecuted or administratively disciplined for such act may request the director to

expunge the record of such report on the grounds that such act did not constitute child abuse or neglect.

(9) Written notice of any amendment, sealing, or expungement made pursuant to the provisions of ~~this part 3~~ PART 4 OF THIS ARTICLE shall be given to the subject of such report and to the appropriate county department. The county department, upon receipt of such notice, shall take similar action regarding such information in its files. Any other provision of the law to the contrary notwithstanding, upon written notice of an expungement order, the director shall forthwith cause such records in the central registry to be destroyed.

(10) Any person who willfully permits or who encourages the release of data or information contained in the central registry to persons not permitted access to such information by ~~this part 3~~ PART 4 OF THIS ARTICLE commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

(11) The central registry shall adopt such rules and regulations as may be necessary to encourage cooperation with other states and the national center on child abuse and neglect.

(12) Any person who is permitted access to the state central registry of child protection for the purpose of investigation pursuant to ~~this part 3~~ PART 4 OF THIS ARTICLE shall provide the following information before access shall be allowed:

- (a) The name of the child or the suspected perpetrator;
- (b) The name of the county in which the child resides;

(c) The reason that such access is necessary to assist in the investigation; and

(d) The name of the individual seeking such access and the agency he represents.

(13) Any final action undertaken to deny the request for expungement of the record of the report pursuant to the fair hearing provisions of subsection (7) of this section may be reviewed pursuant to the provisions of section 24-4-106, C.R.S.

(14) Any person or agency provided central registry information in accordance with this section or section 19-1-120 (2) (d), (2) (e), (2) (i), and (2) (k) to (2) (o) shall be assessed a fee which shall not exceed the direct and indirect costs of administering such sections. All fees collected in accordance with this subsection (14) shall be transmitted to the state treasurer who shall credit the same to the central registry fund which is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of administering the statutory provisions cited in this subsection (14).

19-1-209. [Formerly 19-1-121.] Parentage information. EXCEPT AS OTHERWISE PROVIDED BY SECTION 19-1-203, BUT 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. 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 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.

19-1-210. [Formerly 19-1-122.] Relinquishments and adoption information. Except as provided in parts 3 and 4 of article 5 of this title AND SECTION 19-1-203, all records and proceedings in relinquishment or adoption shall be confidential and open to inspection only upon order of the court for good cause shown. The court shall act to preserve the anonymity of the natural parents, the adoptive parents, and the child, except to the extent disclosure is made 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.

19-1-211. Centralized integrated data base system for children and families - strategic plan - children's information management committee - report. (1) (a) (I) A PLANNING TEAM COMPRISED OF THE FOLLOWING INDIVIDUALS SHALL JOINTLY DEVELOP A STRATEGIC PLAN FOR THE IMPLEMENTATION AND MAINTENANCE OF A CENTRALIZED INTEGRATED DATA BASE SYSTEM TO COLLECT AND MAINTAIN INFORMATION RELATED TO THE IDENTITY OF A CHILD AND THE CHILD'S FAMILY, FORMAL CONTACTS MADE WITH THE CHILD BY STATE OR LOCAL AGENCIES OR SERVICE PROVIDERS RENDERING SERVICES TO THE CHILD SUBJECT TO THIS TITLE, AND SERVICES PROVIDED TO THE CHILD AND THE CHILD'S FAMILY:

(A) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(B) THE COMMISSIONER OF EDUCATION OR SUCH COMMISSIONER'S DESIGNEE;

(C) SIX SCHOOL DISTRICT SUPERINTENDENTS APPOINTED BY THE GOVERNOR, ONE FROM EACH CONGRESSIONAL DISTRICT;

(D) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(E) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(F) THE STATE COURT ADMINISTRATOR OF THE JUDICIAL DEPARTMENT OR SUCH ADMINISTRATOR'S DESIGNEE; AND

(G) THE DIRECTOR OF THE COLORADO CHILDREN'S TRUST FUND OR SUCH DIRECTOR'S DESIGNEE.

(II) THE GOVERNOR AND THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT SHALL JOINTLY APPOINT ONE INDIVIDUAL FROM AMONG THE MEMBERS OF THE PLANNING TEAM TO SERVE AS THE CHIEF OFFICER IN COORDINATING THE DEVELOPMENT OF THE STRATEGIC PLAN.

(b) THE PLANNING TEAM SHALL ADOPT A STRATEGIC PLAN THAT:

(I) PROVIDES DATA AND STANDARDS ALLOWING THE USERS OF THE SYSTEM RAPID AND MAXIMUM ACCESS TO THE SYSTEM;

(II) PROVIDES A SYSTEM CONSISTENT WITH APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS, ALLOWING THE USERS OF THE SYSTEM TO COMPLY WITH SUCH LAWS AND REGULATIONS;

(III) ALLOWS A USER OF THE SYSTEM HAVING JURISDICTION OVER OR CUSTODY OF A CHILD OR PROVIDING SERVICES TO A CHILD TO RETAIN ITS OWN INFORMATION DATA BASE BUT REQUIRES A USER TO REPORT TO THE SYSTEM CERTAIN INFORMATION CONCERNING THE CHILD AND THE RESULT OF SERVICES AND PROGRAMS PROVIDED TO SERVE THE CHILD;

(IV) ALLOWS CONTINUOUS MONITORING OF THE SYSTEM BY ESTABLISHING USE REPORTING REQUIREMENTS, INCLUDING BUT NOT LIMITED TO CONFIDENTIALITY SAFEGUARDS;

(V) PROVIDES FOR A METHOD OF RECORDING INFORMATION REQUESTED BY VARIOUS AGENCIES AND SERVICE PROVIDERS;

(VI) ENSURES THAT INFORMATION RESOURCE AGENCIES AND SERVICE PROVIDERS ALIGN THROUGH A STATEWIDE SYSTEM CAPABLE OF PROVIDING RELIABLE INFORMATION CONCERNING CHILDREN AND THEIR FAMILIES

THROUGHOUT THE STATE, APPLYING STATE STANDARDS, AND MAINTAINING THE SECURITY AND INTEGRITY OF THE INFORMATION;

(VII) FACILITATES UNIFORM AND MAXIMUM INTERFACING AMONG THE VARIOUS STATE AND LOCAL AGENCIES AND SERVICE PROVIDERS THAT RENDER SERVICES TO CHILDREN; AND

(VIII) MAKES SUPPORT INFORMATION AVAILABLE TO RESEARCH TECHNICIANS AND POLICYMAKERS, INCLUDING BUT NOT LIMITED TO THE GENERAL ASSEMBLY AND LOCAL AND STATE AGENCY ADMINISTRATORS.

(2) THE PLANNING TEAM ESTABLISHED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL SUBMIT THE STRATEGIC PLAN TO THE COMMISSION ON INFORMATION MANAGEMENT, CREATED IN SECTION 24-30-1701, C.R.S., NO LATER THAN AUGUST 1, 1997. THE COMMISSION, IN ADDITION TO ITS DUTIES SET FORTH IN SECTION 24-30-1702, C.R.S., SHALL SUBMIT A FINAL PLAN IN THE FORM OF A LEGISLATIVE PROPOSAL TO THE CHILDREN'S INFORMATION MANAGEMENT COMMITTEE, WHICH COMMITTEE IS HEREBY CREATED, AND THAT SHALL ACT AS AN INTERIM COMMITTEE, WHOSE MEMBERS SHALL BE MEMBERS OF THE JOINT BUDGET COMMITTEE AND THE JUDICIARY COMMITTEES OF THE GENERAL ASSEMBLY. THE PLAN SHALL BE SUBMITTED TO THE INFORMATION MANAGEMENT COMMITTEE NO LATER THAN SEPTEMBER 1, 1997, FOR REVIEW AND RECOMMENDATIONS TO THE LEGISLATIVE COUNCIL NO LATER THAN THE APPLICABLE DEADLINE FOR APPROVAL OF INTERIM COMMITTEE BILLS.

19-1-212. Division of children's information management - creation - appointment of director - duty to report to division - rules - waiver.

(1) THERE IS HEREBY CREATED IN THE DEPARTMENT OF HUMAN SERVICES THE DIVISION OF CHILDREN'S INFORMATION MANAGEMENT, THE HEAD OF WHICH

INFORMATION MANAGEMENT/AUDIT REVIEW



SHALL BE THE DIRECTOR OF THE DIVISION OF CHILDREN'S INFORMATION MANAGEMENT, WHICH OFFICE IS HEREBY CREATED. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES, PURSUANT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION, SHALL APPOINT THE DIRECTOR OF THE DIVISION. THE DIRECTOR SHALL APPOINT SUCH OTHER PERSONNEL AS MAY BE NECESSARY TO CARRY OUT THE FUNCTIONS AND DUTIES OF THE OFFICE.

(2) THE DIVISION OF CHILDREN'S INFORMATION MANAGEMENT SHALL RECEIVE, MAINTAIN, AND DISSEMINATE AS SPECIFIED IN SUBSECTION (4) OF THIS SECTION INFORMATION THAT LOCAL AND STATE AGENCIES AND SERVICE PROVIDERS HAVING FORMAL CONTACT WITH CHILDREN AND FAMILIES ARE REQUIRED TO REPORT TO THE DIVISION IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION. THE DIVISION OF CHILDREN'S INFORMATION MANAGEMENT SHALL ADOPT SAFEGUARDS FOR THE CONFIDENTIALITY OF THE DATA RECEIVED BY THE REPORTING AGENCIES AND PROVIDERS EXCEPT AS OTHERWISE SPECIFICALLY STATED IN THIS SECTION.

(3) ON AND AFTER JULY 1, 1996, THE FOLLOWING SHALL REPORT, WITHIN SEVENTY-TWO HOURS AFTER FORMAL CONTACT WITH A CHILD, CONTACT INFORMATION CONCERNING THE CHILD AND THE CHILD'S FAMILY TO THE DIVISION OF CHILDREN'S INFORMATION MANAGEMENT:

- (a) ANY EMPLOYEE OF THE DEPARTMENT OF HUMAN SERVICES;
- (b) ANY EMPLOYEE OF A COUNTY DEPARTMENT OF SOCIAL SERVICES;
- (c) ANY PEACE OFFICER;
- (d) ANY PROBATION OFFICER;
- (e) ANY EMPLOYEE OF THE DEPARTMENT OF EDUCATION;
- (f) ANY EMPLOYEE OF A SCHOOL DISTRICT;

- (g) ANY EMPLOYEE OF THE COLORADO CHILDREN'S TRUST FUND;
- (h) ANY MAGISTRATE OR JUDGE OF A MUNICIPALITY OR OF THE STATE JUDICIAL DEPARTMENT;
- (i) ANY EMPLOYEE OF THE DEPARTMENT OF PUBLIC SAFETY;
- (j) ANY EMPLOYEE OF THE DEPARTMENT OF CORRECTIONS; AND
- (k) ANY SERVICE PROVIDER RECEIVING STATE OR FEDERAL MONEYS THROUGH THE STATE FOR THE PURPOSE OF RENDERING SERVICES TO A CHILD OR FAMILY SUBJECT TO THIS TITLE.

(4) THE DIVISION OF CHILDREN'S INFORMATION MANAGEMENT SHALL, UPON REQUEST OF ANY AGENCY OR SERVICE PROVIDER IDENTIFIED IN SUBSECTION (3) OF THIS SECTION, PROVIDE THE SPECIFIC CONTACT INFORMATION CONCERNING A PARTICULAR CHILD AND THAT CHILD'S FAMILY MAINTAINED BY THE DIVISION TO THE REQUESTING AGENCY OR SERVICE PROVIDER. THE AGENCY OR SERVICE PROVIDER SHALL ONLY REQUEST CONTACT INFORMATION FROM THE DIVISION OF CHILDREN'S INFORMATION MANAGEMENT FOR THE SPECIFIC PURPOSE OF PROVIDING SERVICES TO A CHILD OR THE CHILD'S FAMILY SUBJECT TO THIS TITLE AND SHALL MAINTAIN THE CONFIDENTIAL NATURE OF THE INFORMATION RECEIVED FROM THE DIVISION OF CHILDREN'S INFORMATION MANAGEMENT.

(5) (a) THE STATE BOARD OF HUMAN SERVICES SHALL PROMULGATE RULES IN ACCORDANCE WITH SECTION 26-1-107, C.R.S., AND ARTICLE 4 OF TITLE 24, C.R.S., TO IMPLEMENT THIS SECTION INCLUDING, BUT NOT LIMITED TO, THE WITHHOLDING OF REIMBURSEMENTS TO THE AGENCY OR SERVICE PROVIDER WHO FAILS TO STRICTLY COMPLY WITH THE REPORTING REQUIREMENTS AS PROVIDED IN SUBSECTION (3) OF THIS SECTION. AN AGENCY

OR SERVICE PROVIDER, PURSUANT TO SECTION 24-4-106, C.R.S., HAS THE RIGHT TO APPEAL ANY ACTION OF THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SECTION 24-4-106, C.R.S.

(b) IF NECESSARY, ON OR BEFORE JULY 1, 1996, THE DEPARTMENT OF HUMAN SERVICES SHALL SEEK A WAIVER FROM THE FEDERAL GOVERNMENT AUTHORIZING THE DEPARTMENT TO MAKE ONGOING REIMBURSEMENTS TO AGENCIES AND SERVICE PROVIDERS RENDERING SERVICES TO CHILDREN AND FAMILIES SUBJECT TO THIS TITLE CONTINGENT UPON STRICT COMPLIANCE WITH THE REPORTING REQUIREMENTS DESCRIBED IN THIS SECTION AND PERMITTING THE IMPOSITION OF SANCTIONS AGAINST SUCH AGENCIES AND PROVIDERS WHO FAIL TO REPORT IN THE FORM OF WITHHOLDING ONGOING FEDERAL OR STATE REIMBURSEMENTS. THE IMPLEMENTATION OF SUBSECTION (3) OF THIS SECTION AND PARAGRAPH (a) OF THIS SUBSECTION (5) IS CONDITIONED, TO THE EXTENT APPLICABLE, ON THE ISSUANCE OF NECESSARY WAIVERS BY THE FEDERAL GOVERNMENT. THE PROVISIONS OF SUBSECTION (3) OF THIS SECTION AND PARAGRAPH (a) OF THIS SUBSECTION (5) SHALL BE IMPLEMENTED TO THE EXTENT AUTHORIZED BY FEDERAL WAIVER, IF SO REQUIRED BY FEDERAL LAW. THE PROVISIONS OF SUBSECTION (3) OF THIS SECTION AND PARAGRAPH (a) OF THIS SUBSECTION (5) APPROVED BY THE FEDERAL GOVERNMENT AND AUTHORIZED BY FEDERAL WAIVER SHALL REMAIN IN EFFECT ONLY FOR AS LONG AS SPECIFIED IN THE FEDERAL WAIVER.

(6) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONTACT INFORMATION" MEANS:

(I) THE NAME OF THE CHILD;

(II) THE ADDRESS AND TELEPHONE NUMBER OF THE CHILD;

(III) THE NAME OF THE INDIVIDUAL MAKING THE FORMAL CONTACT WITH THE CHILD;

(IV) THE AGENCY OR SERVICE PROVIDER WITH WHICH THE CONTACTING INDIVIDUAL IS ASSOCIATED;

(V) THE NATURE AND PURPOSE OF THE FORMAL CONTACT; AND

(VI) THE DATE OF THE FORMAL CONTACT.

(b) "FORMAL CONTACT" MEANS ANY INTERVIEW, MEETING, OR OTHER INVOLVEMENT WITH A CHILD OR THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN WHEN PERFORMING A SPECIFIC DUTY OR DELIVERING A SERVICE TO A CHILD WHO IS SUBJECT TO THE PROVISIONS OF THIS TITLE. "FORMAL CONTACT" DOES NOT MEAN A CASUAL, CHANCE, OR OTHERWISE INFORMAL CONTACT WITH A CHILD OR A CHILD'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN OR CONTACT ARISING OUT OF THE PROVISION OF AN EDUCATION PURSUANT TO TITLE 22, C.R.S.

SECTION 12. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BY REPRESENTATIVES Adkins, George, and Reeser;
also SENATORS Wham and Hopper.

A BILL FOR AN ACT

CONCERNING JUVENILE JUSTICE.

Bill Summary

"Juvenile Justice"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

* = no substantive changes to the section

Section 1: Relocates and amends article 2 of title 19 as follows:

ARTICLE 2

The Colorado Juvenile Justice System

PART 1

GENERAL PROVISIONS

- 19-2-101. **Short title.** Identifies part 1 of article 2 as general provisions:
- 19-2-102. **[Formerly 19-2-101, 19-2-705.5 (6), 19-2-204 (4) (e) (II), and 19-2-1302 (1) and (2)] Definitions.** Adds a definition for "intake team". Consolidates definitions from several sections in existing article 2.
- 19-2-103. **[Formerly 19-2-102] Jurisdiction.** Expands the jurisdiction of the juvenile court to include motor vehicle violations that are related to a juvenile offense.

- 19-2-104. **[Formerly 19-2-103] Venue.** Prevents a court from rejecting a change of venue except where venue would be improper. Requires the receiving court to set a hearing date within 30 days after the change of venue is ordered.
- 19-2-105. **[Formerly 19-2-104] Representation of petitioner.***
- 19-2-106. **Statute of limitations.** Specifies statutes of limitation for juvenile offenses: Class 1 and 2 felonies and sex offenses - same as if committed by an adult;
All other offenses - 18 months.
- 19-2-107. **[Formerly 19-2-501] Right to jury trial.***
- 19-2-108. **[Formerly 19-2-502] Speedy trial - sanctions.** Specifies that if the district attorney or the court fails to meet the deadlines for holding a detention hearing, filing a complaint, setting the first appearance, or adjudication, the action shall be dismissed with prejudice. Authorizes the court to grant a continuance upon written findings of good cause.
- 19-2-109. **[Formerly 19-2-401] General procedure.** Specifies that the juvenile's parents, guardian, or legal custodian is required to attend all proceedings concerning the juvenile and that failure to attend may result in contempt sanctions.
- 19-2-110. **[Formerly 19-2-904] Open hearings.***
- 19-2-111. **[Formerly 19-2-903] Effect of proceedings.***
- 19-2-112. **[Formerly 19-2-707] Victim's right to attend dispositional, review, and restitution proceedings.***
- 19-2-113. **Parental accountability.** Recognizes the significant role of parents in curing delinquent behavior and specifies the requirements that may be imposed on a parent as part of the juvenile's treatment plan. Allows the court to excuse a parent from participating where the parent is a victim of the juvenile's offense. Requires the juvenile's parents, guardian, or legal custodian to attend all proceedings concerning the juvenile,

subject to imposition of contempt sanctions. Authorizes the court to include parents in a treatment plan for the juvenile.

19-2-114. [Formerly 19-2-705.5 (1) to (5)] Cost of care.*

JUVENILE JUSTICE ADMINISTRATION

PART 2

ADMINISTRATIVE ENTITIES - AGENTS

19-2-201. **Short title.** Identifies part 2 as administrative entities - agents.

19-2-202. **Responsible agencies.** Identifies the agencies responsible for providing juvenile services and specifically identifies the department of human services as the single state agency responsible for oversight of juvenile programs.

19-2-203. **Office of youth services - created.** Establishes the office of youth services in statute.

19-2-204. **Juvenile assessment and intake program - created - duties - authority to contract.** Instructs each judicial district to establish an interdisciplinary intake team to provide 24-hour assessments of juveniles who are taken into custody. Specifies the duties of the intake team as assessing the needs of juveniles and whether a juvenile should remain in custody, releasing the juvenile on bond, if authorized by the chief judge of the judicial district. Authorizes the intake teams to contract for provision of the assessments.

19-2-205. [Formerly 19-2-1001] **Juvenile probation departments or divisions - service agreements.***

19-2-206. [Formerly 19-2-1111 except (2) (d) (II)] **Facility directors - duties.***

19-2-207. [Formerly 19-2-1201] **Juvenile parole board - creation - membership.***

19-2-208. [Formerly 19-2-1202 (1)] **Juvenile parole board - authority.***

19-2-209. [Formerly 19-2-1203 (1)] **Administrative law judges.***

19-2-210. [Formerly 19-2-1204] **Division of juvenile parole - organization.***

19-2-211. [Formerly 19-2-1303, 19-2-1304, and 19-2-1305] **Juvenile community review board.***

19-2-212. [Formerly 19-2-1602.7] **Local juvenile services planning committee - creation - duties.***

19-2-213. [Formerly 19-2-1602 and 19-2-1605] **Working group for criteria for placement of juvenile offenders - establishment of formula - review of criteria.** Clarifies that the working group has the responsibility only for reviewing the detention, sentencing, and commitment criteria and for setting the formula for distributions.

19-2-214. [Formerly 19-2-1402] **Local board for parental training program.***

PART 3

JUVENILE ADMINISTRATIVE PROGRAMS - SERVICES

19-2-301. **Short title.** Identifies part 3 as juvenile administrative programs - services.

19-2-302. [Formerly 19-2-205.5] **Preadjudication service program created - community advisory board established - duties of board.***

19-2-303. [Formerly 19-2-303] **Juvenile diversion program - authorized.***

19-2-304. **Juvenile probation and parole combined services - pilot program authorized - annual report - repeal.** Establishes a juvenile parole and supervision pilot program involving 5 judicial districts. Instructs the participating districts to submit



to the department of human services and the judicial departments a plan for operating its juvenile parole and probation supervision program. Requires participating judicial districts to establish or contract for a supervision program for juvenile parolees and probationers. Prohibits juveniles sentenced to the department of corrections from participating in the pilot supervision programs. Beginning March 1, 1997, requires the judicial department to annually report to the judiciary committees on the implementation of the pilot program. Repeals the program, effective July 1, 1999.

- 19-2-305. [Formerly 19-2-1401] Parental responsibility training programs - criteria.*
- 19-2-306. [Formerly 19-2-705.6] Intensive family preservation program - adjudicated juveniles - legislative declaration - pilot program - financing for program - cash fund created - report - repeal.*
- 19-2-307. [Formerly 19-2-1501] Juvenile intensive supervision program - creation - judicial department.*
- 19-2-308. [Formerly 19-2-1502] Juvenile intensive supervision program - elements.*
- 19-2-309. [Formerly 19-2-706] Community service and work programs.*
- 19-2-310. [Formerly 19-2-708] Regimented juvenile training program - legislative declaration - repeal. Makes a sentence to the regimented juvenile training program a condition of probation. Requires the inclusion of an after care component to phase II of the program.
- 19-2-311. [Formerly 19-2-1603] Appropriations to department of human services for services to juveniles.*

**PART 4
JUVENILE FACILITIES**

- 19-2-401. Short title. Identifies part 4 as juvenile facilities.

- 19-2-402. [Formerly 19-2-1115] Juvenile detention services and facilities to be provided by department of human services - education.*
- 19-2-403. [Formerly 19-2-1101] Human services facilities - authority. Authorizes the department of human services to use group care facilities and homes for pre- and post-adjudication detention.
- 19-2-404. Facilities - control and restraint - liability - duty to pursue runaways. Authorizes facilities that house juveniles to respond appropriately to issues of control and restraint. Grants immunity for good faith implementation of the section. Creates a duty for the facility to pursue runaways.
- 19-2-405. [Formerly 19-2-1102] Receiving centers - designation.*
- 19-2-406. [Formerly 19-2-1106] Lookout Mountain school.*
- 19-2-407. [Formerly 19-2-1107] Mount View school.*
- 19-2-408. [Formerly 19-2-1108] Youth camps.*
- 19-2-409. [Formerly 19-2-1109] Alternate placement.*
- 19-2-410. [Formerly 19-2-1110] Contracts and agreements with public and private agencies.*
- 19-2-411. [Formerly 19-2-1115.5] Facilities for juvenile offenders.*
- 19-2-412. [Formerly 19-2-1116] Transfer of detention facilities and equipment.*
- 19-2-413. [Formerly 19-2-1112] Facility publications.*
- 19-2-414. [Formerly 19-2-1113] Facility rules - academic and vocational courses.*
- 19-2-415. [Formerly 19-2-1114] Fees for transporting children.*
- 19-2-416. [Formerly 19-2-1117] Administration or monitoring of medications to persons in juvenile institutional facilities.*

THE DELINQUENCY PROCESS

PART 5 ENTRY INTO SYSTEM

- 19-2-501. **Short title.** Identifies part 5 as entry into the system.
- 19-2-502. **Offenses by children under ten years of age.** Authorizes a law enforcement officer, after investigation, to notify the county department of social services that a child under 10 years of age has committed an act that would constitute a juvenile offense to allow the department to determine whether the child is dependent and neglected. [Conforming amendment to §19-3-102: Adds commission of an act that would constitute a juvenile offense by a child under 10 years of age to the definition of dependency and neglect.]
- 19-2-503. [Formerly 19-2-201] **Taking juvenile into custody.***
- 19-2-504. [Formerly 19-2-202] **Issuance of a lawful warrant taking a juvenile into custody.***
- 19-2-505. [Formerly 19-2-206] **Search warrants - issuance - grounds.***
- 19-2-506. [Formerly 19-2-207] **Search warrants - application.***
- 19-2-507. [Formerly 19-2-208] **Consent to search.***
- 19-2-508. [Formerly 19-2-203] **Duty of officer - intake teams - notification - release or detention.** Instructs the peace officer taking a juvenile into custody to notify the intake team. Instructs the intake team to notify the juvenile's parent, guardian, or legal custodian. Specifies that a summons shall require appearance by the juvenile and his or her parents within 30 days after issuance.
- 19-2-509. [Formerly 19-2-204] **Detention and shelter - hearing - time limits - confinement with adult offenders - restrictions.** Instructs the intake team to notify the court and a juvenile's parent, guardian, or legal custodian when a juvenile is placed

in preadjudication detention. At the detention hearing, requires the intake team to provide the court an initial assessment of the family and community resources available to the juvenile. Authorizes the court to require the juvenile and the juvenile's family to fulfill the requirements of the treatment plan recommended by the intake team. For all juvenile offenses, requires the district attorney to file a petition within 72 hours after the detention hearing.

- 19-2-510. **Detention placement criteria.** Specifies the criteria that the intake team must consider in determining whether to detain or release the juvenile.
- 19-2-511. [Formerly 19-2-205] **Bail.** Specifies that where bond is denied, revoked, or increased, adjudication must be held within 60 days after entry of the bond or within 60 days after the juvenile's entry of plea, whichever is earlier. In judicial districts where the chief judge authorizes the intake team to release juveniles on bond, requires the chief judge to establish a bond schedule, including provisions for release on personal recognizance, where appropriate.
- 19-2-512. [Formerly 19-2-301] **Preliminary investigation.***
- 19-2-513. [Formerly 19-2-210] **Statements.** Deletes the definition of "physical custodian". Allows a juvenile and his or her parent, guardian, or legal or physical custodian to expressly waive the requirement that the parent, guardian, or legal or physical custodian be present during interrogation of the juvenile.
- 19-2-514. [Formerly 19-2-304] **Petition initiation.***
- 19-2-515. [Formerly 19-2-305] **Petition form and content.***
- 19-2-516. [Formerly 19-2-306] **Summons - issuance - contents - service.** Specifies that a juvenile's first appearance in court must be scheduled within 30 days after issuance of the summons.
- 19-2-517. [Formerly 19-2-307] **Contempt - warrant.***

19-2-518. [Formerly 19-2-801 (1), 19-2-802 (1), 19-2-803 (1), and 19-2-804 (1)] **Petitions - special offenders.** Defines the various categories of special offenders. Adds sexual assault on a child, incest, and aggravated incest to the offenses for which a child 12 years of age or older may be adjudicated an aggravated juvenile offender.

19-2-519. [Formerly 19-2-805] **Direct filing - repeal.** Adds escape and commission of a third felony to the offenses and circumstances that allow a juvenile to be charged in district court. Allows a district court judge, on finding special circumstances, to sentence as a juvenile a child who is 16 years of age or older and has been convicted of a felony other than class 1 or 2 or a crime of violence. Instructs a community-based assessment committee to prepare an assessment of the juvenile's needs to aid a judge in determining whether special circumstances exist. Authorizes the court to appoint a guardian ad litem for any juvenile who is charged in district court.

19-2-520. [Formerly 19-2-806] **Transfers.** Limits application of the transfer provisions to juveniles at least 12 years of age but younger than 14 years who are alleged to have committed an act that constitutes a class one or two felony.

**PART 6
SPECIAL PROCEEDINGS**

19-2-601. [Formerly 19-2-804 (2) to (10)] **Aggravated juvenile offender.***

**PART 7
PREADJUDICATION**

19-2-701. **Short title.** Identifies part 7 as preadjudication.

19-2-702. [Formerly 19-2-308] **Mentally ill juvenile or juvenile with developmental disabilities - procedure.***

19-2-703. [Formerly 19-2-302] **Informal adjustment.***

19-2-704. **Diversion.** Authorizes the district attorney to place a juvenile in a diversion program as an alternative to filing a petition, holding an adjudicatory hearing, or having a formal disposition of a juvenile.

19-2-705. [Formerly 19-2-404] **Preliminary hearing.***

19-2-706. [Formerly 19-2-402] **Advisement.***

19-2-707. [Formerly 19-2-403] **Mandatory restraining order.***

19-2-708. [Formerly 19-2-405] **Entry of plea.** Specifies that the court shall hold the adjudicatory hearing within sixty days following the entry of a plea.

19-2-709. [Formerly 19-2-702] **Deferral of adjudication.***

**PART 8
ADJUDICATORY PROCEDURES**

19-2-801. **Short title.** Identifies part 8 as adjudicatory procedures.

19-2-802. [Formerly 19-2-505] **Evidentiary considerations.***

19-2-803. [Formerly 19-2-209] **Legislative declaration - admissibility of evidence.***

19-2-804. [Formerly 19-2-504] **Procedures at trial.***

19-2-805. [Formerly 19-2-503] **Method of jury selection.***

**PART 9
POST-ADJUDICATORY PROCESS**

19-2-901. **Short title.** Identifies part 9 as post-adjudicatory process.

19-2-902. [Formerly 19-2-601] **Motion for new trial.***

19-2-903. [Formerly 19-2-602] **Appeals.***

19-2-904. [Formerly 19-2-603] **Posttrial bail.***

- 19-2-905. **Presentence investigation.** Requires the juvenile probation department to complete a presentence investigation prior to the sentencing hearing. Specifies the contents of the investigation. Requires the presentence investigation to consider and build on the intake assessment performed by the intake team. Allows the level of detail included in the presentence investigation to vary as appropriate with the services considered for the juvenile.
- 19-2-906. **[Formerly 19-2-701] Sentencing hearing.***
- 19-2-907. **[Formerly 19-2-703 except (3), 19-2-801 (2), 19-2-802 (2), 19-2-803 (2) and (3)] Sentencing schedule - options.** Increases the maximum time for commitment to the department of human services to 5 years, followed by a mandatory period of parole of no less than one year. Establishes guidelines for the maximum period of commitment, based on the severity of the offense. Specifies the sentencing options. Authorizes the court to sentence a juvenile to boot camp as a condition of probation. Removes the cap on restitution that the court may order a parent to pay.
- 19-2-908. **Juvenile placement criteria - legislative declaration.** Establishes criteria that the court must consider in sentencing a juvenile or in committing a juvenile to the department of human services.
- 19-2-909. **[Formerly 19-2-704] Commitment to department of human services.***
- 19-2-910. **[Formerly 19-2-1103] Juveniles committed to the department of human services - evaluation and placement.***
- 19-2-911. **[Formerly 19-2-1104] Juveniles committed to the department of human services - transfers.***
- 19-2-912. **[Formerly 19-2-1607] Juveniles committed to department of human services - emergency release.***

- 19-2-913. **[Formerly 19-2-705] Probation - terms - release - revocation.** Deletes the requirement that the court review juveniles on probation every 6 months.
- 19-2-914. **[Formerly 19-2-1002] Juvenile probation officers - powers and duties.***

**PART 10
POSTSENTENCE**

- 19-2-1001. **Short title.** Identifies part 10 as postsentence.
- 19-2-1002. **[Formerly 19-2-1202 and 19-2-1207] Juvenile parole board - powers and duties - hearing panels.***
- 19-2-1003. **[Formerly 19-2-1205] Division of juvenile parole - powers - duties.***
- 19-2-1004. **[Formerly 19-2-1206 and 19-2-1203 (2)] Parole violation and revocation.***

Section 2: Prohibits a municipal court from sentencing a juvenile to a state-operated detention facility. Requires the municipal court to consider placing a juvenile in an appropriate community program available within the judicial district.

Section 3: Makes a conforming amendment to the existing statute of limitation.

Section 4: Adds a child who is under the age of 10 who has committed an act that would constitute a delinquent act to the definition of "dependent or neglected".

Sections 5 to 9: Repeal compulsory education.

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

SECTION 1. Article 2 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended, WITH THE RELOCATION OF PROVISIONS, to read:

ARTICLE 2

The Colorado Juvenile Justice System

PART 1

GENERAL PROVISIONS

19-2-101. **Short title.** THIS PART 1 SHALL BE KNOWN AND MAY BE CITED AS "GENERAL PROVISIONS".

19-2-102. [Formerly 19-2-101, 19-2-705.5 (6), 19-2-204 (4)(e)(II), and 19-2-1302 (1) and (2).] **Definitions.** As used in this article, unless the context otherwise requires:

(1) ~~With respect to a juvenile who has been found guilty of a delinquent act and is a juvenile delinquent,~~ "Adjudication" means conviction when a previous conviction must be pled and proved as an element of an offense WITH RESPECT TO A JUVENILE WHO HAS BEEN FOUND GUILTY OF A DELINQUENT ACT AND IS A JUVENILE DELINQUENT.

(2) "Basic identification information" means the name, ~~birth date~~ 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, ~~and~~ fingerprints AND PALMPRINTS, AND ANY KNOWN ALIASES of any person.

(3) "Commit" means to transfer legal custody.

(4) "Cost of care" means the cost to the department or the county charged with the custody of the juvenile for providing room, board, clothing, education, medical care, and other normal living expenses to a juvenile who is sentenced to a placement out of the home, as determined by the court.

(4) (5) "Delinquent act" means a violation of any statute, ordinance, or order enumerated in section ~~19-2-102 (1) (a)~~ 19-2-103 (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 ~~which~~ THAT the petition alleges was violated.

(5) (6) "Diagnostic and evaluation center" means a facility for the examination and study of persons committed to the custody of the department of human services.

(7) (a) "Estate" 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 this ~~section~~ ARTICLE.

(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 this ~~section~~ ARTICLE.

(8) ~~For the purposes of this paragraph (c), unless the context otherwise requires,~~ "Gang" 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.

~~(6)~~ (9) "Halfway house" means a group care facility for juveniles who have been placed on probation or parole under the terms of this title.

(10) "INTAKE TEAM" MEANS A SEPARATE GROUP OF PERSONS FOR EACH JUDICIAL DISTRICT IN THIS STATE, WHICH GROUP IS ESTABLISHED IN ACCORDANCE WITH SECTION 19-2-204 (1) AND CONSISTS OF MULTIDISCIPLINARY REPRESENTATIVES FROM ORGANIZATIONS RESPONSIBLE FOR JUVENILES SUBJECT TO THIS ARTICLE. THE "INTAKE TEAM" PERFORMS JUVENILE INTAKE FUNCTIONS IN ACCORDANCE WITH SECTION 19-2-204 (2).

~~(7)~~ (11) "Juvenile" means a child as defined in section 19-1-1032.

(12) "Juvenile community review board" means any board appointed by a board of county commissioners for the purpose of reviewing community placements under this ~~part 13~~ ARTICLE. 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~~ OFFICE of youth services, and private citizens.

~~(8)~~ (13) "Juvenile delinquent" means a juvenile who has been found guilty of a delinquent act.

~~(9)~~ (14) "Receiving center" 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.

(15) "Residential community placement" 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 child is under the jurisdiction of the juvenile parole board.

~~(10)~~ (16) "Sentencing hearing" 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 ~~which~~ THAT includes the adjudicatory trial, or it may be held at a time subsequent to the adjudicatory trial.

(17) "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.

(14) (18) "Training school" 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.

19-2-103. [Formerly 19-2-102.] 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) Any federal or state law, except nonfelony state traffic, game and fish, and parks and recreation laws or regulations, the offenses specified in section 18-13-121, C.R.S., concerning tobacco products, and the offense specified in section 18-13-122, C.R.S., concerning the illegal possession or consumption of ethyl alcohol by an underage person;

(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 ~~19-2-806~~ 19-2-520 applies.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, THE JUVENILE COURT SHALL HAVE JURISDICTION IN PROCEEDINGS CONCERNING A JUVENILE WHO IS ALLEGED TO HAVE COMMITTED A NONFELONY VIOLATION UNDER TITLE 42, C.R.S., WHEN THE JUVENILE IS ALSO CHARGED WITH COMMITTING AN OFFENSE SPECIFIED IN SUBSECTION (1) OF THIS SECTION THAT IS RELATED TO THE ALLEGED VIOLATION UNDER TITLE 42, C.R.S.

(2) (3) The juvenile court shall have limited jurisdiction in matters to which section ~~19-2-805~~ 19-2-519 applies.

(3) (4) 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) (5) 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

JUVENILE JUSTICE

is transferred to the juvenile court from the county court. Such a transfer shall be subject to approval by the juvenile court.

~~(4.5)~~ (6) 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, C.R.S.; except that, if the juvenile court accepts jurisdiction over such a juvenile, the county court jurisdiction shall terminate.

~~(5)~~ (7) 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 ~~which~~ 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.

~~(6)~~ (8) 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.

19-2-104. [Formerly 19-2-103.] Venue. (1) 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. 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 after findings of fact but prior to adjudication and sentencing. The court may also transfer venue to the court of the county of the juvenile's residence after sentencing for the purposes of supervision. A TRANSFER OF VENUE MAY NOT BE REJECTED FOR ANY REASON EXCEPT WHERE VENUE WOULD BE IMPROPER.

(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.

19-2-105. [Formerly 19-2-104.] Representation of petitioner. In all matters under this article, the petitioner shall be represented by the district attorney.

19-2-106. Statute of limitations. (1) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1) OR AS OTHERWISE PROVIDED BY STATUTE APPLICABLE TO SPECIFIC OFFENSES OR CIRCUMSTANCES, NO JUVENILE

SHALL BE PROSECUTED, TRIED, OR PUNISHED FOR ANY OFFENSE UNLESS THE PETITION IS FILED IN A COURT OF COMPETENT JURISDICTION OR A SUMMONS IS SERVED UPON THE JUVENILE WITHIN EIGHTEEN MONTHS AFTER THE COMMISSION OF THE OFFENSE.

(b) EXCEPT AS OTHERWISE PROVIDED BY STATUTE APPLICABLE TO SPECIFIC OFFENSES OR CIRCUMSTANCES, NO JUVENILE SHALL BE PROSECUTED, TRIED, OR PUNISHED FOR ANY CLASS 1 OR CLASS 2 FELONY OR ANY OFFENSE SPECIFIED IN PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S., UNLESS THE PETITION IS FILED IN A COURT OF COMPETENT JURISDICTION OR A SUMMONS IS SERVED UPON THE JUVENILE WITHIN THE TIME SPECIFIED FOR PROSECUTING ADULTS IN SECTION 16-5-401, C.R.S.

(2) THE TIME LIMITATIONS IMPOSED BY THIS SECTION SHALL BE TOLLED IF THE JUVENILE IS ABSENT FROM THE STATE OF COLORADO. THE DURATION OF SUCH ABSENCE, NOT TO EXCEED FIVE YEARS, SHALL BE EXCLUDED FROM THE COMPUTATION OF THE TIME IN WHICH ANY PETITION MUST OTHERWISE BE FILED.

(3) THE PERIOD IN WHICH A PROSECUTION MUST BE COMMENCED DOES NOT INCLUDE ANY PERIOD IN WHICH A PROSECUTION IS PENDING AGAINST THE JUVENILE FOR THE SAME CONDUCT, EVEN IF THE PETITION THAT COMMENCES THE PROSECUTION IS QUASHED OR THE PROCEEDINGS THEREON ARE SET ASIDE OR ARE REVERSED ON APPEAL.

(4) WHEN AN OFFENSE IS BASED ON A SERIES OF ACTS PERFORMED AT DIFFERENT TIMES, THE PERIOD OF LIMITATION PRESCRIBED BY THIS SECTION STARTS AT THE TIME WHEN THE LAST ACT IS COMMITTED.

19-2-107. [Formerly 19-2-501.] Right to jury trial. (1) The juvenile or the district attorney may demand a trial by a jury of not more than six persons except as provided in ~~section 19-2-804 (4) (a)~~ SECTION 19-2-601, 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~~ THAT is a class 2 or class 3 misdemeanor, a petty offense, a violation of a municipal or county ordinance, or a violation of a court order if, prior to the trial and with the approval of the court, the district attorney has waived in writing the right to seek a commitment to the department of human services or a sentence to the county jail.

(3) Unless a jury is demanded pursuant to subsection (1) of this section, it shall be deemed waived.

19-2-108. [Formerly 19-2-502.] Speedy trial - procedural schedule - sanctions. (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 19-2-509

(3) (a) (I);

(b) FILING THE PETITION, AS SPECIFIED IN SECTION 19-2-509 (3) (a) (V);

(c) SETTING THE FIRST APPEARANCE, AS SPECIFIED IN SECTION 19-2-516 (4);

AND

(d) HOLDING THE ADJUDICATION HEARING, AS SPECIFIED IN SECTION 19-2-708 (1).

(3) FAILURE TO MEET ANY OF THE DEADLINES SPECIFIED IN SUBSECTION (2) OF THIS SECTION SHALL RESULT IN DISMISSAL OF THE ACTION, WITH PREJUDICE. THE COURT MAY GRANT A CONTINUANCE WITH REGARD TO ANY OF THE DEADLINES SPECIFIED IN SUBSECTION (2) OF THIS SECTION UPON MAKING A WRITTEN FINDING OF GOOD CAUSE.

19-2-109. [Formerly 19-2-401.] 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 section ~~19-2-501~~ 19-2-107, and 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 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 the work of the court, including persons whom the district attorney, the juvenile, or his parents or guardian wish to be present.~~

(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 TO ATTEND A PROCEEDING CONCERNING THE JUVENILE MAY SUBJECT THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN TO CONTEMPT SANCTIONS.

19-2-110. [Formerly 19-2-904.] 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

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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.

19-2-111. [Formerly 19-2-903.] 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.

19-2-112. [Formerly 19-2-707.] 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 ~~which~~ 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.

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 TO ATTEND ANY PROCEEDING CONCERNING THE JUVENILE.

(b) IN ORDERING A TREATMENT PLAN FOR ANY JUVENILE ADJUDICATED PURSUANT TO THIS ARTICLE, THE COURT MAY SPECIFY ITS EXPECTATIONS FOR THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN.

(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 SHALL INCLUDE REQUIREMENTS TO BE IMPOSED ON THE JUVENILE'S PARENT. 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 THE PARENT'S OTHER CHILDREN REQUIRED BY THE COURT.

(c) ANY PARENT 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 PLAN WHERE THE PARENT IS A VICTIM OF THE JUVENILE'S OFFENSE.

19-2-114. [Formerly 19-2-705.5 (1) to (5).] Cost of care.

(1) 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 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.

(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 ~~which~~ 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) If the court finds, after a 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 may absolve such parent of accountability for cost of care under subsection (1) of this section.

(5) Liability for cost of care of a juvenile by such juvenile's parent under subsection (1) of this section shall be limited to a maximum of ten thousand dollars.

JUVENILE JUSTICE ADMINISTRATION

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".

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 SET FORTH IN SECTION 19-2-908.

19-2-203. Office of youth services - created. THERE IS HEREBY CREATED WITHIN THE DEPARTMENT OF HUMAN SERVICES A DIVISION CALLED THE OFFICE OF YOUTH SERVICES, THE HEAD OF WHICH SHALL BE THE DIRECTOR OF THE OFFICE OF YOUTH SERVICES. THE DIRECTOR SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES 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 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, C.R.S.

19-2-204. Juvenile assessment and intake program - created - duties - authority to contract. (1) EACH JUDICIAL DISTRICT SHALL ESTABLISH A JUVENILE ASSESSMENT AND INTAKE PROGRAM FOR JUVENILES TAKEN INTO CUSTODY IN THE JUDICIAL DISTRICT. IN EACH PROGRAM, THE CHIEF JUDGE FOR THE JUDICIAL DISTRICT SHALL APPOINT AN INTERDISCIPLINARY INTAKE TEAM THAT CONSISTS OF ____ REPRESENTATIVES FROM EACH OF THE AGENCIES THAT SERVE JUVENILE DELINQUENTS. AT A MINIMUM, THE INTAKE TEAM SHALL INCLUDE REPRESENTATIVES FROM THE FOLLOWING AGENCIES THAT PROVIDE THE FOLLOWING SERVICES:

- (a) SOCIAL SERVICES;
- (b) EDUCATION, INCLUDING LOCAL SCHOOL DISTRICTS WITHIN THE JUDICIAL DISTRICT;
- (c) HEALTH AND MENTAL HEALTH;
- (d) JOB TRAINING;

(e) LAW ENFORCEMENT, INCLUDING PEACE, PROBATION, AND PAROLE OFFICERS.

(2) THE INTAKE TEAM FOR EACH JUDICIAL DISTRICT SHALL PERFORM THE FOLLOWING FUNCTIONS:

(a) MAKE AVAILABLE, ON A TWENTY-FOUR HOUR BASIS, AN INITIAL INTAKE ASSESSMENT FOR ANY JUVENILE TAKEN INTO CUSTODY BY LAW ENFORCEMENT PURSUANT TO SECTION 19-2-508 TO DETERMINE WHETHER THE JUVENILE SHOULD REMAIN IN CUSTODY OR BE RETURNED HOME; AND

(b) PREPARE AN ASSESSMENT AND TREATMENT PLAN FOR EACH JUVENILE TAKEN INTO CUSTODY TO SUBMIT TO THE COURT AND THE DISTRICT ATTORNEY WITHIN FORTY-EIGHT HOURS AFTER THE JUVENILE HAS BEEN TAKEN INTO CUSTODY.

(3) (a) THE INTAKE TEAM SHALL APPLY THE DETENTION CRITERIA SPECIFIED IN SECTION 19-2-510 IN DETERMINING WHETHER TO DETAIN OR RELEASE A JUVENILE PURSUANT TO THIS SECTION.

(b) IF, FOLLOWING THE ASSESSMENT, THE INTAKE TEAM DETERMINES THAT THE JUVENILE MAY BE RELEASED, THE INTAKE TEAM, IF AUTHORIZED BY THE CHIEF JUDGE OF THE JUDICIAL DISTRICT, MAY RELEASE THE JUVENILE ON BOND, IN ACCORDANCE WITH THE JUVENILE BOND SCHEDULE ESTABLISHED BY THE CHIEF JUDGE OF THE JUDICIAL DISTRICT UNDER SECTION 19-2-511 (7).

(4) EACH INTAKE TEAM MAY CONTRACT WITH ANY PUBLIC OR PRIVATE ENTITY TO PERFORM THE ASSESSMENT FUNCTION REQUIRED PURSUANT TO THIS SECTION. ANY CONTRACT ENTERED INTO SHALL BE SUBJECT TO APPROVAL OF THE CHIEF JUDGE OF THE JUDICIAL DISTRICT.

19-2-205. [Formerly 19-2-1001.] 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 19-2-914 AND SHALL HAVE THE POWERS OF PEACE OFFICERS, LEVEL Ia, AS DEFINED IN SECTION 18-1-901 (3) (I) (II), C.R.S.

(3) Upon the agreement of the juvenile court judges, the approval of the chief judge in each district, 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 nonprofit agencies, or with other juvenile courts

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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.

19-2-206. [Formerly 19-2-1111 except (2)(d)(II).] Facility directors - duties. (1) A director of each state-operated facility established by ~~section 19-2-1101 and sections 19-2-1106 to 19-2-1108~~ SECTION 19-2-403 AND SECTIONS 19-2-406 TO 19-2-408 shall be appointed by the executive director of the department of human services 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 19-2-1101 and sections 19-2-1106 to 19-2-1108~~ 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 ~~subject to limitations on physical capacity and programs, all~~ 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 ~~his~~ THE JUVENILE'S transfer to another facility should be recommended to the said director, or whether ~~his~~ THE JUVENILE'S release should be recommended to the juvenile parole board;

(d) ~~(f) Wherever possible,~~ To take such measures as are ~~reasonably~~ necessary to prevent recruitment of new gang members from among the juveniles committed to the custody of the department of human services.

19-2-207. [Formerly 19-2-1201.] Juvenile parole board - creation - membership. (1) There is hereby created a juvenile parole board, referred to in this ~~part 12~~ SECTION AND SECTION 19-2-208 as the "board", to consist of seven members appointed by the governor and confirmed by the senate. The governor shall appoint members to this board immediately after June 7, 1989, and such members may serve temporarily until such members are confirmed by the senate in the regular session of the general assembly beginning in January of 1990 or at any special session prior to that regular session.

(2) All seven members shall be voting members, and, of the seven 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;
- (e) One member shall be a local elected official; and
- (f) Two 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 ~~chairman~~ CHAIRPERSON.

(4) The full board shall meet not less than once a month, and the presence of four members, at least one of whom is one of the members described in paragraph (e) or (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 said expenses, the two citizen board members and the local elected official member shall receive a per diem of one hundred fifty dollars per 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.

19-2-208. [Formerly 19-2-1202 (1).] Juvenile parole board - authority. The board shall have the authority to 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 ~~19-2-703~~ 19-2-907 in such a manner as is in the best interests of the juvenile and the public. The board shall promulgate rules and regulations ~~which~~ THAT establish criteria under which its parole decisions are made. THE BOARD SHALL HAVE THE DUTIES AND RESPONSIBILITIES SPECIFIED IN PART 10 OF THIS ARTICLE.

19-2-209. [Formerly 19-2-1203 (1).] Administrative law judges. An administrative law judge shall assist any hearing panel ~~which~~ OF THE JUVENILE PAROLE BOARD THAT is considering the suspension, modification, or revocation of the parole of a juvenile.

19-2-210. [Formerly 19-2-1204.] Division of juvenile parole - organization. (1) There is hereby established in the department of human services a division of juvenile parole, under the direction of the director of juvenile parole, who shall be appointed by the executive director of the



department of human services pursuant to section 13 of article XII of the state constitution.

(2) The division of juvenile parole shall include the director of juvenile parole and all juvenile parole officers appointed under this section. Such juvenile parole officers and other personnel shall be appointed by the director of juvenile parole pursuant to section 13 of article XII of the state constitution and with the consent of the department of human services. JUVENILE PAROLE OFFICERS SHALL HAVE THE POWERS AND DUTIES SPECIFIED IN PART 10 OF THIS ARTICLE AND SHALL HAVE THE POWERS OF PEACE OFFICERS, LEVEL Ia, AS DEFINED IN SECTION 18-1-901 (3) (I) (II), C.R.S.

(3) The director of juvenile parole shall establish districts in the state for the administration of juvenile parole. The number of districts and their size shall be determined with reference to the number of counties using parole services, their location, and the case load in each county. An office for the juvenile parole officer shall be provided in each district.

(4) The director of juvenile parole shall report to the director of THE OFFICE OF youth services in the department of human services at such times and on such matters as the executive director of the department may require.

(5) Publications of the division circulated in quantity outside the division are subject to the "Information Coordination Act", section 24-1-136, C.R.S.

19-2-211. [Formerly 19-2-1303, 19-2-1304, 19-2-1305.] **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 children under commitment to the department of human services. Upon the effective date of such resolution and notice to the department of human services, no child 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.

(2) Notification of any placement of a child 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 child in a residential community placement, the juvenile community review board shall review the case file of the child. It is the responsibility of the department of human services to provide accurate information regarding the child 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 child 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 child 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 child, 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 child 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 child and the legal custodian.

(4) No later than January 30, 1988, the department of human services shall submit a report to the general assembly describing the number of juvenile community review boards that have been established, the number of residential community programs, the number of children assigned to those programs, the number of children that have been rejected by the boards who subsequently required secure institutional care, and the rate of recidivism of those children as

compared with the recidivism rates for children placed into secure institutional programs.

~~19-2-1602.5. Transfer of appropriations between the department of social services and the department of human services. (Repealed)~~

19-2-212. [Formerly 19-2-1602.7.] 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 shall be created in such judicial district a local juvenile services planning committee ~~which~~ THAT shall be appointed by the chief judge of the judicial district 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, shall include but 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~~ OFFICE 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. Such plan shall be approved by the department of human services.



19-2-213. [Formerly 19-2-1602 and 19-2-1605.] 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 which THAT shall carry out the following duties:

(a) ~~The working group established pursuant to this subsection (1) shall establish a set of criteria for both detention and commitment 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 19-2-204. 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. On and after July 1, 1992, the working group established pursuant to section 19-2-1602 (1) shall hold a meeting TO MEET once each year prior to January 1 to review and propose revision to the criteria created pursuant to section 19-2-1602 (1) (a) ESTABLISHED IN SECTIONS 19-2-510 AND 19-2-908 and the formula created pursuant to section 19-2-1602 (1) (b) PARAGRAPH (b) OF THIS SUBSECTION (1). At such meeting, the working group shall review any changes in the criteria or AND the formula and the report of such changes shall be made RECOMMEND CHANGES to the general assembly on or before January 1 DECEMBER 1 of each year.~~

(b) ~~The working group established pursuant to this subsection (1) shall 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. ~~The working group shall propose such allocation formula in time for implementation on or before July 1, 1992. A written report shall be made to the general assembly concerning such formula and the level of funding adequate for implementation of such formula on or before such date.~~

(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.

~~19-2-1606. Department of institutions — establishment of pilot programs.~~
~~(Repealed)~~

19-2-214. [Formerly 19-2-1402.] Local board for parental training program. (1) (a) The chief judge in each judicial district shall appoint a local board ~~which~~ THAT shall certify and monitor parental responsibility training programs for persons subject to the provisions of section ~~19-2-703 (1) (I) (II)~~ 19-2-907 (1) (i) (I) (B).

(b) Said board shall consist of eight members: One member from the family education field; one member from law enforcement; one member from a prosecutor's office; two members from the probation department; one member from the community at large; one member from the mental health profession; and one member from the state department of human services or the county department of social services. The board should reflect the ethnic composition of the community in which it is located.

(c) One-half of the board members shall be reappointed every two years, and the board shall meet at least quarterly. No board member shall have a pecuniary interest in the training program or the services provided in connection therewith.

(2) (a) The board shall certify such training programs according to the program's compliance with the standards and guidelines established pursuant to section ~~19-2-1401~~ 19-2-305. All certified training programs shall be reviewed by the board annually.

(b) The board shall receive complaints and grievances regarding training programs and shall make recommendations to the chief judge as to continued certification of the program.

(c) All information concerning a person received by the board in the process of a certification, a complaint, or a grievance shall be held in strictest confidence by the board.



(d) The board and its individual members shall be immune from any liability, civil or criminal, and from termination of employment for the good faith performance of their duties as specified in this subsection (2).

(e) The chairperson of each local board shall report to the general assembly prior to January 1, 1991, regarding the certified training programs in the judicial district, efforts to monitor such training programs, and the outcome of such training programs.

(3) Any person who is sentenced to a training program pursuant to section 19-2-703-(4)-(f) shall pay a fee covering the cost of such training program, which cost shall not exceed two hundred fifty dollars.

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".

19-2-302. [Formerly 19-2-205.5.] 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, which criteria shall be established in accordance with section

19-2-1602. Upon evaluation, the service agency shall make a recommendation to the court concerning placement of the juvenile with a preadjudication service program.

(2) (1) 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 19-2-1602-7 19-2-212.

(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 in accordance with section 19-2-1602, 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) (2) 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 monitoring of the juvenile; or
- (i) Work release for the juvenile, if school attendance is not applicable or appropriate under the circumstances.

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 to provide community-based alternatives to the formal court system that will reduce juvenile crime and recidivism, change juvenile offenders' behavior and attitudes, and reduce the costs within the juvenile justice system.

(2) The division of criminal justice in the department of public safety is authorized to establish and administer a juvenile diversion program. 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 ~~19-2-304~~ 19-2-514, an adjudicatory hearing pursuant to section ~~19-3-505~~ PART 8 OF THIS ARTICLE, or dispositions of a juvenile delinquent pursuant to section ~~19-2-703~~ 19-2-907.

(3) As used in this section, unless the context otherwise requires:

(a) "Director" means the executive director of the department of public safety.

~~(a.5)~~ (b) "Diversion" has the same meaning as that set forth in section 19-1-103 (11.5).

~~(b)~~ (c) "Governmental unit" means any county, city and county, city, town, judicial district attorney office, or school district.

~~(e)~~ (d) "Nongovernmental agency" means any person, private nonprofit agency, corporation, association, or other nongovernmental agency.

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~~(d)~~ (e) "Services" 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, and follow-up activities.

~~(4) Repealed.~~

~~(5)~~ (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) Show community support of the project 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.

~~(6)~~ (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 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.

~~(7)~~ ~~(a)~~ (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 ~~insure~~ ENSURE that progress is being made to accomplish the objectives of this section.

~~(8) Repealed.~~

19-2-304. Juvenile probation and parole combined services - pilot program authorized - annual report - repeal. (1) ON OR BEFORE OCTOBER 1, 1996, THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT, IN CONSULTATION WITH THE DEPARTMENT OF HUMAN SERVICES, SHALL SELECT THREE URBAN JUDICIAL DISTRICTS AND TWO RURAL JUDICIAL DISTRICTS TO PARTICIPATE IN A JUVENILE PAROLE AND PROBATION SUPERVISION PILOT PROGRAM. ANY JUDICIAL DISTRICT THAT WISHES TO PARTICIPATE IN THE PILOT PROGRAM SHALL APPLY FOR CONSIDERATION BY SUBMITTING TO THE STATE JUDICIAL DEPARTMENT A LETTER OF INTENT TO PARTICIPATE.

(2) A JUDICIAL DISTRICT PARTICIPATING IN THE JUVENILE PAROLE AND PROBATION SUPERVISION PILOT PROGRAM SHALL ESTABLISH AND OPERATE, EITHER DIRECTLY OR BY CONTRACTING WITH ONE OR MORE PRIVATE ORGANIZATIONS, A PROGRAM FOR SUPERVISION OF JUVENILES SENTENCED TO PROBATION UNDER SECTION 19-2-907 OR RELEASED ON PAROLE PURSUANT TO SECTION 19-2-1002. A PARTICIPATING JUDICIAL DISTRICT MAY ESTABLISH AND OPERATE THE PROGRAM

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ALONE OR IN COMBINATION WITH ONE OR MORE ADJOINING JUDICIAL DISTRICTS THAT ARE PARTICIPATING IN THE PILOT PROGRAM.

(3) EACH JUVENILE PAROLE AND PROBATION SUPERVISION PROGRAM ESTABLISHED UNDER THIS SECTION AT A MINIMUM SHALL INCLUDE THE FOLLOWING:

(a) PROVISIONS FOR THE APPOINTMENT AND SUPERVISION OF PAROLE AND PROBATION OFFICERS BY THE JUDICIAL DISTRICT; AND

(b) SPECIFICATION OF THE POWERS AND DUTIES OF PAROLE AND PROBATION OFFICERS IN ACCORDANCE WITH THE POWERS AND DUTIES SPECIFIED IN PART 10 OF THIS ARTICLE AND SECTION 19-2-914, RESPECTIVELY.

(4) EACH JUDICIAL DISTRICT PARTICIPATING IN THE PILOT PROGRAM PURSUANT TO THIS SECTION SHALL SUBMIT TO THE DEPARTMENT OF HUMAN SERVICES AND TO THE JUDICIAL DEPARTMENT A PLAN FOR A JUVENILE PAROLE AND PROBATION SUPERVISION PROGRAM WITHIN THE JUDICIAL DISTRICT. THE PLAN SHALL BE SUBJECT TO APPROVAL BY SAID DEPARTMENTS.

(5) THE JUVENILE PROBATION AND PAROLE SUPERVISION PROGRAMS IMPLEMENTED PURSUANT TO THIS SECTION SHALL NOT INCLUDE PROVISIONS FOR SUPERVISION OF JUVENILES SENTENCED TO THE DEPARTMENT OF CORRECTIONS.

(6) ON OR BEFORE MARCH 1, 1997, AND ON OR BEFORE EACH MARCH 1 THEREAFTER, THE JUDICIAL DEPARTMENT SHALL SUBMIT TO THE JUDICIARY COMMITTEES OF THE GENERAL ASSEMBLY A REPORT CONCERNING THE

IMPLEMENTATION OF THE PILOT PROGRAM AUTHORIZED PURSUANT TO THIS SECTION. AT A MINIMUM, THE REPORT SHALL SPECIFY THE PARTICIPATING JUDICIAL DISTRICTS AND THE NUMBER OF OFFENDERS INVOLVED IN THE PROGRAMS.

(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1999.

19-2-305. [Formerly 19-2-1401.] 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 ~~which~~ 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

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government and each of the state departments described in subsection (1) of this section.

19-2-306. [Formerly 19-2-705.6.] Intensive family preservation program - adjudicated juveniles - legislative declaration - financing for program - cash fund created - report - repeal. (1) (a) The general assembly declares that juvenile delinquency and violence is a pressing issue in need of resolution. Many adjudicated juveniles are sentenced or committed to the department of human services, are otherwise placed in the legal custody of the department of human services and placed out of the home, or are at imminent risk of being placed out of the home, and, after serving a sentence or commitment or after placement out of the home, return to dysfunctional families where the cycle of delinquency and violence often originates. The general assembly further declares that, when a juvenile has not learned self-discipline and self-respect, effective methods of communication, and respect for the rights and property of others, it becomes necessary to make programs available that foster those attributes. However, it is not the duty of the state of Colorado to adopt the parental role when a parent is capable of learning and teaching these behaviors. It is fiscally irresponsible and detrimental to our society as a whole for the state to take on family responsibilities when it is not absolutely necessary.

(b) The general assembly further finds that the provision of properly targeted intensive family preservation services that are family-focused,

skills-based, goal-driven, and cost-efficient is likely to result in the improvement of family functioning and provides the necessary training for an adjudicated juvenile to successfully remain with or reintegrate into his or her family, thereby allowing the state to use alternatives to institutionalization or out-of-home placements followed by an adjudicated juvenile's reintegration into a family. It is for this purpose that the general assembly has enacted this section.

(2) (a) On or before October 1, 1994, the chief justice of the Colorado supreme court, in consultation with the Colorado foundation for families and children and the department of human services, shall select two urban judicial districts and one rural judicial district to participate in a three-year intensive family preservation pilot program to provide intensive family preservation services for adjudicated juveniles. At least two ~~division~~ OFFICE of youth services regions shall be included in the judicial districts selected for the pilot program. The pilot program is for adjudicated juveniles described in subparagraphs (I) to (III) of paragraph (c) of this subsection (2) from the judicial districts participating in the pilot program who are subject to sentencing in accordance with section ~~19-2-703~~ 19-2-907.

(b) Any judicial district that wishes to participate in the pilot program shall apply for consideration by submitting to the state judicial department a letter of intent to participate. A judicial district's letter shall include:

(I) Statements by the affected county departments of social services, the chief judge of the judicial district, the placement alternative commissions for affected counties, and the local juvenile services planning committee for the judicial district, which statements indicate the willingness of such entities to participate in the pilot program; and

(II) A commitment by the judicial district to expend a portion of moneys allocated to the judicial district pursuant to section ~~19-2-1603~~ 19-2-311 and a portion of moneys allocated to the judicial district by the state judicial department for juvenile services to implement a plan for adjudicated juveniles who, as a condition of probation, will be required to participate in the intensive family preservation pilot program. The department of human services and the state judicial department shall develop a plan that is consistent with the criteria set forth in section ~~19-2-1602~~ 19-2-908 no later than December 1, 1994. The judicial district shall commit to implement the plan as part of the intensive family preservation pilot program no later than July 1, 1995.

(c) The juvenile may be placed in the pilot program, as follows:

(I) (A) On and after July 1, 1995, by the court in sentencing the adjudicated juvenile, if the court finds that the adjudicated juvenile would benefit from the family preservation services described in subsection (4) of this section instead of being sentenced or committed to the department of human services. The court shall follow a recommendation made by a juvenile probation officer

in a social study and report submitted in accordance with section 19-1-107 for an adjudicated juvenile to participate in the pilot program as a condition of probation.

(B) As a part of the social study and report prepared in accordance with section 19-1-107, a juvenile probation officer shall determine whether an adjudicated juvenile who may be sentenced pursuant to section ~~19-2-703~~ 19-2-907, including any juvenile who may be sentenced pursuant to section ~~19-2-805~~ ~~(2)~~(e) 19-2-519 (2) (c), can benefit from participation in an intensive family preservation pilot program as a condition of probation. If the juvenile probation officer determines that the interests of the adjudicated juvenile and the community are best served by the juvenile's participation in the program, the juvenile probation officer shall make that recommendation to the court.

(II) (A) By the court in placing the juvenile under the supervision of the county department of social services as an alternative to placing the juvenile in the legal custody of the department of human services and out of the juvenile's home, if the court finds that the juvenile would benefit from the family preservation services described in subsection (4) of this section. The court shall follow a recommendation made by the county department of social services in a social study and report submitted in accordance with section 19-1-107 for an adjudicated juvenile to participate in the pilot program under the county department's supervision.



(B) As a part of the social study and report prepared in accordance with section 19-1-107, the county department of social services shall determine whether an adjudicated juvenile who may be sentenced pursuant to section ~~19-2-703~~ 19-2-907, including any juvenile sentenced pursuant to section ~~19-2-805~~ ~~(2)-(e)~~ 19-2-519 (2) (c), who might otherwise be placed in the legal custody of the county department of social services, can benefit from participation in an intensive family preservation pilot program under the supervision of the county department. If the county department determines that the interests of the adjudicated juvenile and the community are best served by the juvenile's participation in the program, the county department shall make that recommendation to the court.

(III) By the juvenile parole board under whose supervision a juvenile is paroled, if the board determines that the juvenile will benefit from imposing as a condition of parole that the juvenile participate in the intensive family preservation pilot program.

(d) Placement in the intensive family preservation pilot program pursuant to paragraph (c) of this subsection (2) may be made only when:

(I) It appears satisfactory to the court and the state judicial department, the county department of social services, or the juvenile parole board, as applicable, that the ends of justice and the best interests of the public, as well as the juvenile, will be served;

(II) The juvenile otherwise meets family preservation eligibility criteria established by the department of human services, probation criteria established by the state judicial department, or parole eligibility criteria established by the juvenile parole board, as applicable;

(III) With respect to juveniles committed to the department of human services, family preservation services are essential to a successful parole program for the juvenile; and

(IV) The juvenile and the appropriate members of the juvenile's family voluntarily agree to participate in the program.

(e) If, at any time, a juvenile fails to cooperate or participate in the program, the conditions of the juvenile's probation or parole may be modified, the juvenile's probation or parole may be revoked, or a juvenile under the supervision of the county department of social services may be returned to the court for out-of-home placement.

(3) A juvenile adjudicated for an act that would constitute a class 1 or 2 felony if such act were committed by an adult and who has been placed on probation as a result of such conviction is prohibited from participating in the pilot program.

(4) (a) The executive director of the department of human services, in consultation with the state judicial department, shall develop and implement an

intensive family preservation pilot program for adjudicated juveniles, which program includes, but need not be limited to, the following:

(I) Services ~~which~~ THAT focus on family strengths and empowering the family through alternative problem-solving techniques, child-rearing practices, responses to living situations that create stress upon the family, and resources that are available as support systems for the family;

(II) Crisis intervention, including in-home counseling, by a family development specialist, which intervention shall be available on a twenty-four-hour basis;

(III) Concentrated assistance in the development and enhancement of parenting skills, stress reduction, and problem-solving from a family development specialist who shall carry a caseload consisting of no more than two families;

(IV) Individualized and group counseling.

(b) For purposes of this section, "family development specialist" shall have the same meaning as set forth in section 26-5.5-104 (4) (b), C.R.S.

(c) The executive director of the department of human services may contract with any public or private entity in providing the services described in this section. Priority shall be given to vendors with qualified and trained staff who provide the most geographically and culturally relevant services.

(5) Adjudicated juveniles who meet one of the following conditions are the targeted population for the intensive family preservation pilot program:

(a) Juveniles who are parents whose parental rights have not been terminated pursuant to this title;

(b) Juveniles with one or more juvenile siblings living at the home of the juvenile's parent or guardian; or

(c) Juveniles who are seventeen years of age or younger.

(6) The department of human services, in consultation with the state judicial department, shall contract with an independent entity to evaluate annually the progress of the pilot program. The department of human services, in consultation with the state judicial department, shall submit a report to the general assembly on or before December 1, 1995, and on or before the first of December each subsequent year, on the effectiveness of the program. The department shall base its report on the independent evaluation and shall address the impact on recidivism and additional out-of-home placements for juveniles who participate in the pilot program, projected cost-savings and cost-avoidance, and the feasibility of implementing the intensive family preservation program for juveniles statewide.

(7) This section is repealed, effective July 1, 1998.

19-2-307. [Formerly 19-2-1501.] 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 ~~19-2-1502 (2)~~ 19-2-308 (2).

19-2-308. [Formerly 19-2-1502.] Juvenile intensive supervision program - elements. (1) The juvenile intensive supervision program created by section ~~19-2-1501~~ 19-2-307 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 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 shall be assisted in developing assessment criteria for placement in the juvenile intensive supervision program judicial department guidelines for implementation of the program and measurement of the outcome of the program by a juvenile intensive supervision advisory committee. Such advisory committee shall be appointed by the state court administrator and shall include, but shall not be limited to, representatives of the ~~division~~ OFFICE of youth services in the department of human services and the division of criminal justice in the department of public safety.

~~**19-2-1503. Pilot program report to general assembly. (Repealed)**~~

19-2-309. [Formerly 19-2-706.] 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 ~~19-2-703 (4)~~ 19-2-907 (1) (i) (II) (B).

(3) With the written consent of the victim of the juvenile's delinquent act, the juvenile or both the juvenile and the custodial parent or 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 ~~which~~ 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.

19-2-310. [Formerly 19-2-708.] Regimented juvenile training program

- legislative declaration - repeal. (1) It is the intent of the general assembly that the program established pursuant to this section benefit the state by providing a two-phase regimented juvenile training program under which certain adjudicated juveniles are subject to a controlled and regimented environment that affirms dignity of self and respect for others; promotes the value of education, work, and self-discipline; and develops useful skills and abilities that can be applied when the juvenile is reintegrated into the community.

(2) (a) The department of human services, under contract with any private entity, shall establish, maintain, and operate a regimented juvenile training program. Juveniles eligible for participation in the program shall be assessed and deemed appropriate for the program by the department. The juveniles eligible for the program shall include ~~only~~ juveniles sentenced to the department

of human services ~~regardless of whether the sentence to the department is a direct sentence or~~ as a condition of probation.

(b) A juvenile may be ~~eliminated from~~ DENIED PARTICIPATION IN the program upon a determination by the department of human services that a physical or mental condition will prevent full participation in the program by such offender.

(3) The regimented juvenile training program shall consist of two phases, which shall be administered as follows:

(a) **Phase I:** A military-styled intensive physical training and discipline phase in a secure facility consisting of eighty beds for a period of sixty days and administered by the department of human services;

(b) **Phase II:** A community reintegration phase for eighty juveniles ~~which~~ THAT is administered by the judicial department, as follows:

(I) (A) If appropriate juvenile diversion services are available under a contract authorized by section 19-2-303 for the judicial district in which the juvenile resides, the judicial department shall contract with any governmental unit or nongovernmental agency providing services under such contract to provide diversion services similar to those provided under the contract. ~~and~~

(B) A juvenile in the regimented juvenile training program who resides in a judicial district described in sub-subparagraph (A) of this subparagraph (I) shall

be required to participate in a diversion program for a period to be determined by the judicial department.

(II) If diversion services described in sub-subparagraph (A) of subparagraph (I) of this paragraph (b) are not available in the judicial district in which the juvenile resides, the juvenile shall be subject to a period of supervision under the judicial department.

(III) In addition to the requirements set forth in subparagraphs (I) and (II) of this paragraph (b), juveniles shall be required to participate in a job training and educational component, as deemed appropriate by the judicial department. The educational component shall include classroom work comprised of basic academic ~~and/or~~ OR vocational instruction. THE DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE AFTER-CARE SERVICES TO JUVENILES DURING PHASE II OF THE PROGRAM, WHICH SERVICES MAY INCLUDE BUT NEED NOT BE LIMITED TO FAMILY PRESERVATION SERVICES, COUNSELING, SELF-SUFFICIENCY, AND COGNITIVE RESTRUCTURING.

(IV) In addition to the requirements set forth in subparagraphs (I) and (II) of this paragraph (b), if deemed appropriate by the judicial department, juveniles may be subject to electronic monitoring or may be placed in a community residential facility subject to an interdepartmental agreement between the judicial department and the department of human services; except that no more than sixty

juveniles shall be subject to electronic monitoring and no more than twenty juveniles shall be placed in a community residential facility.

(4) Whenever a juvenile fails to progress through or complete the initial phase of the regimented juvenile training program, the department of human services ~~may reassign the juvenile to a division of youth services facility~~ SHALL RETURN THE JUVENILE TO THE SENTENCING COURT FOR FURTHER DISPOSITION. In addition, whenever a juvenile fails to progress through or complete the second phase of the program, the department may return the juvenile to the first phase of the program for completion of all or part of it; except that a juvenile shall not be returned for participation in the initial phase more than once.

(5) The department of human services shall establish and enforce standards for EACH PHASE OF the regimented juvenile training program and each of the phases thereof described in subsection (3) of this section. Supportive services deemed necessary by the department of human services shall be made available under the phases of the regimented juvenile training program, as deemed appropriate by the department of human services.

(6) (a) On or before December 1, 1996, the department of human services shall submit a report evaluating the regimented juvenile training program to the governor, the speaker of the house of representatives, the president of the senate, and the joint budget committee of the general assembly.

(b) The report shall include the following determinations:



(I) Whether the courts are committing juveniles to the department of human services in anticipation of the juvenile being assigned to the regimented juvenile training program when such juvenile would better be placed in another division OFFICE of youth services facility or on probation; and

(II) Whether, as a result of being assigned to the regimented juvenile training program, juveniles in fact receive less serious sentences than similarly adjudicated juveniles, in terms of the type of delinquent act, juvenile history, and assessed needs, who were not assigned to such a program but were otherwise committed to the department of human services; and

(III) Whether bed savings to the department of human services are a result of the regimented juvenile training program; and

(IV) Whether juveniles placed in a regimented juvenile training program have a recidivism rate ~~which~~ THAT is equal to or less than that of similar adjudicated juveniles who were not placed in such program but were otherwise committed to the department of human services.

(7) This section is repealed, effective July 1, 1997.

19-2-311. [Formerly 19-2-1603.] Appropriations to department of human services for services to juveniles.

(1) ~~(Deleted by amendment, L. 93, p. 1553, § 12, effective July 1, 1993.)~~

(2) On and after July 1, 1993, the general assembly shall appropriate moneys for the provision of services to juveniles to the department of human

services which shall allocate such moneys by each judicial district in the state. Such appropriation and allocation shall be made based upon the formula developed in section ~~19-2-1602 (1) (b)~~ 19-2-213 (1) (b). The department of human services shall administer such appropriated moneys. The moneys appropriated to the department of human services for allocation by each judicial district shall be expended in such judicial district by the department of human services for services to juveniles ~~which~~ THAT may include, but shall not be limited to, intervention, treatment, supervision, lodging, assessment and bonding programs, and family services. If a judicial district has a local juvenile services planning committee, the expenditure of moneys for juvenile services in such judicial district shall be made in accordance with the plan developed pursuant to section ~~19-2-1602.7~~ 19-2-212.

PART 4

JUVENILE FACILITIES

19-2-401. Short title. THIS PART 4 SHALL BE KNOWN AND MAY BE CITED AS "JUVENILE FACILITIES".

19-2-402. [Formerly 19-2-1115.] Juvenile detention services and facilities to be provided by department of human services - education.

(1) (a) Detention services for temporary care of a juvenile, pursuant to this article, shall be provided by the department of human services, which shall consult on a regular basis with the court in any district where a detention facility

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is located concerning the detention program at that facility. THE DEPARTMENT 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 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.

(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) The school boards of the school districts ~~which~~ 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 for the proper education of such children as may be present in the juvenile detention facility.

~~(b) Repealed.~~

(e) (b) Effective January 1, 1988, the expenses incurred by a school district pursuant to paragraph (a) of this subsection (3) shall be shared and paid by each school district served in the proportion ~~which~~ THAT the school enrollment of each school district bears to the total school enrollment of all the districts served.

19-2-403. [Formerly 19-2-1101.] 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 ~~19-2-703~~ 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, ~~and~~ nonresidential transition programs, 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.

JUVENILE JUSTICE



(3) Once a juvenile is committed to the department of human services, he 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 12~~ PART 10 of this article, or a community placement is approved by a juvenile community review board, if one exists in the county of proposed placement.

19-2-404. Facilities - control and restraint - liability - duty to pursue runaways. (1) ANY FACILITY THAT HOUSES ADJUDICATED JUVENILES PURSUANT TO THIS ARTICLE WHETHER PUBLICLY OR PRIVATELY OPERATED FOR SHORT-TERM OR LONG-TERM COMMITMENT OR DETENTION IS AUTHORIZED TO RESPOND APPROPRIATELY TO ISSUES OF CONTROL AND RESTRAINT OF ADJUDICATED JUVENILES WHEN NECESSARY. EACH FACILITY SHALL ESTABLISH CLEARLY DEFINED POLICIES AND PROCEDURES FOR THE SHORT-TERM RESTRAINT AND CONTROL OF ADJUDICATED JUVENILES HOUSED WITHIN THE FACILITY.

(2) ANY FACILITY THAT HOUSES ADJUDICATED JUVENILES PURSUANT TO THIS ARTICLE AND ANY PERSON EMPLOYED BY SAID FACILITY SHALL NOT BE LIABLE FOR DAMAGES ARISING FROM ACTS COMMITTED IN THE GOOD FAITH IMPLEMENTATION OF THIS SECTION; EXCEPT THAT THE FACILITY AND ANY PERSON EMPLOYED BY THE FACILITY 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 PURSUE ANY ADJUDICATED JUVENILE HOUSED IN THE FACILITY WHO RUNS AWAY FROM THE FACILITY.

19-2-405. [Formerly 19-2-1102.] Receiving centers - designation.

(1) The department of human services shall designate receiving centers for juvenile delinquents committed to the department under section ~~19-2-703~~ 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.

19-2-406. [Formerly 19-2-1106.] 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 twelve years of age or older who have been committed to the custody of the department under section ~~19-2-703~~ 19-2-907.

19-2-407. [Formerly 19-2-1107.] 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 twelve years of age or older who have been committed to the custody of the department under section ~~19-2-703~~ 19-2-907.

19-2-408. [Formerly 19-2-1108.] Youth camps. ~~Youth camps may be established under the supervision and control of the department of human services and~~ 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 twelve years of age or older who have been committed to the custody of the department under section ~~19-2-703~~ 19-2-907.

19-2-409. [Formerly 19-2-1109.] 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 ~~19-2-1101, 19-2-1106, or 19-2-1107~~ 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.

19-2-410. [Formerly 19-2-1110.] 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 ~~part 11~~ 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.

19-2-411. [Formerly 19-2-1115.5.] 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.

19-2-412. [Formerly 19-2-1116.] 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.

19-2-413. [Formerly 19-2-1112.] Facility publications. Publications of any of the facilities established by ~~section 19-2-1101 and sections 19-2-1106 to 19-2-1108~~ 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.

19-2-414. [Formerly 19-2-1113.] 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 19-2-1101 and sections 19-2-1106 to 19-2-1108~~ 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 department OF HUMAN 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 it 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.

19-2-415. [Formerly 19-2-1114.] Fees for transporting children. 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 child committed under the provisions of section ~~19-2-703~~ 19-2-907 to facilities of the ~~division~~ OFFICE of youth services. All officers performing services under this ~~part 11~~ PART 4 shall 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.

19-2-416. [Formerly 19-2-1117.] 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 25-1-107 (1) (ee) (II.5) (B), C.R.S., in a manner consistent with section 25-1-107 (1) (ee), C.R.S.

THE DELINQUENCY PROCESS

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.

19-2-502. Offenses by children under ten years of age. IF A LAW ENFORCEMENT OFFICER, AFTER INVESTIGATION, DETERMINES THAT A CHILD UNDER THE AGE OF TEN YEARS HAS COMMITTED AN ACT THAT WOULD CONSTITUTE A DELINQUENT ACT IF THE CHILD WERE TEN YEARS OF AGE OR OLDER, THE OFFICER MAY REPORT THE COMMISSION OF THE ACT TO THE COUNTY DEPARTMENT OF SOCIAL SERVICES IN THE COUNTY IN WHICH THE CHILD RESIDES FOR INVESTIGATION INTO WHETHER THE CHILD IS NEGLECTED OR DEPENDENT.

19-2-503. [Formerly 19-2-201.] 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 ~~19-2-202~~ 19-2-504.

(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 he 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.

19-2-504. [Formerly 19-2-202.] 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 ~~19-2-204~~ (4) 19-2-509 (4) (d).

(2) Upon filing of a petition in the juvenile court, the district attorney may request a warrant to issue ~~which~~ 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.

19-2-505. [Formerly 19-2-206.] 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) ~~Which~~ THAT is stolen or embezzled; or
(b) ~~Which~~ THAT is designed or intended for use as a means of committing a delinquent act; or

(c) ~~Which~~ THAT is or has been used as a means of committing a delinquent act; or

(d) The possession of which is illegal; or

(e) ~~Which~~ 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) ~~Which~~ 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.

19-2-506. [Formerly 19-2-207.] 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.

19-2-507. [Formerly 19-2-208.] 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.

19-2-508. [Formerly 19-2-203.] Duty of officer - intake teams - notification - release or detention. (1) When a juvenile is taken into temporary custody, the officer shall notify ~~a~~ THE INTAKE TEAM FOR THE JUDICIAL DISTRICT IN WHICH THE JUVENILE RESIDES. THE INTAKE 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 ~~officer taking the juvenile into custody~~ INTAKE TEAM is unable to make such notification, it may be made by any ~~other~~ law enforcement officer, juvenile probation officer, detention center counselor, or common jailor in whose physical custody the juvenile is placed.

~~(1.5)~~ (2) The juvenile shall be detained if the ~~law enforcement officer~~ INTAKE TEAM or the court determines that the juvenile's immediate welfare or the protection of the community require that the juvenile be detained. In determining whether a juvenile requires detention, the ~~law enforcement officer~~ INTAKE TEAM or the court shall follow criteria for the ~~placement~~ DETENTION of juvenile offenders ~~which criteria is established in accordance with section 19-2-1602~~ AS SPECIFIED IN SECTION 19-2-510.

~~(2)~~ (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 ~~(1.5)~~ (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 ~~19-2-205.5~~ 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 ~~may~~ 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 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.

(3) (4) (a) Except as provided in paragraph (b) of this subsection (3) (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 (2) (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.

(4) (5) As an alternative to taking a juvenile into temporary custody pursuant to subsections (1), (2), and (3) (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. Such promise to appear pursuant to this subsection (4) (5) shall 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 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.

19-2-509. [Formerly 19-2-204.] Detention and shelter - hearing - time limits - 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) When a juvenile is placed in a detention facility, a temporary holding facility, or in a shelter facility designated by the court, the ~~law enforcement official taking the juvenile into custody~~ INTAKE TEAM shall promptly so notify

the court. He THE INTAKE 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 such detention hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays.

(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 shall be 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 in which the hearing shall be held may be extended for a reasonable time by order of the court upon good cause shown.

(II) The primary purpose of a detention hearing shall be 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. AT THE DETENTION HEARING, THE INTAKE TEAM SHALL PROVIDE THE COURT WITH AN INITIAL ASSESSMENT OF THE FAMILY AND COMMUNITY RESOURCES THAT ARE AVAILABLE TO THE YOUTH IN THE COMMUNITY IN WHICH HE OR SHE RESIDES. IF THE COURT RELEASES THE JUVENILE, THE COURT MAY ORDER THE JUVENILE AND THE JUVENILE'S FAMILY TO FULFILL THE REQUIREMENTS OF THE TREATMENT PLAN

RECOMMENDED BY THE INTAKE TEAM. A detention hearing shall not be considered a preliminary hearing.

(III) With respect to this section, the court may further detain the juvenile if the court is satisfied from the information provided at the hearing that the juvenile is a danger to himself or herself or to the community. Any information having probative value shall be received regardless of its admissibility under the rules of evidence. In determining whether a ~~child~~ JUVENILE requires detention, the court shall consider any record of any prior adjudications of the juvenile. There shall be 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 16-11-309, 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.

(IV) At the conclusion of the hearing, the court shall enter one of the following orders:

(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 19-2-205 (3)~~ SECTIONS 19-2-708 AND 19-2-511 (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 ~~19-2-205.5~~ 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).

(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 ~~shall be filed without unnecessary delay, and~~ 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. ~~If the juvenile is detained for one of the offenses described in subparagraph (III) of this paragraph (a), the district attorney shall file charges within seventy two hours after the detention hearing, excluding Saturdays, Sundays, and legal holidays.~~ Upon a showing of good cause, the court may extend such time for the filing of charges.

(b) (I) If it appears that any juvenile being held in detention or shelter may be developmentally disabled, as provided in article 10.5 of title 27, C.R.S., 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 may be mentally ill, as provided in sections 27-10-105 and 27-10-106, C.R.S., the intake personnel or other appropriate personnel shall contact a

mental health professional to do a mental health prescreening on the juvenile. The court shall be notified of the contact and may take appropriate action. If a mental health 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 prescreening shall not extend the time within which a detention hearing shall be held pursuant to this section. If a detention hearing has been set but has not yet occurred, the mental health prescreening shall be conducted prior to the hearing; except that the prescreening shall not extend the time within which a detention hearing shall be held.

(II) If a juvenile has been ordered detained pending an adjudication, disposition, or other court hearing and the juvenile subsequently appears to be mentally ill, as provided in section 27-10-105 or 27-10-106, C.R.S., the intake personnel or other appropriate personnel shall contact the court with a recommendation for a mental health prescreening. A mental health 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 be mentally ill, the mental health professional shall recommend to the court that the child be evaluated pursuant to section

27-10-105 or 27-10-106, C.R.S., and the court shall proceed as provided in section ~~19-2-308~~ 19-2-702.

(IV) Nothing in this paragraph (b) shall be construed to preclude the use of emergency procedures pursuant to section 27-10-105 (1), C.R.S.

(c) (I) No juvenile taken to a detention or shelter facility or a temporary holding facility pursuant to section ~~19-2-201~~ 19-2-503 as the result of an allegedly delinquent act ~~which~~ THAT constitutes any of the offenses described in subparagraph (III) of paragraph (a) of this subsection (3) shall be released from such facility ~~if a law enforcement agency~~ THE INTAKE TEAM 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. No such juvenile shall 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), no juvenile who is to be tried as an adult for criminal proceedings pursuant to a direct filing or transfer shall be held at any facility intended to be utilized by juvenile offenders, unless the district attorney and the defense counsel agree otherwise. If there is no agreement, detention of the juvenile shall be subject to the provisions of subsection (4) of this section.



(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 or if the court determines that the juvenile is an escape risk or is a threat to the safety of detention center personnel or other detainees. Any determination that the juvenile is an escape risk shall be set forth by the court in written findings.

(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. A juvenile determined by the court to be an escape risk or a threat to the safety of detention center personnel or other detainees who is held in an adult facility shall be detained in an area that is reasonably separated by sight and sound from, and is without haphazard or accidental contact with, adult offenders or persons charged with a crime.

(c) The official in charge of a jail or other facility for the detention of adult offenders shall immediately inform the court ~~which~~ 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) 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. Such juvenile shall not be detained in a jail, lockup, or other place used for the confinement of adult offenders for longer than six hours, and in no case overnight, for processing only, after which 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.

(e) ~~(f)~~ The official in charge of a jail, lockup, or other facility for the confinement of adult offenders ~~which~~ 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, as defined in subparagraph (II) of this paragraph (e), 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.

~~(H) For the purposes of this paragraph (e), unless the context otherwise requires, "gang" 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.~~

(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 shall be detained in the county jail in the same manner as if such person is charged as an adult.

(5) A juvenile has the right to bail as limited by the provisions of this section.

(6) 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 in the department of human services responsible for~~ OFFICE 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, or detains any juvenile 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.

19-2-510. Detention placement criteria. (1) IN DETERMINING WHETHER TO RELEASE OR DETAIN A JUVENILE TAKEN INTO CUSTODY PURSUANT TO SECTION 19-2-509, THE INTAKE TEAM SHALL APPLY THE CRITERIA SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

(2) (a) THE LAW ENFORCEMENT AGENCY SHALL DETAIN THE JUVENILE, PENDING A DETENTION HEARING, IF:

(I) THE JUVENILE IS ALLEGED TO HAVE COMMITTED AN ACT THAT IF COMMITTED BY AN ADULT WOULD BE A CRIME OF VIOLENCE PURSUANT TO SECTION 16-11-309 (2), C.R.S.;

(II) THE JUVENILE IS ALLEGED TO HAVE ESCAPED FROM A SECURE FACILITY, REGARDLESS OF WHETHER THE FACILITY IS STATE-ADMINISTERED OR LOCALLY FINANCED;

(III) THE JUVENILE IS SUBJECT TO A BENCH WARRANT, UNLESS THE COURT'S ORDER AUTHORIZES NONSECURE PLACEMENT OR RELEASE ON BAIL; OR

(IV) DETENTION IS MANDATED BY STATE OR FEDERAL LAW.

(b) THE LAW ENFORCEMENT AGENCY SHALL DETAIN THE JUVENILE, PENDING ASSESSMENT BY THE INTAKE TEAM, IF:



(I) THE JUVENILE IS ALLEGED TO HAVE COMMITTED AN ACT, WHICH, IF COMMITTED BY AN ADULT, WOULD BE A FELONY;

(II) THE JUVENILE IS ALLEGED TO HAVE ENGAGED IN DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S.;

(III) THE JUVENILE IS ALLEGED TO HAVE ESCAPED FROM A COMMUNITY-BASED RESIDENTIAL PROGRAM OPERATED BY OR ON BEHALF OF THE OFFICE OF YOUTH SERVICES;

(IV) THE JUVENILE IS ALLEGED TO HAVE COMMITTED ANY OTHER DELINQUENT ACT AND THE JUVENILE:

(A) HAS A HISTORY OF PRIOR ADJUDICATIONS;

(B) IS AT LIBERTY ON BOND WITH RESPECT TO ANY OTHER JUVENILE ACT FOR WHICH A JUVENILE PROCEEDING, INCLUDING SENTENCING, IS PENDING;

(C) POSSESSED OR USED A WEAPON DURING THE COMMISSION OF A JUVENILE ACT, OTHER THAN AS DESCRIBED IN SECTION 16-11-309 OR 18-12-108.5, C.R.S.;

OR

(D) IS A DANGER TO HIMSELF OR HERSELF OR THE COMMUNITY;

(V) THE JUVENILE IS THE SUBJECT OF A FEDERAL IMMIGRATION AND NATURALIZATION SERVICES HOLD; OR

(VI) THE JUVENILE HAS ALLEGEDLY VIOLATED THE CONDITIONS OF HIS OR HER PROBATION.

(c) A LAW ENFORCEMENT AGENCY SHALL NOT DETAIN A JUVENILE IF:

(I) THE LAW ENFORCEMENT OFFICER HAS CONTACTED THE JUVENILE ONLY FOR TEMPORARY QUESTIONING;

(II) THE JUVENILE HAS ALLEGEDLY COMMITTED ACTS OVER WHICH THE JUVENILE COURT HAS NO JURISDICTION;

(III) THE JUVENILE IS AWAITING PLACEMENT WITH THE COUNTY DEPARTMENT OF SOCIAL SERVICES;

(IV) THE JUVENILE IS IN NEED OF MEDICAL CARE BEYOND THAT WHICH STAFF AT THE DETENTION FACILITY CAN PROVIDE, INCLUDING JUVENILES WHO ARE INTOXICATED OR UNDER THE INFLUENCE OF DRUGS; OR

(V) THE JUVENILE PRESENTS A DANGER TO HIMSELF OR HERSELF AS A RESULT OF MENTAL ILLNESS OR A DEVELOPMENTAL DISABILITY AND THE JUVENILE HAS COMMITTED A JUVENILE ACT.

(3) PURSUANT TO SECTION 19-2-213, THE WORKING GROUP SHALL ANNUALLY RECONSIDER THE CRITERIA SPECIFIED IN THIS SECTION AND SHALL RECOMMEND LEGISLATION TO THE JUDICIARY COMMITTEES OF THE GENERAL ASSEMBLY FOR ANY NECESSARY AMENDMENTS.

19-2-511. [Formerly 19-2-205.] Bail. (1) Unless the district attorney consents, no juvenile charged or accused of having committed a delinquent act ~~which~~ 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.

~~(1-5)~~ (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 ~~19-2-205.5~~ 19-2-302.

~~(2)~~ (3) Any application for the revocation or modification of the amount, type, or conditions of bail shall be made in accordance with section 16-4-107, C.R.S.; except that the presumption described in section ~~19-2-204 (3) (a) (III)~~ ~~(A) to (3) (a) (III) (C)~~ 19-2-509 (3) (a) (III) shall continue to apply for the purposes of this section.

~~(3)~~ (4) (a) In determining the amount of bail and the type of bond to be furnished by the juvenile, the judge or magistrate fixing the same shall consider the criteria set forth in section 16-4-105 (1), 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 pursuant to subsection ~~(2)~~ (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 ~~six months~~ SIXTY DAYS after the juvenile's entry of a plea, whichever date is earlier.

~~(4)~~ (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.

~~(5)~~ (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) IN JUDICIAL DISTRICTS WHERE THE CHIEF JUDGE HAS AUTHORIZED THE INTAKE TEAM TO RELEASE JUVENILES ON BOND PURSUANT TO SECTION 19-2-204 (3) (b), THE CHIEF JUDGE SHALL ESTABLISH A BOND SCHEDULE FOR GUIDANCE OF THE INTAKE TEAM IN SETTING BOND. THE JUVENILE BOND SCHEDULE SHALL INCLUDE PROVISIONS FOR RELEASE OF THE JUVENILE ON PERSONAL RECOGNIZANCE IN APPROPRIATE CIRCUMSTANCES.



19-2-512. [Formerly 19-2-301.] Preliminary investigation. (1) Whenever it appears to a law enforcement officer or any other person that a child is or appears to be within the court's jurisdiction, as provided in section ~~19-2-102~~ 19-2-103, 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 child 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.

19-2-513. [Formerly 19-2-210.] 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) 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 or physical custodian if the juvenile is eighteen years of age or older at the time of the interrogation, if the juvenile is emancipated from the parent, guardian, or legal or physical custodian, or if the juvenile is a runaway from a state other than Colorado and is of sufficient age and understanding. For the purposes of this subsection (2), ~~only~~ an "emancipated juvenile" means a juvenile over fifteen years of age and under eighteen years of age who has, with the real or apparent assent of his OR HER parents, demonstrated his OR HER independence from his OR HER 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 his OR HER own support, who is married, or who is in the military.

(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" means a guardian, whether or not appointed by court order, with whom the juvenile has resided for more than six months, excluding an individual providing foster or institutional care.~~ 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. 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.

~~19-2-211. Common assessment instrument and common criteria for juveniles taken into temporary custody. (Repealed)~~

~~19-2-212. Staff assessment required - development of common criteria. (Repealed)~~

19-2-514. [Formerly 19-2-304.] Petition initiation. If the district attorney determines that the interests of the juvenile or of the community require that further action be taken, ~~he~~ THE DISTRICT ATTORNEY may file a petition in delinquency on the form specified in section ~~19-2-305~~ 19-2-515, 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 19-2-509, 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.

19-2-515. [Formerly 19-2-305.] 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 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~~ 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 ~~which~~ 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.

19-2-516. [Formerly 19-2-306.] 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 set forth the



constitutional and legal rights of the juvenile, including the right to have an attorney present at the hearing on the petition.

(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.

~~(2.5)~~ (3) (a) The court may, when the court determines that it is in the best interests of the child, join the child's parent or guardian and the person with whom the child resides, if other than the child's parent or guardian, as a respondent to the action and ~~may~~ SHALL issue a summons requiring the parent or guardian and the person with whom the child resides, if other than the child's parent or guardian, to appear with the child at all proceedings under this article involving the child. If the parent or guardian of any child 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 ~~19-2-307~~ 19-2-517, "parent" includes a natural parent who has sole or joint custody, regardless of whether the parent is designated as the primary residential custodian, or an adoptive parent. This subsection ~~(2.5)~~ (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 child is the subject of a juvenile proceeding under this article ~~should~~ SHALL attend any such proceeding. ~~as often as is practicable.~~

~~(3)~~ (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.

(4) (5) 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.

~~(5)~~ (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.

~~(6)~~ (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.

~~(7)~~ (8) 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 (25).

~~(8)~~ (9) If the parents, guardian, or other legal custodian of the juvenile required to be summoned under subsection ~~(3)~~ (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.

~~(9)~~ (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.

19-2-517. [Formerly 19-2-307.] Contempt - warrant. (1) Except as otherwise provided by subsection (3) of this section, any person summoned or

required to appear as provided in section ~~19-2-306~~ 19-2-516 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 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 nonappearance of such parent, guardian, or person with whom the child 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 ~~which~~ THAT has been transferred to the district court pursuant to the provisions of section ~~19-2-806~~ 19-2-520.

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

(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.

19-2-518. [Formerly 19-2-801 (1), 19-2-802 (1), 19-1-803 (1), and 19-2-804 (1).] 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 ~~which~~ THAT constitutes a felony or if his OR HER probation is revoked for a delinquent act ~~which~~ THAT constitutes a felony.

~~(+)~~ (3) **Violent juvenile offender.** A juvenile is a violent juvenile offender if he OR SHE is thirteen years of age or older at the time the act complained of was committed and is adjudicated a juvenile delinquent for a delinquent act which constitutes a crime of violence as defined in section 16-11-309 (2), C.R.S.

~~(+)~~ (4) **Aggravated juvenile offender.** (a) A juvenile offender is an aggravated juvenile offender if he OR SHE is:

~~(+)~~ (I) Twelve years of age or older and is adjudicated a juvenile delinquent for a delinquent act ~~which~~ THAT constitutes a class 1 or class 2 felony or if his OR HER probation is revoked for a delinquent act ~~which~~ THAT constitutes a class 1 or class 2 felony; or

~~(+)~~ (II) Sixteen years of age or older and is adjudicated a juvenile delinquent for a delinquent act ~~which~~ THAT constitutes a felony and either is

subsequently adjudicated a juvenile delinquent for a delinquent act ~~which~~ THAT constitutes a crime of violence, as defined in section 16-11-309 (2), C.R.S., or has his OR HER probation revoked for a delinquent act ~~which~~ THAT constitutes a crime of violence, as defined in section 16-11-309 (2), C.R.S.; OR

(III) TWELVE YEARS OF AGE OR OLDER AND IS EITHER ADJUDICATED A JUVENILE DELINQUENT OR HIS OR HER PROBATION IS REVOKED FOR A DELINQUENT ACT THAT CONSTITUTES SEXUAL ASSAULT ON A CHILD UNDER SECTION 18-3-405 (2) (a) OR (2) (c), 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.

19-2-519. [Formerly 19-2-805] Direct filing - repeal. (1) (a) A juvenile may be charged by the direct filing of an information in the district court or by indictment only when:

(I) The juvenile is fourteen years of age or older and is alleged to have committed a class 1 or class 2 felony; or

(II) The juvenile is fourteen years of age or older and:

(A) Is alleged to have committed a felony enumerated as a crime of violence pursuant to section 16-11-309, C.R.S.; or

(B) Is alleged to have committed a felony offense described in article 12 of title 18, C.R.S., except for the possession of a handgun by a juvenile, as set forth in section 18-12-108.5, C.R.S.; or

(C) Is alleged to have used, or possessed and threatened the use of, a deadly weapon during the commission of felony offenses against the person, which are set forth in article 3 of title 18, C.R.S.; or

(D) IS ALLEGED TO HAVE COMMITTED A FELONY DEFINED BY SECTION 18-8-208, C.R.S., NO OTHER CRIME IS ALLEGED TO HAVE BEEN COMMITTED, AND THE JUVENILE HAS BEEN ADJUDICATED A JUVENILE DELINQUENT FOR A DELINQUENT ACT THAT CONSTITUTES A CLASS 4 OR 5 FELONY;

(III) The juvenile has, within the two previous years, been adjudicated a juvenile delinquent for a delinquent act that constitutes a felony, is sixteen years of age or older, and allegedly has committed a crime defined by section 18-1-105, C.R.S., as a class 3 felony, except felonies defined by section 18-3-403 (1) (e), C.R.S.; or

(IV) The juvenile is fourteen years of age or older, has allegedly committed a delinquent act that constitutes a felony, and 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 19-2-806;~~ except that, if a juvenile is found not guilty in the district court of the prior felony or any lesser included offense, the subsequent charge shall be remanded back to the juvenile court; ~~or~~

(V) The juvenile is fourteen years of age or older, has allegedly committed a delinquent act that constitutes a felony, and is determined to be an "habitual juvenile offender". For purposes of this section, an "habitual juvenile offender" is 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; OR

(VI) THE JUVENILE IS FOURTEEN YEARS OF AGE OR OLDER AND HAS ALLEGEDLY COMMITTED AN ACT THAT CONSTITUTES A FELONY AND HAS A RECORD OF TWO OR MORE JUVENILE PROBATION REVOCATIONS BASED ON ACTS THAT CONSTITUTE FELONIES.

(b) The offenses described in subparagraphs (I) to ~~(V)~~ (VI) of paragraph (a) of this subsection (1) shall include the attempt, conspiracy, solicitation, or complicity to commit such offenses.

(2) Whenever criminal charges are filed by information or indictment in the district court pursuant to this section, the district judge shall sentence the juvenile as follows:

- (a) As an adult; or
- (b) (I) To the youthful offender system in the department of corrections in accordance with section 16-11-311, C.R.S., if the juvenile is convicted of an offense described in subparagraph (II) or (V) of paragraph (a) of subsection (1) of this section; except that, if a person is convicted of a class 1 or class 2 felony,

any sexual offense described in part 4 of article 3 of title 18, C.R.S., or a second or subsequent offense described in said subparagraph (II) or (V) for which such person received a sentence to the department of corrections or to the youthful offender system, such person shall be ineligible for sentencing to the youthful offender system.

(II) This paragraph (b) is repealed, effective June 30, 1999.

(c) Pursuant to the provisions of this article, if the juvenile is less than sixteen years of age AT THE TIME OF COMMISSION OF THE CRIME and is convicted of an offense other than a class 1 or class 2 felony, ~~or~~ a crime of violence as defined under section 16-11-309, C.R.S., or ~~is convicted of~~ an offense described in subparagraph (V) of paragraph (a) of subsection (1) of this section AND THE JUDGE MAKES A FINDING OF SPECIAL CIRCUMSTANCES; OR

(d) PURSUANT TO THE PROVISIONS OF THIS ARTICLE, IF THE JUVENILE IS CONVICTED OF A LESSER INCLUDED OFFENSE FOR WHICH CRIMINAL CHARGES COULD NOT HAVE BEEN ORIGINALLY FILED BY INFORMATION OR INDICTMENT IN THE DISTRICT COURT PURSUANT TO THIS SECTION.

(3) IN DETERMINING WHETHER SPECIAL CIRCUMSTANCES EXIST UNDER WHICH THE DISTRICT JUDGE MAY SENTENCE A JUVENILE PURSUANT TO THE PROVISIONS OF THIS ARTICLE, A COMMUNITY-BASED COMMITTEE, INCLUDING BUT NOT LIMITED TO REPRESENTATIVES FROM THE COUNTY DEPARTMENT OF SOCIAL SERVICES OF THE JUVENILE'S COUNTY OF RESIDENCE, THE JUVENILE PROBATION

DEPARTMENT OF THE JUVENILE'S JUDICIAL DISTRICT OF RESIDENCE, THE JUVENILE'S SCHOOL DISTRICT OF RESIDENCE, AND A COMMUNITY MENTAL HEALTH CENTER LOCATED IN THE JUVENILE'S DISTRICT OF RESIDENCE, SHALL PREPARE AN ASSESSMENT OF THE JUVENILE'S NEEDS. THE JUVENILE, THROUGH HIS OR HER ATTORNEY, PARENT, OR GUARDIAN MAY CHOOSE WHETHER TO ATTEND ANY MEETING OF THE ASSESSMENT COMMITTEE.

(3) (4) In the case of any person who is sentenced as a juvenile pursuant to subsection (2) of this section, section ~~19-2-801~~ 19-2-907 (1) (b) (I), regarding mandatory sentence offenders, section ~~19-2-802~~ 19-2-907 (1) (b) (II), regarding repeat juvenile offenders, section ~~19-2-803~~ 19-2-907 (1) (b) (III), regarding violent juvenile offenders, and section ~~19-2-804~~ 19-2-601, regarding aggravated juvenile offenders, shall apply to the sentencing of such person.

(5) THE COURT IN ITS DISCRETION MAY APPOINT A GUARDIAN AD LITEM FOR ANY JUVENILE CHARGED BY A DIRECT FILING IN THE DISTRICT COURT PURSUANT TO THIS SECTION.

19-2-520. [Formerly 19-2-806.] Transfers. (1) (a) When a petition filed in juvenile court alleges a juvenile ~~fourteen~~ TWELVE years of age or older BUT LESS THAN FOURTEEN YEARS OF AGE to be a juvenile delinquent by virtue of having committed a delinquent act ~~which~~ THAT constitutes a CLASS ONE OR TWO felony and if, 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, it may enter an order certifying the juvenile to be held for criminal proceedings in the district court.

(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)~~ (c) Whenever criminal charges are transferred to the district court pursuant to the provisions of this article, 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; except that a juvenile who is convicted of a class 1 felony, or whose case was transferred to the district court and who is convicted of a crime of violence, as defined in section 16-11-309, C.R.S., or who has been previously adjudicated a mandatory sentence offender, a violent juvenile offender, or an aggravated juvenile offender shall be sentenced pursuant to section 18-1-105, C.R.S.

(2) 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.

(3) (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 ~~which~~ THAT constitute felonies;

(X) That the juvenile was previously adjudicated a juvenile delinquent for a delinquent act ~~which~~ THAT constitutes a crime of violence, as defined in section 16-11-309, C.R.S.;

(XI) That the juvenile was previously committed to the department of human services following an adjudication for a delinquent act ~~which~~ 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 16-11-309, 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 which constitute felonies; and~~

~~(XIV)~~ (XII) 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 (3) is discretionary with the court; except that a record of two or more previously sustained petitions for delinquent acts ~~which~~ THAT constitute felonies or a record of two or more juvenile probation revocations based on acts ~~which~~ 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 (3) shall not in and of itself be determinative of the issue of waiver of juvenile court jurisdiction.

(4) When an action has been remanded to the juvenile court pursuant to section ~~19-2-905~~ 19-2-519 (1) (a) (IV) and the prosecution seeks waiver of jurisdiction pursuant to this section, the court's findings from the prior transfer hearing regarding the factor listed in paragraph (c) of subsection (3) of this section 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.

(5) 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.

(6) (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 ~~part 5~~ of 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.

~~(e) Repealed.~~

(7) 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 ~~section 19-2-501~~ PART 8 OF THIS ARTICLE.

PART 6

SPECIAL PROCEEDINGS

19-2-601. [Formerly 19-2-804 (2) to (10).] Aggravated juvenile offender.

~~(2)~~ (1) (a) In any action in delinquency alleging that a juvenile is an aggravated juvenile offender, as described in ~~this section~~ SECTION 19-2-518 (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 ~~paragraph (b) of subsection (1) of this section~~ SECTION 19-2-518 (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 ~~which~~ 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 ~~which~~ THAT formed the basis for the adjudication or probation revocation would constitute a felony in this state.

~~(3)~~ (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 ~~paragraph (b) of subsection (1) of this section~~ SECTION 19-2-518 (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 ~~which~~ THAT are alleged in the petition. A refusal to admit or deny any such adjudication or probation revocation shall be considered a denial.

~~(4)~~ (3) (a) In addition to the rights specified in section ~~19-2-402~~ 19-2-706, a juvenile who is alleged to be an aggravated juvenile offender may file a written request that adjudication of the act ~~which~~ THAT is the subject of the petition shall be to a jury of twelve persons, and the court shall so order it.

(b) When a jury is requested pursuant to this subsection ~~(4)~~ (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 ~~which~~ 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 ~~which~~ 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.

~~(5)~~ (4) (a) If a juvenile alleged to be an aggravated juvenile offender pursuant to ~~paragraph (b) of subsection (1) of this section~~ SECTION 19-2-518 (4) admits the previous adjudications or probation revocations alleged in the petition, pursuant to subsection ~~(3)~~ (2) of this section, no further proof of such previous adjudications or probation revocations is required. Upon a finding that the child has committed the delinquent acts ~~which~~ THAT are the subject of the petition alleging that the child 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 ~~paragraph (b) of subsection (1) of this section~~ SECTION 19-2-518 (4) denies one or more of the previous adjudications or probation revocations alleged in the

petition, pursuant to subsection ~~(3)~~ (2) of this section, the court, after a finding of guilty of the acts ~~which~~ 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 ~~(5)~~ (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 ~~which~~ THAT is part of the record of such former adjudication or probation revocation at the place the child 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 ~~(5)~~ (4) and shall be prima facie evidence of the identity of the juvenile.

~~(6)~~ (5) (a) Upon adjudication as an aggravated juvenile offender, the court may commit the juvenile to the department of human services for a determinate period of five years. 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 child committed to its custody pursuant to paragraph (a) of this subsection ~~(6)~~ (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 ~~which~~ 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.

~~(7)~~ (6) (a) After the juvenile 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 juvenile parole board to release the juvenile subject to parole supervision as determined by the board at a parole hearing. Said parole supervision shall be conducted by the department of human services. Upon the filing of such petition, the court shall notify the interested parties and set the matter for a hearing. The court shall authorize the juvenile parole board to release the juvenile 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 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)~~ (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.

~~(9)~~(8) (a) 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 and set the matter for a 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, authorize early release of the juvenile pursuant to subsection ~~(8)~~ (7) of this section, 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.

~~(40)~~ (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.

PART 7

PREADJUDICATION

19-2-701. Short title. THIS PART 7 SHALL BE KNOWN AND MAY BE CITED AS "JUVENILE JUSTICE - PREADJUDICATION".

19-2-702. [Formerly 19-2-308.] Mentally ill juvenile or juvenile with developmental disabilities - procedure. (1) (a) If it appears from the evidence presented at an adjudicatory trial or otherwise that a juvenile may have developmental disabilities, as defined in article 10.5 of title 27, C.R.S., 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, C.R.S.

(b) If it appears from the evidence presented at an adjudicatory trial or otherwise that a juvenile may be mentally ill, as defined in sections 27-10-105 and 27-10-106, C.R.S., and the juvenile has not had a mental health prescreening, the court shall order a prescreening to determine whether the juvenile requires further evaluation. Such prescreening shall be conducted as expeditiously as possible, and a prescreening report shall be provided to the court within twenty-four hours of the prescreening, excluding Saturdays, Sundays, and legal holidays.



(c) When the mental health professional finds, based upon a prescreening, that the juvenile may be mentally ill, as defined in sections 27-10-105 and 27-10-106, C.R.S., the court shall review the prescreening report within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, and order the juvenile 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 27-10-105 or 27-10-106, C.R.S. If the juvenile to be placed is in a detention facility, the designated facility shall admit the juvenile 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) shall be completed within seventy-two hours, excluding Saturdays, Sundays, and legal holidays. Neither a county jail nor a detention facility, as described in this article, shall be considered a suitable facility for evaluation, although a mental health prescreening may be conducted in any appropriate setting.

(e) If the mental health professional finds, based upon the prescreening, that the juvenile is not mentally ill, 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 juvenile's mental illness, and the court may order additional prescreenings as deemed appropriate.

No order for a seventy-two-hour treatment and evaluation shall 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 from a mental health professional ~~which~~ THAT indicates that mental illness is present in the juvenile. The court shall make, prior to the hearing, such orders regarding temporary custody of the juvenile as are deemed appropriate.

(2) (a) When an evaluation is ordered by the court pursuant to subsection (1) of this section, the order shall specify the person or agency to whom the juvenile shall be released when the evaluation indicates that the juvenile is not mentally ill.

(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~~ THAT such person represents to pay for an evaluation or for any hospitalization provided to the juvenile as a result of an evaluation.

(3) (a) When the evaluation conducted pursuant to subsection (1) of this section states that the juvenile is mentally ill, as defined in sections 27-10-105 and 27-10-106, C.R.S., the court shall treat the evaluation report as a certification under section 27-10-107, C.R.S., and shall proceed pursuant to article 10 of title 27, C.R.S., 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 juvenile 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 juvenile 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 juvenile 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 juvenile's absence within twenty-four hours. When such juvenile is taken into custody, the facility or program shall be notified by the court and shall readmit the ~~child~~ JUVENILE 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 juvenile is not mentally ill or does not have developmental disabilities, the juvenile 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 juvenile shall 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 juvenile is not mentally ill or does not have developmental disabilities, the court shall set a time for resuming the hearing on the petition or any other pending matters.

19-2-703. [Formerly 19-2-302.] 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.

19-2-704. Diversion. AS AN ALTERNATIVE TO A PETITION FILED PURSUANT TO SECTION 19-2-514, AN ADJUDICATORY HEARING 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 PLACE A JUVENILE IN A DIVERSION PROGRAM ESTABLISHED IN ACCORDANCE WITH SECTION 19-2-303.

19-2-705. [Formerly 19-2-404.] Preliminary hearing. (1) The district attorney or a juvenile who is accused in a petition of a delinquent act ~~which~~ THAT constitutes a 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. 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 ~~he~~ THE JUVENILE may cross-examine the PROSECUTION witnesses ~~against him~~ and he 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.

(2) A request for review of a preliminary hearing finding entered by a magistrate shall be filed pursuant to section 19-1-108 (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.

19-2-706. [Formerly 19-2-402.] Advisement. (1) At the first appearance before the court after the filing of a petition, the juvenile and his OR HER parents, guardian, or other legal custodian shall be advised by the court of their constitutional and legal rights as set forth in rule 3 of the Colorado rules of juvenile procedure.

(2) (a) If the juvenile or his OR HER parents, guardian, or other legal custodian requests counsel and the juvenile or his OR HER parents, guardian, or other legal custodian is found to be without sufficient financial means, or the juvenile's parents, guardian, or other legal custodian refuses to retain counsel for said juvenile, the court shall appoint counsel for the juvenile.

(b) 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 ordered to

reimburse the court for the cost of the counsel unless the court finds there was good cause for such refusal.

(c) The court may appoint counsel without such request if it deems representation by counsel necessary to protect the interest of the juvenile or of other parties.

(d) The appointment of counsel pursuant to this subsection (2) shall continue until such time as the court's jurisdiction is terminated or until such time as 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.

19-2-707. [Formerly 19-2-403.] Mandatory restraining order.

(1) (a) There is hereby created a mandatory restraining order against any juvenile charged with the commission of a delinquent act, 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 from harassing, molesting, intimidating, retaliating against, or tampering with any witness to or victim of the delinquent act charged.



(b) A restraining order to prevent domestic abuse, as defined in section 14-4-101 (2), C.R.S., may be issued pursuant to this section against any juvenile based upon the standards set forth in section 14-4-102 (4), C.R.S.

(c) The restraining 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 of the restraining order effective pursuant to this section and shall also inform the juvenile that a violation of such order is punishable as contempt of court. .

(3) Nothing in this section shall preclude the juvenile from applying to the court at any time for modification or dismissal of the restraining order issued pursuant to this section or the district attorney from applying to the court at any time for additional provisions under the restraining order, modification of the order, or dismissal of the order. The trial court shall retain jurisdiction to enforce, modify, or dismiss the restraining 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.

19-2-708. [Formerly 19-2-405.] 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. 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.

19-2-709. [Formerly 19-2-702.] Deferral of adjudication. (1) In any case in which the juvenile has ~~entered~~ AGREED WITH THE DISTRICT ATTORNEY TO ENTER a plea of guilty, ~~to or has been found guilty of an allegation in the petition,~~ the court, ~~has the power, with the consent of the juvenile and the district attorney, to~~ UPON ACCEPTING THE GUILTY PLEA MAY continue the case for a period not to exceed one year from the date of entry of the plea. ~~or finding of guilt.~~ The court may continue the case for an additional one-year period for good cause.

(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.

(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 ~~19-2-704~~ 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.

PART 8

ADJUDICATORY PROCEDURES

19-2-801. Short title. THIS PART 8 SHALL BE KNOWN AND MAY BE CITED AS "ADJUDICATORY PROCEDURES".

19-2-802. [Formerly 19-2-505.] Evidentiary considerations. (1) All statutes and rules of this state ~~which~~ 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 ~~him~~ 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.

19-2-803. [Formerly 19-2-209.] 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) As used in this section, unless the context otherwise requires:

(a) "Good faith mistake" means a reasonable error of judgment concerning the existence of facts or law which, if true, would be sufficient to constitute probable cause.

(b) "Peace officer" has the meaning set forth in the definition of section 18-1-901 (3) (l), C.R.S.

(c) "Technical violation" means a reasonable, good faith reliance upon a statute ~~which~~ THAT is later ruled unconstitutional, a warrant ~~which~~ THAT is later invalidated due to a good faith mistake, or a court precedent ~~which~~ THAT is later overruled.

(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 ~~which~~ 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.

19-2-804. [Formerly 19-2-504.] 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. ~~His~~ 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 THIRTY DAYS FOLLOWING COMPLETION OF THE ADJUDICATORY TRIAL.

19-2-805. [Formerly 19-2-503.] 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.

PART 9

POST-ADJUDICATORY PROCESS

~~**19-2-901. Release and inspection of juvenile records. (Repealed)**~~

19-2-901. Short title. THIS PART 9 SHALL BE KNOWN AND MAY BE CITED AS "POST-ADJUDICATORY PROCESS".

~~**19-2-901.5. Public access to identity of juvenile offenders. (Repealed)**~~

19-2-902. [Formerly 19-2-601.] 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.

19-2-903. [Formerly 19-2-602.] 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.

19-2-904. [Formerly 19-2-603.] 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 ~~19-2-205~~ 19-2-511.

19-2-905. Presentence investigation. (1) PRIOR TO THE SENTENCING HEARING, THE JUVENILE PROBATION DEPARTMENT FOR THE JUDICIAL DISTRICT IN WHICH THE JUVENILE RESIDES SHALL CONDUCT A PRESENTENCE INVESTIGATION. THE PRESENTENCE INVESTIGATION SHALL TAKE INTO CONSIDERATION AND BUILD ON THE INTAKE ASSESSMENT PERFORMED BY THE INTAKE TEAM PURSUANT TO SECTION 19-2-204 (2). THE PRESENTENCE INVESTIGATION, AT A MINIMUM, SHALL ADDRESS THE FOLLOWING:

- (a) THE DETAILS OF THE OFFENSE;
- (b) STATEMENTS MADE BY THE VICTIMS OF THE OFFENSE;
- (c) THE AMOUNT OF RESTITUTION, IF ANY, THAT SHOULD BE IMPOSED ON THE JUVENILE OR THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN;
- (d) THE JUVENILE'S PREVIOUS CRIMINAL RECORD, IF ANY;
- (e) ANY HISTORY OF SUBSTANCE ABUSE BY THE JUVENILE;



(f) THE JUVENILE'S EDUCATION AND EMPLOYMENT HISTORY;

(g) THE JUVENILE'S FAMILY;

(h) THE JUVENILE'S PEER RELATIONSHIPS;

(i) THE STATUS OF JUVENILE PROGRAMS AND COMMUNITY PLACEMENTS IN THE JUVENILE'S JUDICIAL DISTRICT OF RESIDENCE;

(j) OTHER RELATED MATERIAL;

(k) REVIEW OF PLACEMENT AND COMMITMENT CRITERIA LISTED IN SECTION 19-2-908, WHICH SHALL BE THE CRITERIA FOR ANY SENTENCING RECOMMENDATIONS INCLUDED IN THE PRESENTENCE INVESTIGATION;

(l) ASSESSMENT OF THE JUVENILE'S NEEDS; AND

(m) RECOMMENDATIONS AND A PROPOSED TREATMENT PLAN FOR THE JUVENILE.

(2) THE PROBATION DEPARTMENT SHALL CONDUCT A PRESENTENCE INVESTIGATION IN EACH CASE. THE LEVEL OF DETAIL INCLUDED IN THE PRESENTENCE INVESTIGATION MAY VARY, AS APPROPRIATE, WITH THE SERVICES BEING CONSIDERED FOR THE JUVENILE.

19-2-906. [Formerly 19-2-701.] Sentencing hearing. (1) 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.

(2) If the court has reason to believe that the juvenile may have developmental disabilities, 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, C.R.S. If the court has reason to believe that the juvenile may be mentally ill, the court shall order a mental health prescreening to be conducted in any appropriate place.

(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 THIRTY 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.

19-2-907. [Formerly 19-2-703 except (3), 19-2-801 (2), 19-2-802 (2), 19-2-803 (2) and (3).] Sentencing schedule - options. (1) (a) The court may impose any ~~sentence,~~ OF THE FOLLOWING SENTENCES or combination of sentences when appropriate: ~~provided under of this subsection (1) or subsection (3) of this section; except that any juvenile delinquent 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 which the department may determine as provided by law. No juvenile under the age of twelve years shall be committed to the department of human services. Notwithstanding any other provision of this section, when a juvenile is sentenced to the department of human services with a recommendation to the department that the juvenile be required to participate in the regimented juvenile training program set forth in section 19-2-708, the court shall not impose any other sentence.~~

(a) **Commitment - pursuant to section 19-2-909.** (1) THE COURT MAY COMMIT A JUVENILE FOR AN INDETERMINATE PERIOD OF UP TO FIVE YEARS, INCLUDING A MANDATORY PERIOD OF PAROLE OF NO LESS THAN ONE YEAR; EXCEPT THAT, WITH RESPECT TO ANY JUVENILES WHO WOULD ATTAIN EIGHTEEN YEARS OF AGE DURING AN INDETERMINATE COMMITMENT, THE JUVENILE COURT SHALL COMMIT THE JUVENILE TO THE DEPARTMENT OF HUMAN SERVICES UNTIL THE JUVENILE ATTAINS EIGHTEEN YEARS OF AGE, FOLLOWED BY A DETERMINATE SENTENCE TO THE DEPARTMENT OF CORRECTIONS SO THAT THE PERIOD OF COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES AND THE SENTENCE TO THE DEPARTMENT OF CORRECTIONS MAY BE UP TO A TOTAL PERIOD OF FIVE YEARS, INCLUDING A MANDATORY PAROLE PERIOD OF ONE YEAR. THE DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE PAROLE SUPERVISION FOR SUCH JUVENILES. THE COURT SHALL SET THE MAXIMUM PERIOD OF COMMITMENT BASED ON THE SEVERITY OF THE OFFENSE, USING THE FOLLOWING CHART AS A SENTENCING GUIDE:

CONCEPTUAL CHART OF SENTENCING TO OYS

| OFFENSE TYPE | MAXIMUM OYS SENTENCE | PAROLE PERIOD |
|------------------------|----------------------|---------------|
| PETTY OFFENSE | NOT AVAILABLE | NOT AVAILABLE |
| *PROPERTY MISDEMEANOR | 1 YEAR | 1 YEAR |
| *PERSONS MISDEMEANOR | 2 YEARS | 1 YEAR |
| LESSER PROPERTY FELONY | 2 YEARS | 1 YEAR |

| | | |
|-----------------------|---------|--------|
| MAJOR PROPERTY FELONY | 3 YEARS | 1 YEAR |
| PERSONS FELONY | 5 YEARS | 1 YEAR |

*ONLY AVAILABLE FOR REPEAT MISDEMEANORS

(b) (II) 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.

(III) ANY JUVENILE DELINQUENT 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. NO JUVENILE UNDER THE AGE OF TWELVE YEARS SHALL BE COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES.

(b) **Special offender sentences.** THE COURT MAY SENTENCE JUVENILES ADJUDICATED AS SPECIAL OFFENDERS AS FOLLOWS:

(2) (I) **Mandatory sentence offender.** The court shall place or commit a mandatory sentence offender 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:

(a) (A) If the person 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

(b) (B) The juvenile or person may be released by the committing judge upon a showing of exemplary behavior.

(2) (II) **Repeat juvenile offender.** The court may sentence a repeat juvenile offender pursuant to section ~~19-2-703~~ 19-2-907 or may commit a repeat juvenile offender to the department of human services. The court may impose a minimum term during which the juvenile shall not be released from a residential program without prior written approval of the court ~~which~~ THAT made the commitment.

(2) (a) (III) (A) **Violent juvenile offender.** Upon adjudication as a violent juvenile offender, the juvenile shall be placed or committed out of the home for not less than one year; except that this ~~subsection (2)~~ SUBPARAGRAPH (III) shall not apply to a juvenile who is thirteen years of age or older, but less than fifteen 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) (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.

~~(3)~~ (C) 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 which THAT made the commitment.

(IV) **Aggravated juvenile offender.** THE COURT MAY SENTENCE AN AGGRAVATED JUVENILE OFFENDER AS PROVIDED IN SECTION 19-2-601.

(c) **County jail.** 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.

(e) (d) **Detention.** (I) In the case of a juvenile who has been adjudicated a juvenile delinquent for the commission of one of the misdemeanor offenses described in section ~~19-2-204 (3) (a) (III) (C)~~ 19-2-509 (3) (a) (III) (C), the court shall sentence the juvenile to a minimum mandatory period of detention of not less than five days.

~~(h) (I) (II) Except as provided in subparagraph (II) of this paragraph (h),~~
The court may sentence any juvenile twelve years of age or older 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.

~~(II) The court may alternatively sentence the juvenile to the department of human services, with a recommendation to the department that the juvenile be required to participate in the regimented juvenile training program set forth in section 19-2-708. A sentence to the department pursuant to this subparagraph (II) shall be conditioned upon available space in the program and a determination by the department that the juvenile is appropriate for the program. The court's order shall specify that, in the event the department of human services does not place the juvenile in the program, the juvenile shall be sentenced in accordance with subparagraph (I) of this paragraph (h).~~

~~(f)~~ (e) **Probation - pursuant to section 19-2-913.** (I) 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.

~~(f.5)~~ (II) The court may place the juvenile on probation and place the juvenile in the juvenile intensive supervision program created pursuant to ~~part 15 of this article~~ SECTION 19-2-307.



~~(g)~~ (III) 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 or under protective supervision.

~~(h)~~ (IV) 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 ~~which~~ 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:

~~(H)~~ (A) The juvenile is not deprived of the schooling ~~which~~ THAT is appropriate to his OR HER age, needs, and specific rehabilitative goals;

~~(H)~~ (B) 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;

~~(H)~~ (C) 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.

~~(e)~~ ~~(H)~~ (f) **Boot camp as condition of probation - pursuant to section 19-2-310.** The court may ~~alternatively~~ PLACE THE JUVENILE ON PROBATION AND, AS A CONDITION OF PROBATION, sentence the juvenile to the department of human services ~~with a recommendation to the department that~~ AND REQUIRE THAT the

juvenile ~~be required to~~ participate in the regimented juvenile training program set forth in section ~~19-2-708~~ 19-2-310. ~~However, in the event the department assesses a juvenile in accordance with section 19-2-708 and determines that the juvenile's participation in the program is inappropriate, the court's order shall specify that the juvenile shall be sentenced in accordance with subparagraph (f) of this paragraph (e).~~ NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, WHEN A JUVENILE IS SENTENCED TO THE DEPARTMENT OF HUMAN SERVICES AND REQUIRED TO PARTICIPATE IN THE REGIMENTED JUVENILE TRAINING PROGRAM SET FORTH IN SECTION 19-2-310, THE COURT SHALL NOT IMPOSE ANY OTHER SENTENCE.

~~(j)~~ (g) **Legal custody - social services.** (I) The court, following the criteria for out-of-home placement ~~established pursuant to section 19-2-1602~~ SPECIFIED IN SECTION 19-2-908, may place legal custody in the county department of social services or a child placement agency for placement in a family care home or a child care center.

~~(2)~~ ~~(a)~~ (II) 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 ~~any criteria established pursuant to section 19-2-1602~~ THE CRITERIA SPECIFIED IN SECTION 19-2-908, in the facility or setting ~~which~~ 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 ~~19-3-701 (5)~~ 19-3-906 (5). 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. Any deviation from such recommendation shall be supported by specific findings on the record of the case detailing the specific extraordinary circumstances ~~which~~ THAT constitute the reasons for deviations from the placement recommendation of the county department of social services. 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 ~~which~~ THAT can provide appropriate treatment and ~~which~~ 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 report monthly to the joint budget committee and annually to the general assembly 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 (2)~~ SUBPARAGRAPH (II) relating to specific findings of fact be applicable.

(b) (III) 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 19-2-1602~~ SPECIFIED IN SECTION 19-2-908, 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 ~~which~~ THAT might be affected by the resolution of the petition, and 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 ~~which~~ 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)~~ SUBPARAGRAPH (III) 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 ~~which~~ THAT constitute the reasons for deviations from the placement recommendation of the county department of social services.

~~(k)~~ (h) **Placement based on special needs of juvenile.** (I) 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 prescreening resulting in a recommendation that the juvenile be placed in a facility for an evaluation pursuant to section 27-10-105 or 27-10-106, C.R.S., or a hearing has been held by the court after notice to all parties, including the

department of human services. No order for a seventy-two-hour treatment and evaluation shall 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 ~~which~~ THAT indicates that mental illness is present in the juvenile. The court shall make, prior to the hearing, such orders regarding temporary custody of the juvenile as are deemed appropriate.

(II) 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.

~~(j)~~ (i) **Sentence includes parent.** (I) In addition to any of the provisions specified in this subsection (1), any sentence imposed pursuant to this section may require:

~~(A)~~ (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;

~~(H)~~ (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 ~~part 14 of this article~~ SECTION 19-2-305. 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; or

~~(H)~~ (C) The juvenile or both the juvenile and his or her custodial parent or guardian to perform services for the victim, AS PROVIDED IN SECTION 19-2-309, 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, or legal custodian of the juvenile under this ~~subparagraph (H)~~ SUB-SUBPARAGRAPH (C) shall not exceed the damages as set forth in section 13-21-107, C.R.S., for any one delinquent act.

~~(e)~~ (I) (A) The court may order the guardian or legal custodian of the juvenile to make restitution pursuant to the terms and conditions set forth in this ~~subparagraph (I)~~ SUBPARAGRAPH (II); except that the liability of the guardian or legal custodian of the juvenile under this ~~subparagraph (I)~~ SUBPARAGRAPH (II) shall not exceed the damages as set forth in section 13-21-107, C.R.S., for any

one delinquent act. If the court finds, after a hearing, that the guardian or legal custodian of 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 of liability for restitution under this ~~subparagraph (I)~~ SUBPARAGRAPH (II).

~~(H)~~ (B) The court may order the juvenile's parent to make restitution IN A REASONABLE AMOUNT pursuant to the terms and conditions set forth in this subparagraph (II). ~~except that the liability of the juvenile's parent under this subparagraph (II) shall not exceed the amount of five thousand dollars for any one delinquent act.~~ If the court finds, after a 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 subparagraph (II). As used in this subparagraph (II), "parent" has the same meaning as in section 19-1-103 (21).

~~(d)~~ (j) **Fines.** The court may impose a fine of not more than three hundred dollars.

~~(4)~~ (a) (k) **Restitution - juvenile.** (I) 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 shall enter a sentencing order



requiring the juvenile to make restitution for actual damages done to persons or property; except that the court shall not order restitution if it finds that monetary payment or payment in kind would cause serious hardship or injustice to the juvenile.

(b) (II) Such order shall require payment of insurers and other persons or entities succeeding to the rights of the victim through subrogation or otherwise, if appropriate. Restitution shall be ordered in a reasonable amount to be paid in a reasonable manner, as determined by the court.

(2) WHEN A JUVENILE HAS BEEN ADJUDICATED AS BEING A JUVENILE DELINQUENT, THE COURT SHALL ENTER A DECREE OF SENTENCE OR COMMITMENT, AS PROVIDED IN SUBSECTION (1) OF THIS SECTION.

19-2-908. Juvenile placement criteria - legislative declaration.

(1) **Legislative intent.** THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT STATE FUNDING FOR YOUTH SERVICES IS FRAGMENTED BETWEEN SEVERAL STATE AGENCIES AND THE LOCAL COUNTERPARTS OF SUCH AGENCIES AND THAT SUCH FRAGMENTATION LEADS TO DUPLICATION OF BUREAUCRACY, SERVICES, CASE MANAGEMENT, AND ACCOUNTABILITY. SUCH FRAGMENTATION ALSO LEADS TO A SITUATION OF COST UNPREDICTABILITY. THE GENERAL ASSEMBLY FINDS THAT SUCH A SENSITIVE SITUATION REQUIRES APPROPRIATE SERVICES AND PROGRAMS FOR TROUBLED YOUTH. THE CURRENT SYSTEM OF FUNDING RESULTS IN INAPPROPRIATE PLACEMENTS AND USE OF RESOURCES AND MAY ENCOURAGE

COSTLY AND INAPPROPRIATE PLACEMENT OF JUVENILES IN STATE FACILITIES, WHICH SHOULD BE RESERVED FOR THE MORE SERIOUS JUVENILE OFFENDERS. MOREOVER, THERE IS A NEED TO CONSIDER LOCAL OPTIONS AND EARLY INTERVENTION AS ALTERNATIVES TO EXPENSIVE STATE FACILITIES. THEREFORE, IN ORDER TO ESTABLISH AN APPROPRIATE CONTINUUM OF TREATMENT OF AND CONSEQUENCES FOR JUVENILE DELINQUENTS BY THE STATE AND COMMUNITIES, AND, IN ORDER TO EXAMINE AND MAKE MORE EFFICIENT USE OF STATE FACILITIES FOR PLACEMENT OF THE MOST EGREGIOUS JUVENILE OFFENDERS, THE GENERAL ASSEMBLY HEREBY ENACTS THIS SECTION.

(2) **Use of detention criteria.** THE COURT SHALL FOLLOW THE CRITERIA SET FORTH IN SUBSECTION (5) OF THIS SECTION IN MAKING COMMUNITY PLACEMENTS WITH RESPECT TO ADJUDICATED JUVENILES. THE DEPARTMENT OF HUMAN SERVICES, THE PROBATION DEPARTMENT, AND THE COURT SHALL FOLLOW THE CRITERIA SET FORTH IN SUBSECTION (4) OF THIS SECTION FOR MAKING COMMITMENT AND SENTENCING DETERMINATIONS. PURSUANT TO SECTION 19-2-213, THE WORKING GROUP SHALL ANNUALLY REVIEW THE CRITERIA SPECIFIED IN THIS SECTION AND SHALL RECOMMEND LEGISLATION TO THE JUDICIARY COMMITTEES OF THE GENERAL ASSEMBLY FOR ANY NECESSARY AMENDMENTS.

(3) **Deviation from criteria.** IN ANY SITUATION IN WHICH THE SENTENCING COURT GOES BEYOND THE CRITERIA SPECIFIED IN THIS SECTION, THE SENTENCING

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COURT SHALL MAKE SPECIFIC FINDINGS CONCERNING THOSE CRITERIA THAT ARE NOT ADHERED TO AND THE COURT'S REASONS FOR DEVIATING FROM THE CRITERIA. EACH JUDICIAL DISTRICT SHALL PREPARE AN ANNUAL REPORT FOR THE SUPREME COURT AND THE GENERAL ASSEMBLY OF THE SENTENCES IN WHICH THE CRITERIA ARE NOT FOLLOWED AND THE SPECIFIC FINDINGS MADE IN EACH CASE PURSUANT TO THIS SUBSECTION (3).

(4) **Commitment criteria.** (a) IN DETERMINING WHETHER TO COMMIT A JUVENILE TO THE OFFICE OF YOUTH SERVICES WITHIN THE DEPARTMENT OF HUMAN SERVICES, THE COURT SHALL CONSIDER THE CRITERIA SPECIFIED IN THIS SUBSECTION (5). THE COURT IS ENCOURAGED TO CONSIDER THE LEAST RESTRICTIVE ALTERNATIVE, BALANCED BY THE NEED FOR PUBLIC SAFETY.

(b) (I) A JUVENILE MAY BE COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES IF HE OR SHE HAS COMMITTED AN ACT, WHICH, IF COMMITTED BY AN ADULT, WOULD CONSTITUTE ONE OF THE FOLLOWING CRIMES:

(A) FIRST DEGREE MURDER, AS DEFINED IN SECTION 18-3-102, C.R.S., OR SECOND DEGREE MURDER, AS DEFINED IN SECTION 18-3-103, C.R.S., OR ATTEMPT OR CONSPIRACY TO COMMIT FIRST OR SECOND DEGREE MURDER;

(B) MANSLAUGHTER, AS DEFINED IN SECTION 18-3-104, C.R.S.;

(C) VEHICULAR HOMICIDE, AS DEFINED IN SECTION 18-3-106, C.R.S., OR VEHICULAR ASSAULT, AS DEFINED IN SECTION 18-3-205, C.R.S.;

(D) FIRST DEGREE ASSAULT, AS DEFINED IN SECTION 18-3-202, C.R.S., OR SECOND DEGREE ASSAULT, AS DEFINED IN SECTION 18-3-203, C.R.S.;

(E) FIRST DEGREE SEXUAL ASSAULT, AS DEFINED IN SECTION 18-3-402, C.R.S., OR SECOND DEGREE SEXUAL ASSAULT, AS DEFINED IN SECTION 18-3-403, C.R.S.;

(F) MENACING, AS DEFINED IN SECTION 18-3-206, C.R.S.;

(G) ROBBERY, AS DEFINED IN SECTION 18-4-301, C.R.S., OR AGGRAVATED ROBBERY, AS DEFINED IN SECTION 18-4-302, C.R.S.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), IN DETERMINING WHETHER TO COMMIT A JUVENILE TO THE DEPARTMENT OF HUMAN SERVICES, THE JUDGE SHALL ALSO CONSIDER WHETHER:

(A) THERE IS DOCUMENTATION THAT THE JUVENILE CANNOT BE TREATED IN A COMMUNITY-BASED TREATMENT OR CORRECTIONAL PROGRAM;

(B) THE JUVENILE HAS ONE OR MORE PRIOR ADJUDICATIONS; OR

(C) SENTENCING THE JUVENILE TO A COMMUNITY-BASED PROGRAM WOULD UNDULY DEPRECIATE THE SERIOUSNESS OF THE OFFENSE.

(c) THE COURT MAY ALSO CONSIDER COMMITTING A JUVENILE TO THE DEPARTMENT OF HUMAN SERVICES IF:

(I) THE JUVENILE HAS BEEN ADJUDICATED FOR ANY OFFENSE OTHER THAN THOSE SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (4);

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(II) THE JUVENILE HAS TWO PRIOR DELINQUENCY ADJUDICATIONS OR HAS BEEN ADJUDICATED A DELINQUENT AND PROBATION HAS BEEN REVOKED FOR A NEW DELINQUENT ACT; AND

(III) A DOCUMENTED HISTORY OF TREATMENT OR CORRECTIVE EFFORTS EXISTS FOR THE JUVENILE.

(d) THE COURT MAY ALSO CONSIDER COMMITTING THE JUVENILE TO THE DEPARTMENT OF HUMAN SERVICES IF THE COURT HAS REASONABLE GROUNDS TO BELIEVE THAT THE JUVENILE WILL NOT REMAIN IN, COOPERATE WITH, OR BENEFIT FROM COMMUNITY-BASED SERVICES OR FROM A LESS RESTRICTIVE SETTING.

(5) **Placement criteria.** (a) IN DETERMINING WHETHER COMMUNITY OUT-OF-HOME PLACEMENT IS APPROPRIATE FOR A JUVENILE, THE COURT SHALL TAKE INTO CONSIDERATION THE CRITERIA SPECIFIED IN THIS SUBSECTION (5). IN ADDITION, THE COURT SHALL MAKE ITS DETERMINATION BASED ON THE UNDERLYING STANDARD OF THE LEAST RESTRICTIVE SETTING AND CONSIDERATION OF PUBLIC SAFETY.

(b) COMMUNITY OUT-OF-HOME PLACEMENT IS APPROPRIATE FOR ANY PREADJUDICATED OR ADJUDICATED JUVENILE WHO DOES NOT REQUIRE CONFINEMENT IN A DETENTION FACILITY AND WHOSE BEHAVIOR CONSTITUTES A DANGER TO THE COMMUNITY AS SHOWN BY:

(I) (A) COMMISSION OF AN ACT THAT WOULD BE A CLASS I, CLASS II, OR CLASS III FELONY IF COMMITTED BY AN ADULT; OR

(B) REPEATED OFFENSES COMMITTED BY THE JUVENILE; AND
(II) COMMUNITY RESOURCES FOR MAINTAINING THE JUVENILE IN HIS OR HER HOME ARE UNAVAILABLE OR LIMITED; AND

(III) ONE OR MORE OF THE FOLLOWING SAFETY FACTORS APPLIES:

(A) THE JUVENILE'S FAMILY HOME PRESENTS AN IMMEDIATE AND CONTINUING THREAT TO THE JUVENILE;

(B) THERE IS IMMINENT RISK OF PHYSICAL VIOLENCE IF THE JUVENILE REMAINS IN THE FAMILY HOME;

(C) THE PARENT OR CARETAKER HAS INJURED THE JUVENILE BY IMPOSING INAPPROPRIATE OR EXCESSIVE PUNISHMENT;

(D) THE PARENT OR CARETAKER HAS SEVERED EMOTIONAL TIES WITH THE JUVENILE;

(E) THE PARENT OR CARETAKER FAILS TO PROVIDE THE JUVENILE WITH APPROPRIATE GUIDANCE AND SUPERVISION;

(F) THE PARENT OR CARETAKER ACTIVELY REJECTS PARENTING ROLES AND IS HOSTILE TOWARD THE JUVENILE;

(G) THE JUVENILE EXHIBITS BEHAVIORS THAT REPRESENT A DANGER TO ONE OR MORE MEMBERS OF THE JUVENILE'S IMMEDIATE FAMILY OR ONE OR MORE MEMBERS OF THE HOUSEHOLD.

(c) COMMUNITY OUT-OF-HOME PLACEMENT MAY ALSO BE APPROPRIATE FOR ANY JUVENILE WHO IS A MANDATORY SENTENCE OFFENDER IF THE COURT DETERMINES THAT SECURE PLACEMENT IS NOT NECESSARY FOR THE JUVENILE.

(d) OUT-OF-HOME PLACEMENT BASED ON AGE-RELATED AND OFFENSE-RELATED CRITERIA ARE AS FOLLOWS:

(I) COMMUNITY NON-RESIDENTIAL OR COMMUNITY RESIDENTIAL PROGRAMS ARE APPROPRIATE FOR JUVENILES AT LEAST TEN YEARS OF AGE BUT LESS THAN TWELVE YEARS OF AGE;

(II) COMMUNITY PROGRAMS OR COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES, OFFICE OF YOUTH SERVICES, IS APPROPRIATE FOR JUVENILES TWELVE YEARS OF AGE BUT LESS THAN FOURTEEN YEARS OF AGE;

(III) COMMUNITY PROGRAMS OR COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES, OFFICE OF YOUTH SERVICES, IS APPROPRIATE FOR JUVENILES FOURTEEN YEARS OF AGE BUT LESS THAN EIGHTEEN YEARS OF AGE AT THE TIME OF PLACEMENT;

(IV) NONRESIDENTIAL COMMUNITY SERVICE IS APPROPRIATE FOR ALL JUVENILE OFFENDERS;

(V) A RESIDENTIAL COMMUNITY PROGRAM IS APPROPRIATE FOR ALL JUVENILE OFFENDERS;

(VI) SECURED FACILITIES ARE APPROPRIATE FOR JUVENILES AT LEAST TWELVE YEARS OF AGE TO SEVENTEEN YEARS OF AGE FOR ALL FELONY ACTS;

EXCEPT THAT COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES, OFFICE OF YOUTH SERVICES, IS NOT APPROPRIATE FOR JUVENILES SEVENTEEN YEARS OF AGE OR OLDER WHO COMMIT A FELONY ACT UNLESS THE COURT MAKES SPECIFIC FINDINGS OF SPECIAL CIRCUMSTANCES;

(VII) THE YOUTHFUL OFFENDER SYSTEM IS APPROPRIATE FOR JUVENILES DESCRIBED IN SECTION 19-2-519; AND

(VIII) THE DEPARTMENT OF CORRECTIONS IS APPROPRIATE FOR JUVENILES SEVENTEEN YEARS OF AGE OR OLDER WHO ARE FOUND GUILTY OF A FELONY AGAINST A PERSON OR A CRIME OF VIOLENCE. THE DEPARTMENT OF CORRECTIONS MAY BE APPROPRIATE FOR SPECIAL OFFENDERS AND FOR JUVENILES UNDER SEVENTEEN YEARS OF AGE WHO HAVE COMMITTED A MAJOR FELONY.

(e) JUVENILES SHALL BE PLACED IN ACCORDANCE WITH ANY APPLICABLE STATE OR FEDERAL LAW THAT MANDATES A SPECIFIC PLACEMENT.

19-2-909. [Formerly 19-2-704.] 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 ~~which~~ THAT the court at any time may require.

(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) Subject to the provisions of this section, a commitment of a child to the department of human services under section ~~19-2-703~~ 19-2-907 shall be for a ~~determinate~~ AN INDETERMINATE period; except that, in the case of a repeat juvenile offender or violent juvenile offender, a judge may impose a minimum sentence of institutionalization, which sentence or commitment shall be served; but institutional placement, as determined by the department of human services, shall not exceed a total of ~~two~~ FIVE years. ~~except as provided in subsection (4) of this section.~~

~~(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.~~

~~(4.5)~~ (4) When a juvenile is placed in foster care by the department of human services following commitment pursuant to section ~~19-2-703~~ 19-2-907, an administrative review shall be conducted every six months after said placement for as long as the juvenile remains in foster care under the placement of the department of human services.

(5) Parole supervision of juveniles committed to the department of human services under section ~~19-2-703~~ 19-2-907, as determined by the juvenile parole board, shall not exceed two years except as otherwise provided by statute.

~~(6) When it is brought to the attention of the court that a juvenile committed to the department by the court has been placed in an institution or other facility for a period exceeding one year without being considered for parole, the court may request the juvenile parole board to review the case.~~

(7) (6) When a juvenile is released or released to parole supervision by the department of human services or escapes from said department, the committing court, the district attorney, the Colorado bureau of investigation, and the initiating law enforcement agency shall be notified.

(8) (7) 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) (8) At least ninety days prior to termination of commitment to the department of human services, notification shall be given to the person or agency that had custody of the juvenile prior to the commitment. Custody of the juvenile shall return to the person or agency having custody prior to the commitment, unless a court of competent jurisdiction orders that custody shall be in a different person or agency.

19-2-910. [Formerly 19-2-1103.] Juveniles committed to the 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 executive director of the department of human services may, by rule and regulation, 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 ~~19-2-704~~ 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 ~~19-2-1104-(1)~~ 19-2-911 (1).

(2) Each juvenile shall then be placed by the department in the appropriate state institution or facility, released on parole, or placed as provided in section ~~19-2-1109-or-19-2-1110~~ 19-2-409 OR 19-2-410, as indicated by the examination and evaluation and the limitations on physical capacity or programs at the respective state institutions and facilities.

(3) (a) When the department of human services determines that a juvenile requires placement in a state facility for children with developmental disabilities, as defined in article 10.5 of title 27, C.R.S., it shall initiate proceedings under article 10.5 of title 27, C.R.S., and notify the court thereof.

(b) (I) When the department of human services determines that a juvenile may require treatment for mental illness, it shall conduct or have a mental health professional conduct a prescreening on the juvenile.

(II) If the 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 is mentally ill, as provided in sections 27-10-105 and 27-10-106, C.R.S., the department of human services shall initiate proceedings under article 10 of title 27, C.R.S., and notify the court thereof.

19-2-911. [Formerly 19-2-1104.] Juveniles committed to the department of human services - transfers. (1) The executive director of the department

of human services may transfer any juvenile committed under section ~~19-2-703~~ 19-2-907 among the facilities established under sections ~~19-2-1101 and 19-2-1106 to 19-2-1108~~ 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 the mentally ill or for persons with developmental disabilities for purposes of diagnosis, evaluation, and emergency treatment; except that no juvenile may be transferred to a mental health facility until the juvenile has received a mental health prescreening resulting in a recommendation that the juvenile be placed in a facility for evaluation pursuant to section 27-10-105 or 27-10-106, C.R.S. No juvenile committed to the department as an aggravated juvenile offender or violent juvenile offender shall be transferred until the treatment facility has a secure setting in which to house the juvenile. The period of temporary transfer pursuant to this paragraph (a) shall 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 ~~which~~ 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

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having jurisdiction over the juvenile under article 10 of title 27, C.R.S., if the juvenile is mentally ill or under article 10.5 of title 27, C.R.S., if the juvenile has developmental disabilities.

~~(4) The department of human services shall not have the authority to place in a penal institution any juvenile committed under section 19-2-703.~~

19-2-912. [Formerly 19-2-1607.] Juveniles committed to department of human services - emergency release. The department of human services and the judicial department shall cooperate to 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. ~~Such guidelines shall be presented to the general assembly on or before December 1, 1991.~~

19-2-913. [Formerly 19-2-705.] Probation - terms - release - revocation.
(1) 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 twelve 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 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 a sentence to the county jail. The aggregate length of any such commitment, detention, or sentence, 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.

(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;

(e) Report to a probation officer at reasonable times as directed by the court or probation officer;



(f) Permit the probation officer to visit ~~him~~ 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; and

(k) Pay the surcharge levied pursuant to section 24-4.2-104 (1) (a) (I), C.R.S.

(3) (a) The court ~~shall~~ MAY PERIODICALLY review the terms and conditions of probation and the progress of each juvenile placed on probation. ~~at least once every six months.~~ Counsel for the juvenile does not have to be present at the 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 ~~19-2-306~~ 19-2-516.

(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 ~~19-2-203 and 19-2-204~~ 19-2-508 AND 19-2-509 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 ~~19-2-703~~ 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 ~~which~~ 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 he OR SHE may be released during the day for school attendance, job training, or employment, as ordered by the court.

19-2-914. [Formerly 19-2-1002.] Juvenile probation officers - powers and duties. (1) Juvenile probation officers appointed under the provisions of ~~this part 10~~ SECTION 19-2-205 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 ~~19-2-705~~ 19-2-913.

(3) (a) Each juvenile probation officer shall keep ~~himself~~ himself 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) ~~He~~ 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) ~~He~~ 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, LEVEL Ia, AS DEFINED IN SECTION 18-1-901 (3) (1) (II), 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.

PART 10

POSTSENTENCE

19-2-1001. **Short title.** THIS PART 10 SHALL BE KNOWN AND MAY BE CITED AS "POSTSENTENCE".

19-2-1002. [Formerly 19-2-1202 and 19-2-1207.] **Juvenile parole.** (8)

(1) **Juvenile parole board - hearing panels authority.** THE JUVENILE PAROLE BOARD, REFERRED TO IN THIS PART 10 AS THE "BOARD", ESTABLISHED PURSUANT TO SECTION 19-2-207 IS AUTHORIZED TO 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 SECTION 19-2-907. The board may modify any of its decisions, or those of the hearing panel, except an order of discharge.

(6) (2) 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.

(2) ~~Hearing panels consisting of two members of the parole 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 either~~

~~a member from the public at large or the member who is the local elected official.~~

(3) HEARING PANELS CONSISTING OF TWO MEMBERS OF THE JUVENILE PAROLE 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 EITHER A MEMBER FROM THE PUBLIC AT LARGE OR THE MEMBER WHO IS THE LOCAL ELECTED OFFICIAL. A hearing panel ~~shall have the authority to~~ MAY grant, deny, defer, suspend, revoke, or specify or modify the conditions of any parole of a juvenile ~~committed to the department of human services pursuant to section 19-2-703 as~~ THAT are in the best interests of the juvenile and the public; except that:

(a) If the members of a hearing panel disagree, a review of that case shall be referred to the entire JUVENILE PAROLE board for review and a decision made by a majority vote of the board;

(b) The hearing panel shall not have authority to grant parole to juveniles committed as violent juvenile offenders as defined in section ~~19-2-803~~ 19-2-518

(3) or aggravated juvenile offenders as defined in section ~~19-2-804~~ 19-2-518 (4).

In such cases, the entire board shall conduct a hearing and make a decision by a majority vote of the board.

(c) If a written request is made by the juvenile, his OR HER parents, or 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.

~~(9)~~ (4) The hearing panel shall be assisted in its duties by the juvenile parole board administrator appointed pursuant to section ~~19-2-1201~~ ~~(6)~~ 19-2-207 (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.

(4) (5) If the hearing panel or the board determines that parole should be granted, the hearing panel shall establish as the length of the parole supervision a period of time equal to the duration of the juvenile's commitment. However, the hearing panel may extend the period of parole supervision up to an additional ninety days if the hearing panel determines that it is in the best interests of the juvenile and the public to do so.

~~(5)~~ (6) If the hearing panel or the board determines that parole should be granted, the parolee shall be ordered to pay any unpaid restitution ~~which~~ THAT has previously been ordered as a condition of parole.

~~(5)~~ (7) **Notice.** The board, prior to consideration of the case of any 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. Such 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.

~~(10)~~ (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 ~~for the~~ BEFORE THE BOARD OR A HEARING PANEL TO grant, ~~modification, or revocation of a~~ MODIFY, OR REVOKE parole. ~~before the board or a hearing panel.~~

~~(7)~~ (9) **Parole discharge.** The board may discharge a juvenile from parole 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 or when such juvenile is under the probation supervision of the district court, in the custody of the department of corrections, or otherwise not available to receive parole supervision.

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19-2-1003. [Formerly 19-2-1205.] Division of juvenile parole - powers - duties. (1) Under the direction of the director of juvenile parole, the juvenile parole officer or officers in each district established under this ~~part 12~~ PART 10 shall supervise all juveniles living in the district 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 ~~to him~~ fully, and shall aid ~~him~~ THE JUVENILE to observe them. He OR SHE shall have periodic conferences with and reports from the juvenile. ~~He~~ 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, LEVEL Ia, AS DEFINED IN SECTION 18-1-901 (3) (I) (II), C.R.S., in performing the duties of their position.

19-2-1004. [Formerly 19-2-1206 and 19-2-1203 (2).] Parole violation and revocation. (1) The director of juvenile parole 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 juvenile parole 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) Request a court to conduct a juvenile parole preliminary hearing as a part of a detention hearing conducted as described in section ~~19-2-203~~ 19-2-509, in which hearing the court shall make a finding as to whether there is probable cause to believe that the parolee has violated a condition of parole; or

(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 child; or

(d) Release the parolee if he OR SHE is not subject to other actions ~~which~~ 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 ~~section 19-2-1206 (4)~~ SUBSECTION (4) OF THIS SECTION.

~~(4.5)~~ (6) Whenever an administrative law judge schedules a preliminary hearing pursuant to section ~~19-2-1203 (2)~~ 19-2-209 (2), 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.

~~(4-6) (7)~~ At any preliminary hearing held pursuant to section ~~19-2-1203~~ ~~(2)~~ 19-2-209 (2), 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.

~~(5)~~ (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 juvenile parole that the parolee, if detained, be released and the violation proceedings be dismissed. The director shall determine whether to cause the violation proceedings to be dismissed, and, if he OR SHE elects to cause dismissal, the parolee shall be released or notified that he OR SHE is relieved of obligation to appear before the hearing panel. In such event, the director shall give written notification to the board of his OR HER action.

~~(6)~~ (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.

~~(7)~~ (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.

~~(8)~~ (11) At least five days before the appearance of a parolee before the hearing panel, ~~he~~ THE PAROLEE and his OR HER parents, guardian, or legal custodian shall be advised in writing by the director of the division of juvenile

parole of the nature of the charges ~~which~~ 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 ~~which~~ 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, ~~are denied by him~~; a hearing will be held before the hearing panel, that, at such 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.

(9) (12) At the hearing before the hearing panel, if the parolee denies the violation, the division of juvenile parole shall have 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 such criminal proceeding. Any evidence having probative value shall be admissible regardless of its admissibility under exclusionary rules of evidence if the parolee is accorded a fair opportunity to rebut hearsay evidence. The parolee shall have the right to confront and to cross-examine adverse

witnesses unless the administrative law judge specifically finds good cause for not allowing confrontation.

~~(10)~~ (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.

~~(11)~~ (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.

SECTION 2. 13-10-113 (4) and (5), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended to read:

13-10-113. Fines and penalties. (4) Notwithstanding any provision of law to the contrary, a municipal court has the authority to order a child under eighteen years of age confined in a ~~juvenile detention facility operated or~~

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~~contracted by the department of human services or a temporary holding facility operated by or under contract with a municipal government for failure to comply with a lawful order of the court, including an order to pay a fine. Any confinement of a child for contempt of municipal court shall not exceed forty-eight hours.~~

(5) Notwithstanding any other provision of law, a child, as defined in section 19-1-103 (4), C.R.S., arrested for an alleged violation of a municipal ordinance, convicted of violating a municipal ordinance or probation conditions imposed by a municipal court, or found in contempt of court in connection with a violation or alleged violation of a municipal ordinance shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders but may be held in a ~~juvenile detention facility operated by or under contract with the department of human services or a temporary holding facility operated by or under contract with a municipal government~~ ~~which~~ THAT shall receive and provide care for such child. A municipal court imposing penalties for violation of probation conditions imposed by such court or for contempt of court in connection with a violation or alleged violation of a municipal ordinance may NOT confine a child ~~pursuant to section 19-2-204, C.R.S., for up to forty-eight hours~~ in a juvenile detention facility operated by or under contract with the department of human services BUT SHALL CONSIDER PLACING THE CHILD IN AN APPROPRIATE COMMUNITY PROGRAM THAT IS AVAILABLE IN THE JUDICIAL

DISTRICT. In imposing any jail sentence upon a juvenile for violating any municipal ordinance when the municipal court has jurisdiction over the juvenile pursuant to section ~~19-2-102~~ 19-2-103 (1) (a) (II), C.R.S., a municipal court does not have the authority to order a child under eighteen years of age to a juvenile detention facility operated or contracted by the department of human services BUT SHALL CONSIDER SENTENCING THE CHILD TO AN APPROPRIATE COMMUNITY PROGRAM THAT IS AVAILABLE IN THE JUDICIAL DISTRICT.

SECTION 3. The introductory portion to 16-5-401 (1) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

16-5-401. Limitation for commencing criminal proceedings.

(1) (a) Except as otherwise provided by statute applicable to specific offenses or circumstances, no person EIGHTEEN YEARS OF AGE OR OLDER shall be prosecuted, tried, or punished for any offense unless the indictment, information, or complaint is filed in a court of competent jurisdiction or a summons and complaint or penalty assessment notice is served upon the defendant within the period of time after the commission of the offense as specified below:

SECTION 4. 19-3-102 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19-3-102. Neglected or dependent child. (1) A child is neglected or dependent if:

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(g) THE CHILD IS UNDER THE AGE OF TEN AND HAS COMMITTED AN ACT THAT WOULD CONSTITUTE A DELINQUENT ACT IF THE CHILD WERE TEN YEARS OF AGE OR OLDER.

SECTION 5. Article 32 of title 22, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

22-32-109.3. Board of education - specific duties - student records.

(1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, EACH SCHOOL DISTRICT, AS REQUIRED UNDER SECTION 24-72-204 (3), C.R.S., SHALL MAINTAIN THE CONFIDENTIALITY OF THE ADDRESSES AND TELEPHONE NUMBERS OF STUDENTS ENROLLED IN PUBLIC ELEMENTARY AND SECONDARY SCHOOLS WITHIN THE SCHOOL DISTRICT AND ANY MEDICAL, PSYCHOLOGICAL, SOCIOLOGICAL, AND SCHOLASTIC ACHIEVEMENT DATA COLLECTED CONCERNING INDIVIDUAL STUDENTS.

(2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE ADDRESS AND TELEPHONE NUMBER AND ANY MEDICAL, PSYCHOLOGICAL, SOCIOLOGICAL, AND SCHOLASTIC ACHIEVEMENT DATA CONCERNING ANY STUDENT SHALL BE RELEASED UNDER THE FOLLOWING CONDITIONS:

(a) AS PROVIDED IN SECTION 24-72-204 (3), C.R.S.;

(b) TO DISTRICT OR MUNICIPAL COURT PERSONNEL, THE OFFICE OF YOUTH SERVICES, COUNTY DEPARTMENTS OF SOCIAL SERVICES, THE YOUTHFUL

OFFENDER SYSTEM, AND ANY OTHER JUVENILE JUSTICE AGENCY WITHIN FIFTEEN DAYS AFTER RECEIPT BY THE SCHOOL DISTRICT OF A COURT ORDER AUTHORIZING RELEASE OF SUCH INFORMATION.

SECTION 6. 22-33-104.5 (3) (b) and (5), Colorado Revised Statutes, 1995 Repl. Vol., are repealed as follows:

~~22-33-104.5. Home-based education - legislative declaration - definitions - guidelines.~~ (3) The following guidelines shall apply to a non-public home-based educational program:

~~(b) A child who is participating in a non-public home-based educational program shall not be subject to compulsory school attendance as provided in this article, except that any child who is habitually truant, as defined in section 22-33-107 (3), at any time during the last six months that the child attended school before proposed enrollment in a non-public home-based educational program may not be enrolled in the program unless the child's parents first submit a written description of the curricula to be used in the program along with the written notification of establishment of the program required in paragraph (c) of subsection (2) of this section to the superintendent of the child's school district of residence.~~

~~(5) (a) (f) If test results submitted to the local school district of residence pursuant to the provisions of paragraph (f) of subsection (3) of this section show that a child participating in a non-public home-based educational program~~

received a composite score on said test which ~~THAT~~ was above the thirteenth percentile, such child shall continue to be exempt from the compulsory school attendance requirement of this article. If the child's composite score on said test is at or below the thirteenth percentile, the local school district of residence shall require the parents to place said child in a public or independent or parochial school until the next testing period; except that no action shall be taken until the child is given the opportunity to be retested using an alternate version of the same test or a different nationally standardized achievement test selected by the parent from a list of approved tests supplied by the state board.

(H) If evaluation results submitted to the local school district of residence pursuant to the provisions of paragraph (f) of subsection (3) of this section show that the child is making sufficient academic progress according to the child's ability, the child will continue to be exempt from the compulsory school attendance requirement of this article. If the evaluation results show that the child is not making sufficient academic progress, the local school district of residence shall require the child's parents to place the child in a public or independent or parochial school until the next testing period.

(b) If the child's test or evaluation results are submitted to an independent or parochial school, said school shall notify the local school district of residence if the composite score on said test was at or below the thirteenth percentile or if the evaluation results show that the child is not making sufficient academic

progress. The local school district of residence shall then require the parents to proceed in the manner specified in paragraph (e) of this subsection (5).

SECTION 7. 22-33-105 (6), Colorado Revised Statutes, 1995 Repl. Vol., is repealed as follows:

22-33-105. Suspension, expulsion, and denial of admission. (6) When a pupil is expelled by a school district for the remainder of the school year, the parent, guardian, or legal custodian is responsible for seeing that the compulsory school attendance statute is complied with during the period of expulsion from such school district.

SECTION 8. 22-23-106 (5), Colorado Revised Statutes, 1995 Repl. Vol., is repealed as follows:

22-23-106. Summer schools. (5) The board of education of a school district has the authority to determine whether attendance at summer school shall be voluntary or compulsory. If attendance is compulsory, migrant children shall attend unless excused in compliance with the "School Attendance Law of 1963", article 33 of this title.

SECTION 9. Repeal. 22-33-104, 22-33-107, and 22-33-108 (4), (5), (6), (7), and (8), Colorado Revised Statutes, 1995 Repl. Vol., are repealed.

SECTION 10. Repeal of provisions not being relocated in this act. 19-2-703 (3), 19-2-1104.5, 19-2-1105, 19-2-1111 (2) (d) (II), 19-2-1301,

19-2-1601, 19-2-1604, and 19-2-1608, Colorado Revised Statutes, 1986 Repl. Vol., as amended, are repealed.

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BY REPRESENTATIVES Adkins, George, and Reeser;
also SENATORS Hopper, Tanner, and Wham.

A BILL FOR AN ACT
CONCERNING THE RELOCATION OF DEFINITIONS AFFECTING CHILDREN.

Bill Summary

"Relocating Children's Code Definitions"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Colorado Children's Code Legislative Oversight Committee. Relocates all definitions from the "Colorado Children's Code" into one statutory provision.

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

SECTION 1. 19-1-103, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

19-1-103. Definitions. AS USED IN THIS TITLE OR IN THE SPECIFIED PORTION OF THIS TITLE, 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 SEXUAL ASSAULT OR MOLESTATION, SEXUAL EXPLOITATION, OR PROSTITUTION;

(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 ACT OR OMISSION DESCRIBED IN SECTION 19-3-102 (1) (a), (1) (b), OR (1) (c).

(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. 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 SUBDUCE A CHILD BEING TAKEN INTO CUSTODY PURSUANT TO SECTION 19-2-201 THAT ARE PERFORMED BY A PEACE OFFICER, LEVEL I, AS DEFINED IN SECTION 18-1-901 (3) (I), C.R.S., ACTING IN THE GOOD FAITH PERFORMANCE OF THE OFFICER'S DUTIES.

(2) WITH RESPECT TO A JUVENILE WHO HAS BEEN FOUND GUILTY OF A DELINQUENT ACT AND IS A JUVENILE DELINQUENT, "ADJUDICATION", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS CONVICTION WHEN A PREVIOUS CONVICTION MUST BE PLED AND PROVED AS AN ELEMENT OF AN OFFENSE.

(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 A PANEL OF APPROPRIATE PERSONS AT LEAST ONE OF WHOM 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.

(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) "ADULT", AS USED IN PART 3 OF ARTICLE 5 OF THIS TITLE, MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER.

(9) "ADULT ADOPTEE", AS USED IN PART 4 OF ARTICLE 5 OF THIS TITLE, MEANS AN INDIVIDUAL WHO IS TWENTY-ONE 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.

(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, BIRTH DATE, LAST-KNOWN ADDRESS, PHYSICAL DESCRIPTION, SEX, AND FINGERPRINTS OF ANY PERSON.

(13) "BIOLOGICAL 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.

(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.

DEFINITIONS



"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.

(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.

(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 PUBLIC HEALTH DEPARTMENT, 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 RENDER DECISIONS REGARDING GRIEVANCES BETWEEN A COMPLAINANT AND A COUNTY DEPARTMENT.

(24) "COMMIT", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS TO TRANSFER LEGAL CUSTODY.

(25) "COMPLAINANT", AS USED IN SECTION 19-3-211, MEANS THE PERSON BRINGING A GRIEVANCE AGAINST A COUNTY DEPARTMENT.

(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 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. "CONSENT" ALWAYS SHALL BE PRECEDED BY AN EXPLANATION THAT CONSENT PERMITS THE CONFIDENTIAL INTERMEDIARY TO ARRANGE A PERSONAL CONTACT AMONG BIOLOGICAL RELATIVES.

(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.

(30) "COST OF CARE", AS USED IN SECTION 19-2-705.5, MEANS THE COST TO THE DEPARTMENT OR THE COUNTY CHARGED WITH THE CUSTODY OF THE JUVENILE FOR PROVIDING ROOM, BOARD, CLOTHING, EDUCATION, MEDICAL CARE, AND OTHER NORMAL LIVING EXPENSES TO A JUVENILE SENTENCED TO A PLACEMENT OUT OF THE HOME, AS DETERMINED BY THE COURT.

(31) "COUNSEL" MEANS AN ATTORNEY-AT-LAW WHO ACTS AS A PERSON'S LEGAL ADVISOR OR WHO REPRESENTS A PERSON IN COURT.

(32) (a) "COUNTY DEPARTMENT", AS USED IN PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS THE COUNTY OR DISTRICT DEPARTMENT OF SOCIAL SERVICES.

(b) "COUNTY DEPARTMENT", AS USED IN SECTION 19-3-211, MEANS A COUNTY OR A CITY AND COUNTY DEPARTMENT OF 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.

(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.

(36) "DELINQUENT ACT", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS A VIOLATION OF ANY STATUTE, ORDINANCE, OR ORDER ENUMERATED IN SECTION 19-2-102(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 PART 4 OF 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 19-1-122 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.

(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 19-2-304 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 19-2-703. "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.

(45) AN "EMANCIPATED JUVENILE", AS USED IN SECTION 19-2-210 (2), 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) "EMANCIPATED MINOR", AS USED IN SECTIONS 19-1-114 AND 19-2-306, HAS THE SAME MEANING AS SET FORTH IN SECTION 13-21-107.5, C.R.S.

(47) "ESTATE", AS USED IN SECTION 19-2-705.5, 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.

(48) "EXPUNGEMENT", AS USED IN SECTION 19-2-902, MEANS THE DESIGNATION OF RECORDS WHEREBY SUCH RECORDS ARE DEEMED NEVER TO HAVE EXISTED. UPON THE ENTRY OF AN EXPUNGEMENT ORDER, THE PERSON, AGENCY, AND COURT MAY PROPERLY INDICATE THAT NO RECORD EXISTS.

(49) "FAMILY CARE HOME" MEANS A FAMILY 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) "FAMILY DEVELOPMENT SPECIALIST", AS USED IN SECTION 19-2-705.6, HAS THE SAME MEANING AS SET FORTH IN SECTION 26-5.5-104 (4) (b), C.R.S.

(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.

(52) "GANG", AS USED IN SECTIONS 19-2-204 (4) (e) AND 19-2-1111 (2) (d), 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 19-2-209, 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).

(57) "GRIEVANCE", AS USED IN SECTION 19-3-211, MEANS ANY DISPUTE BETWEEN A COMPLAINANT AND A COUNTY DEPARTMENT CONCERNING SUCH

DEPARTMENT'S RESPONSE TO, INVESTIGATION OF, AND RECOMMENDATIONS REGARDING ANY REPORT OF CHILD ABUSE AND NEGLECT PURSUANT TO THE PROVISIONS OF 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 27-10.5-109, 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 19-2-805, 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.

(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.

(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.

(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, ANY FACILITY SUBJECT TO THE COLORADO "CHILD CARE ACT" AND THAT IS 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 PART 13 OF ARTICLE 2 OF THIS TITLE, MEANS ANY BOARD APPOINTED BY A BOARD OF COUNTY COMMISSIONERS FOR THE PURPOSE OF REVIEWING COMMUNITY PLACEMENTS UNDER PART 13 OF ARTICLE 2 OF THIS TITLE. 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.

(72) "LAW ENFORCEMENT OFFICER" MEANS A PEACE OFFICER, AS DEFINED IN SECTION 18-1-901 (3) (I) (I), (3) (I) (II), AND (3) (I) (III), 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.

(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 PRESSCREENING" 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 27-10-105 OR 27-10-106, C.R.S., AND MAY

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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 PRESCREENINGS AND UNDER THE SUPERVISION OF A PERSON LICENSED TO PRACTICE MEDICINE OR PSYCHOLOGY IN THIS STATE.

(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.

(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, 19-2-306, AND 19-2-307, INCLUDES A NATURAL PARENT HAVING SOLE OR JOINT CUSTODY, REGARDLESS OF WHETHER THE PARENT IS DESIGNATED AS THE PRIMARY RESIDENTIAL CUSTODIAN, 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) "PEACE OFFICER", AS USED IN SECTION 19-2-209, HAS THE SAME MEANING AS SET FORTH IN SECTION 18-1-901 (3) (1), C.R.S.

(84) "PHYSICAL CUSTODIAN", AS USED IN SECTION 19-2-210, MEANS A GUARDIAN, WHETHER OR NOT APPOINTED BY COURT ORDER, WITH WHOM THE JUVENILE HAS RESIDED FOR MORE THAN SIX MONTHS, EXCLUDING AN INDIVIDUAL PROVIDING FOSTER OR INSTITUTIONAL CARE.

(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

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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.

(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.

(88) "PUBLIC EMPLOYEE", AS USED IN THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S., DOES NOT INCLUDE ANY JUVENILE ORDERED TO PARTICIPATE IN A WORK OR COMMUNITY SERVICE PROGRAM UNDER SECTION 19-2-706.

(89) "REASONABLE EFFORTS", AS USED IN ARTICLE 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, TO PROVIDE, PURCHASE, OR DEVELOP THE

SUPPORTIVE AND REHABILITATIVE SERVICES TO THE FAMILY THAT ARE REQUIRED BOTH TO PREVENT UNNECESSARY PLACEMENT OF CHILDREN OUTSIDE OF SUCH CHILDREN'S HOMES AND TO FOSTER, WHENEVER APPROPRIATE, THE REUNIFICATION OF CHILDREN WITH THE FAMILIES OF SUCH CHILDREN. 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.

(92) "RESIDENTIAL COMMUNITY PLACEMENT", AS USED IN PART 13 OF 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 CHILD 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.

(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. 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, AND FOLLOW-UP ACTIVITIES.

(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.

(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, MEANS ANY PERSON WHO IS NOT A PARENT, GUARDIAN, OR LEGAL CUSTODIAN AND WHO IS INVOLUNTARILY JOINED AS A PARTY IN A DEPENDENCY OR NEGLECT PROCEEDING FOR THE LIMITED PURPOSES OF PROTECTIVE ORDERS OR INCLUSION IN A TREATMENT PLAN.

(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.

(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 AND PART 3 OF ARTICLE 3 OF THIS TITLE, MEANS THE DEPARTMENT OF HUMAN SERVICES CREATED BY SECTION 24-1-120, C.R.S.

(104) "STEPPARENT" MEANS A PERSON WHO IS MARRIED TO A PARENT OF A CHILD BUT WHO HAS NOT ADOPTED THE CHILD.

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(105) "TECHNICAL VIOLATION", AS USED IN SECTION 19-2-209, 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 OR PHYSICALLY 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 ARTICLE 3 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.

SECTION 2. Article 1 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

19-1-103.5. Other definitions. (1) FOR THE DEFINITION OF PARENT AND CHILD RELATIONSHIP, SEE SECTION 14-15-102, C.R.S.

(2) FOR FATHER DEFINED, SEE SECTION 14-15-124, C.R.S.

SECTION 3. 19-1-116 (2) (b) (I), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-1-1160. Funding - alternatives to placement out of the home - pilot project. (2) (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. ~~For the purposes of this subsection (2), "imminent placement out of the home" means that without intercession the child will be placed out of the home immediately.~~ 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.

SECTION 4. 19-2-210 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-210. Statements. (2) 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 or physical custodian if the juvenile is eighteen years of age or older at the time of the interrogation, if the juvenile is emancipated from the parent, guardian, or legal or physical custodian, or if the juvenile is a runaway from a state other than Colorado and is of sufficient age and understanding. ~~For the purposes of this subsection (2) only, an "emancipated juvenile" means a juvenile over fifteen years of age and under eighteen years of age who has, with the real or apparent assent of his parents, demonstrated his independence from his 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 his own support, who is married, or who is in the military.~~

SECTION 5. 19-2-306 (2.5) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-306. Summons - issuance - contents - service. (2.5) (a) The court may, when the court determines that it is in the best interests of the child, join the child's parent or guardian and the person with whom the child resides, if other than the child's parent or guardian, as a respondent to the action and may

issue a summons requiring the parent or guardian and the person with whom the child resides, if other than the child's parent or guardian, to appear with the child at all proceedings under this article involving the child. If the parent or guardian of any child 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 19-2-307, "parent" includes a natural parent who has sole or joint custody, regardless of whether the parent is designated as the primary residential custodian, or an adoptive parent. This subsection (2.5) 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.~~

SECTION 6. 19-2-703 (4) (c) (II), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-703. Juvenile delinquent - sentencing - disposition - restitution - parental liability. (4) (c) (II) The court may order the juvenile's parent to make restitution pursuant to the terms and conditions set forth in this subparagraph (II); except that the liability of the juvenile's parent under this subparagraph (II) shall not exceed the amount of five thousand dollars for any one delinquent act. If the court finds, after a 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 subparagraph (II). ~~As used in this subparagraph (II), "parent" has the same meaning as in section 19-1-103 (21).~~

SECTION 7. 19-2-805 (1) (a) (V), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-805. Direct filing - repeal. (1) (a) A juvenile may be charged by the direct filing of an information in the district court or by indictment only when:

(V) The juvenile is fourteen years of age or older, has allegedly committed a delinquent act that constitutes a felony, and is determined to be an habitual juvenile offender. ~~For purposes of this section, an "habitual juvenile offender" is 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.~~

SECTION 8. 19-3-304 (2.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-3-304. Persons required to report child abuse or neglect. (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. ~~For purposes of this subsection (2.5) only, "sexual conduct" 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.~~

SECTION 9. 19-3-308 (4) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-3-308. Action upon report of intrafamilial, institutional, or third-party abuse - child protection team. (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). ~~As used in this subsection (4), "continuously available" 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.~~ The county department or other agency authorized to conduct the investigation pursuant to this subsection

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(4), for the purpose of such investigation, shall have access to the state central registry of child protection for information under the name of the child or the suspected perpetrator.

SECTION 10. 19-5-205.5 (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-5-205.5. Nonpublic agency interstate and foreign adoptions - legislative declaration - authority for department to select agencies. (4) ~~For purposes of this section, "nonpublic agency interstate and foreign adoption" means an interstate or foreign adoption that is handled by a private, licensed child placement agency.~~ 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).

SECTION 11. Repeal. 19-1-114 (6), 19-1-117.6, 19-2-101, 19-2-204 (4) (e) (II), 19-2-209 (2), 19-2-210 (4), 19-2-303 (3), 19-2-705.5 (6) (a) and (6) (b) (I), 19-2-705.6 (4) (b), 19-2-706 (8), 19-2-902 (1), 19-2-1111 (2) (d) (II), 19-2-1302, 19-3-101, 19-3-211 (6), 19-3-303, 19-3-508 (1) (e) (II), 19-3.5-103, 19-5-302, and 19-5-401, Colorado Revised Statutes, 1986 Repl. Vol., as amended, are repealed.

SECTION 12. Effective date. This act shall take effect upon passage; except that section 2 of this act shall take effect July 1, 1996.

SECTION 13. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BY REPRESENTATIVE Adkins, George, and Reeser;
also SENATOR Wham, Hopper, and Tanner.

HOUSE CONCURRENT RESOLUTION 96-

SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO SECTION 9 OF ARTICLE VI OF THE CONSTITUTION OF THE STATE OF COLORADO, GRANTING THE JUVENILE COURT IN THE CITY AND COUNTY OF DENVER JURISDICTION OVER PROBATE MATTERS AFFECTING JUVENILES WHO ARE OTHERWISE WITHIN THE JURISDICTION OF THE JUVENILE COURT.

Resolution Summary

"Denver Juvenile Court Jurisdiction"

(Note: This summary applies to this resolution as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Colorado Children's Code Legislative Oversight Committee. Expands the jurisdiction of the juvenile court in the city and county of Denver to include probate matters that may arise affecting juveniles who are otherwise within the jurisdiction of the juvenile court.

Be It Resolved by the House of Representatives of the Sixtieth General Assembly of the State of Colorado, the Senate concurring herein:

SECTION 1. At the next election at which such question may be submitted, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to wit:

Section 9 (3) of article VI of the constitution of the state of Colorado is amended, and the said section 9 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

Section 9. District courts - jurisdiction. (3) In the city and county of Denver, EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, exclusive original jurisdiction in all matters of probate, settlements of estates of deceased persons, appointment of guardians, conservators and administrators, and settlement of their accounts, the adjudication of the mentally ill, and such other jurisdiction as may be provided by law shall be vested in a probate court, created by section 1 of this article, and to which court all of such jurisdiction of the county court of the city and county of Denver shall be transferred, including all pending cases and matters, effective on the second Tuesday of January, 1965.

(4) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (3) OF THIS SECTION, EFFECTIVE JULY 1, 1997, THE JUVENILE COURT IN THE CITY AND COUNTY OF DENVER SHALL HAVE JURISDICTION OVER MATTERS OF PROBATE AS THEY AFFECT JUVENILES WHO ARE OTHERWISE WITHIN THE JURISDICTION OF THE JUVENILE COURT, INCLUDING BUT NOT LIMITED TO THE MENTAL HEALTH OF THE JUVENILE.

SECTION 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast a vote as provided by law either "Yes" or "No" on the proposition: "AN AMENDMENT TO SECTION 9 OF ARTICLE VI OF THE CONSTITUTION OF THE STATE OF COLORADO, GRANTING THE JUVENILE COURT IN THE CITY AND COUNTY OF DENVER JURISDICTION OVER PROBATE MATTERS AFFECTING JUVENILES WHO ARE OTHERWISE WITHIN THE JURISDICTION OF THE JUVENILE COURT."

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.