NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 01-1193

BY REPRESENTATIVE(S) Alexander, Coleman, Borodkin, Groff, Jahn, Mace, Madden, Miller, Romanoff, Tochtrop, and Williams S.;
also SENATOR(S) Reeves.

CONCERNING MODIFICATIONS TO THE "COLORADO CHILDREN'S CODE" TO BE CONSISTENT WITH FEDERAL LAW, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that the manner of proper implementation of the administrative permanency review process pursuant to federal standards specified in section 42 U.S.C. 675 and the regulations adopted in connection therewith, as amended, is uncertain. The general assembly strongly encourages the department of human services to seek guidance from appropriate federal authorities to assure that the state of Colorado is in compliance with section 42 U.S.C. 675 and the regulations adopted in connection therewith, as amended.

SECTION 2. 19-1-103 (5) and (89), Colorado Revised Statutes, are amended, and the said 19-1-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

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

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

(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~~ AN ADMINISTRATIVE REVIEWER WHO is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(83.5) "PERMANENCY HEARING" MEANS A HEARING IN WHICH THE PERMANENCY PLAN FOR A CHILD IN FOSTER CARE IS DETERMINED BY THE COURT.

(89) "Reasonable efforts", as used in ~~article~~ ARTICLES 1, 2, AND 3 of this title, means the exercise of diligence and care throughout the state of Colorado for children who are in out-of-home placement, or are at imminent risk of out-of-home placement. ~~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 safe reunification of children with the families of such children.~~ In determining whether ~~reasonable efforts are~~ IT IS appropriate TO PROVIDE, PURCHASE, OR DEVELOP THE SUPPORTIVE AND REHABILITATIVE SERVICES THAT ARE REQUIRED TO PREVENT UNNECESSARY PLACEMENT OF A CHILD OUTSIDE OF A CHILD'S HOME OR TO FOSTER THE SAFE REUNIFICATION OF A CHILD WITH A CHILD'S FAMILY, as described in section 19-3-208, OR WHETHER IT IS APPROPRIATE TO FIND AND FINALIZE AN ALTERNATIVE PERMANENT PLAN FOR A CHILD, and in making ~~such~~ reasonable efforts, the child's health and safety shall be the paramount concern. Services provided by a county or city and county in accordance with section 19-3-208 are deemed to meet the reasonable effort standard described in this subsection (89). Nothing in this subsection (89) shall be construed to conflict with federal law.

SECTION 3. 19-1-115 (6), Colorado Revised Statutes, is amended, and the said 19-1-115 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-1-115. Legal custody - guardianship - placement out of the

home. (6) ~~If~~ ANY TIME the court enters an order removing a child from the home, EVEN TEMPORARILY, 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 THERE HAS BEEN COMPLIANCE WITH REASONABLE EFFORTS REQUIREMENTS REGARDING REMOVAL OF THE CHILD FROM THE HOME, AS FOLLOWS:

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

(II) That an emergency situation exists which requires the immediate temporary removal of the child from the home and ~~that it is reasonable not to make efforts to prevent removal of the child from the home due to the emergency situation~~ IT IS REASONABLE THAT PREVENTATIVE EFFORTS NOT BE PROVIDED DUE TO THE EMERGENCY SITUATION; OR

(III) THAT REASONABLE EFFORTS TO PREVENT THE CHILD'S REMOVAL FROM THE HOME ARE NOT REQUIRED BECAUSE OF THE EXISTENCE OF A CIRCUMSTANCE DESCRIBED IN SUBSECTION (7) OF THIS SECTION;

(c) That reasonable efforts have been made or will be made to reunite the child and the family or that efforts to reunite the child and the family have failed OR THAT REASONABLE EFFORTS TO REUNITE THE CHILD AND THE FAMILY ARE NOT REQUIRED PURSUANT TO SUBSECTION (7) OF THIS SECTION; and

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

(7) REASONABLE EFFORTS ARE NOT REQUIRED TO PREVENT THE CHILD'S REMOVAL FROM THE HOME OR TO REUNIFY THE CHILD AND THE FAMILY IN THE FOLLOWING CIRCUMSTANCES:

(a) WHEN THE COURT FINDS THAT THE PARENT HAS SUBJECTED THE

CHILD TO AGGRAVATED CIRCUMSTANCES AS DESCRIBED IN SECTIONS 19-3-604 (1) AND (2); OR

(b) WHEN THE PARENTAL RIGHTS OF THE PARENT WITH RESPECT TO A SIBLING OF THE CHILD HAVE BEEN INVOLUNTARILY TERMINATED; OR

(c) WHEN THE COURT FINDS THAT THE PARENT HAS BEEN CONVICTED OF ANY OF THE FOLLOWING CRIMES:

(I) MURDER OF ANOTHER CHILD OF THE PARENT;

(II) VOLUNTARY MANSLAUGHTER OF ANOTHER CHILD OF THE PARENT;

(III) AIDING, ABETTING, OR ATTEMPTING THE COMMISSION OF OR CONSPIRING OR SOLICITING TO COMMIT THE CRIMES IN SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (c); OR

(IV) A FELONY ASSAULT THAT RESULTED IN SERIOUS BODILY INJURY TO THE CHILD OR TO ANOTHER CHILD OF THE PARENT.

SECTION 4. 19-2-508 (3) (a) (VII), Colorado Revised Statutes, is amended to read:

19-2-508. Detention and shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions. (3) (a) (VII) If the court orders further detention of a juvenile pursuant to the provisions of this section, said order shall contain specific findings as follows:

(A) Whether ~~continuation~~ PLACEMENT of the juvenile ~~in~~ OUT OF his or her home would be in the juvenile's and the community's best interests;

(B) Whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the home, ~~or~~ whether ~~such efforts are unnecessary~~ IT IS REASONABLE THAT SUCH EFFORTS NOT BE PROVIDED due to the existence of an emergency situation that requires the immediate removal of the juvenile from the home, OR WHETHER SUCH EFFORTS NOT BE REQUIRED DUE TO THE CIRCUMSTANCES DESCRIBED IN SECTION 19-1-115 (7); and

(C) Whether procedural safeguards to preserve parental rights have been applied in connection with the removal of the juvenile from the home, any change in the juvenile's placement in a community placement, or any determination affecting parental visitation of the juvenile.

SECTION 5. 19-2-906.5, Colorado Revised Statutes, is amended to read:

19-2-906.5. Orders - community placement - reasonable efforts required - reviews. (1) If the court sentences a juvenile to a community placement pursuant to the provisions of this article, said order shall contain specific findings as follows:

(a) Whether ~~continuation~~ PLACEMENT of the juvenile ~~in~~ OUT OF the home would be in the juvenile's and the community's best interests;

(b) Whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the home, ~~or~~ whether ~~such efforts are unnecessary~~ IT IS REASONABLE THAT SUCH EFFORTS NOT BE PROVIDED due to the existence of an emergency situation that requires the immediate removal of the juvenile from the home, OR WHETHER SUCH EFFORTS NOT BE REQUIRED DUE TO THE CIRCUMSTANCES DESCRIBED IN SECTION 19-1-115 (7); and

(c) Whether procedural safeguards to preserve parental rights have been applied in connection with the removal of the juvenile from the home, any change in the juvenile's community placement, or any determination affecting parental visitation.

(2) (a) Every six months after the sentencing hearing provided in section 19-2-906, the court shall hold a hearing to review any order of community placement or, if there is no objection by any party to the action, the court may require the department of human services to conduct an administrative review. The entity ~~conducting~~ SCHEDULING the review shall provide notice of the review to the juvenile, the juvenile's parents or guardian, any service providers working with the juvenile, the juvenile's guardian ad litem, if one has been appointed, and all attorneys of record to allow appearances of any of said persons at the review. At the review conducted pursuant to this subsection (2), the reviewing entity shall determine:

(I) Whether continued community placement is in the best interests of the juvenile and the community;

(II) Whether the juvenile's safety is protected in the community placement;

(III) Whether reasonable efforts have been made to return the juvenile to the home or whether the juvenile should be permanently removed from his or her home;

(IV) Whether continued community placement is necessary and appropriate;

(V) Whether there has been compliance with the juvenile's case plan;

(VI) Whether progress has been made toward alleviating or mitigating the causes that necessitated the community placement; and

(VII) Whether there is a date projected by which the juvenile will be returned and safely maintained in his or her home, placed for legal guardianship, or ~~transitioned into independent living~~ PLACED IN A PLANNED PERMANENT LIVING ARRANGEMENT.

(b) If the juvenile resides in a placement out of state, the entity conducting the review shall make a determination that the out-of-state placement continues to be appropriate and in the best interests of the juvenile.

(c) ~~If the review is conducted by the department of human services as an administrative review, the department shall forward a copy of the findings required in paragraph (a) of this subsection (2) to the appropriate judicial district.~~

(3) (a) If the juvenile is placed in a community placement for a period of twelve months or longer, the court shall conduct a permanency hearing to review the order of community placement within said twelve months AND EVERY TWELVE MONTHS THEREAFTER FOR AS LONG AS THE JUVENILE REMAINS UNDER AN ORDER OF COMMUNITY PLACEMENT or, if there is no objection by any party to the action, after notice to the juvenile, the juvenile's parents or guardian, any service providers working with the

juvenile, the juvenile's guardian ad litem, if one has been appointed, and all attorneys of record, the court may require the department of human services to conduct a permanency review. At the permanency review, the entity conducting the review shall make determinations as to the following:

(I) Whether continued community placement is in the best interests of the juvenile and the community;

(II) Whether the juvenile's safety is protected in the community placement;

(III) Whether reasonable efforts have been made to ~~find a safe and permanent placement for the juvenile~~ FINALIZE THE JUVENILE'S PERMANENCY PLAN THAT IS IN EFFECT AT THAT TIME;

(IV) Whether continued community placement is necessary and appropriate;

(V) Whether there has been compliance with the juvenile's case plan;

(VI) Whether progress has been made toward alleviating or mitigating the causes that necessitated the community placement; and

(VII) Whether there is a date projected by which the juvenile will be returned and safely maintained in his or her home, placed for legal guardianship, or ~~transitioned into independent living~~ PLACED IN A PLANNED PERMANENT LIVING ARRANGEMENT.

(b) If the juvenile resides in a placement out of state, the entity conducting the review shall make a determination that the out-of-state placement continues to be appropriate and in the best interests of the juvenile.

(c) ~~If the review is conducted by the department of human services as an administrative review, the department shall forward a copy of the findings required in paragraph (a) of this subsection (3) to the appropriate judicial district.~~

SECTION 6. 19-2-915, Colorado Revised Statutes, is amended to read:

19-2-915. Sentencing - legal custody - social services. Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender, the court, following the criteria for out-of-home placement established pursuant to section 19-2-212, may place legal custody of the juvenile in the county department of social services. ~~or a child placement agency for placement in a family child care home, foster care home, or a child care center.~~

SECTION 7. 19-3-203 (3), Colorado Revised Statutes, is amended to read:

19-3-203. Guardian ad litem. (3) The guardian ad litem shall be charged in general with the representation of the child's interests. To that end, the guardian ad litem shall make such further investigations as the guardian ad litem deems necessary to ascertain the facts and shall talk with or observe the child involved, examine and cross-examine witnesses in both the adjudicatory and dispositional hearings, introduce and examine the guardian ad litem's own witnesses, make recommendations to the court concerning the child's welfare, appeal matters to the court of appeals or the supreme court, and participate further in the proceedings to the degree necessary to adequately represent the child. In addition, the guardian ad litem, if in the best interest of the child, shall seek to assure that reasonable efforts are being made to prevent unnecessary placement of the child out of the home and to facilitate reunification of the child with the child's family OR, IF REUNIFICATION IS NOT POSSIBLE, TO FIND ANOTHER SAFE AND PERMANENT LIVING ARRANGEMENT FOR THE CHILD. In determining whether said reasonable efforts are made with respect to a child, and in making such reasonable efforts, the child's health and safety shall be the paramount concern.

SECTION 8. 19-3-403 (3.6), Colorado Revised Statutes, is amended to read:

19-3-403. Temporary custody - hearing - time limits - restriction. (3.6) 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 shall advise the parents of the child that the child may be placed with the child's grandparent, aunt,

uncle, brother, or sister if in the court's opinion such placement is appropriate and in the child's best interests. The court shall order the parents to provide, within fifteen days after the hearing, the names, addresses, and telephone numbers, if known, of any relatives. The court may order a county department of social services to make reasonable and timely efforts to contact such identified relatives within ninety days after the hearing about placement possibilities for the child unless the court determines there is good cause not to notify or good cause to delay the notification of such relatives. The court may consider and give preference to giving temporary custody to the child's grandparent or such other relative 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 birth or adoptive parent available, with due diligence having been exercised in attempting to locate any such birth or adoptive parent. The court may place or continue custody with the county department of social services if the court is satisfied from the information presented at the hearing that such custody is appropriate and in the child's best interests, or the court may enter such other orders as are appropriate. IF THE COURT ENTERS AN ORDER REMOVING A CHILD FROM THE HOME OR CONTINUING A CHILD IN A PLACEMENT OUT OF THE HOME, the court shall make ~~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.~~ THE FINDINGS REQUIRED PURSUANT TO SECTION 19-1-115 (6), IF SUCH FINDINGS ARE WARRANTED BY THE EVIDENCE.

SECTION 9. 19-3-508 (2), Colorado Revised Statutes, is amended to read:

19-3-508. Neglected or dependent child - disposition - concurrent planning. (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~~ ESTABLISHED by a preponderance of the evidence that a separation of the child from the parents or guardian is in the best interests of the child.

SECTION 10. 19-3-604 (1) (b) (V) and (1) (b) (VI), Colorado Revised Statutes, are amended, and the said 19-3-604 (1) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

19-3-604. Criteria for termination. (1) The court may order a termination of the parent-child legal relationship upon the finding by clear and convincing evidence of any one of the following:

(b) That the child is adjudicated dependent or neglected and the court finds that no appropriate treatment plan can be devised to address the unfitness of the parent or parents. In making such a determination, the court shall find one of the following as the basis for unfitness:

(V) An identifiable pattern of habitual abuse to which THE CHILD OR another child has been subjected and, as a result of which, a court has adjudicated another child as neglected or dependent based upon allegations of sexual or physical abuse, or a court of competent jurisdiction has determined that such abuse has caused the death of another child;

(VI) An identifiable pattern of sexual abuse of the child; OR

(VII) THE TORTURE OF OR EXTREME CRUELTY TO THE CHILD, A SIBLING OF THE CHILD, OR ANOTHER CHILD OF EITHER PARENT.

SECTION 11. 19-3-702, Colorado Revised Statutes, is amended to read:

19-3-702. Permanency hearing - periodic reviews. (1) In order to provide stable permanent homes for children in as short a time as possible, a court on its own motion or upon motion brought by any party shall conduct a permanency hearing if a child cannot be returned home under section 19-1-115 (4) (b) for the purpose of making a determination regarding the future status of the child. Such permanency hearing shall be held as soon as possible following the dispositional hearing but shall be held no later than twelve months after the date the child is considered to have entered foster care and ~~from time to time as deemed necessary by the court; except that,~~ NO LATER THAN EVERY TWELVE MONTHS THEREAFTER WHILE THE CHILD REMAINS IN OUT-OF-HOME PLACEMENT, OR MORE FREQUENTLY AS DEEMED NECESSARY BY THE COURT. IF THE COURT FINDS THAT REASONABLE EFFORTS TO REUNIFY THE CHILD AND THE PARENT ARE NOT REQUIRED PURSUANT TO SECTION 19-1-115 (7), A PERMANENCY HEARING SHALL BE HELD WITHIN THIRTY DAYS OF THE FINDING. In a county designated pursuant to section 19-1-123, if the child is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2),

such permanency hearing shall be held no later than three months after the decree of disposition of the child. A child shall be considered to have entered foster care on the date ~~the court approves transfer of custody or approves out-of-home placement of the child, as provided for in section 19-3-402 (2), or the date that is sixty days after the date on which the child was removed from the home, whichever is earlier~~ THAT THE CHILD IS PLACED OUT OF THE HOME. If the court finds that an appropriate treatment plan cannot be devised at a dispositional hearing in accordance with section 19-3-508 (1) (e) (I), the permanency hearing shall be held no later than thirty days after such determination, unless a motion for termination of parental rights has been filed within thirty days after the court's finding. Where possible, the permanency hearing shall be combined with the six-month review as provided for in section 19-1-115 (4) (c).

(1.5) ANY HEARING OR ACTION, SUCH AS A PAPER REVIEW, AN EX PARTE HEARING, OR A STIPULATED AGREEMENT THAT HAS BEEN MADE AN ORDER OF THE COURT, THAT IS NOT OPEN TO THE PARTICIPATION OF THE PARENTS OF A CHILD, THE CHILD, IF APPROPRIATE, AND THE FOSTER PARENTS OR ADOPTIVE PARENTS OF A CHILD, IF ANY, SHALL NOT BE CONSIDERED A PERMANENCY HEARING FOR PURPOSES OF THIS SECTION.

(2) When the court schedules a permanency hearing under this section, the court shall promptly issue a notice reciting briefly the substance of the motion. The notice shall set forth the constitutional and legal rights of the child and the child's parents or guardian. Notice of the hearing shall be given ~~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~~ IN ACCORDANCE WITH THE REQUIREMENTS STATED IN SECTION 19-3-502 (7). Nothing in this section shall require the presence of any person before the court unless the court so directs. The court shall order the county department of social services to develop a permanency plan for the child, which plan shall be completed and submitted to the court at least three working days in advance of the permanency hearing as required in this section.

(2.5) At a permanency hearing held in a county designated pursuant to section 19-1-123, if the child is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2) and has been placed out of the home for three months, the court shall review the progress of the case and the treatment plan including the provision of services. The court may order the county department of social services to show cause

why it should not file a motion to terminate the parent-child legal relationship pursuant to part 6 of this article. Cause may include, but not be limited to, the following conditions:

(a) The parents or guardians have maintained regular parenting time and contact with the child, and the child would benefit from continuing this relationship; or

(b) The criteria of section 19-3-604 have not yet been met.

(2.7) Consideration of the placement of children together as a sibling group shall not delay the efforts for expedited permanency planning or permanency planning in order to achieve permanency for each child in the sibling group.

(3) Except as provided in subsection (2.5) of this section, at the permanency hearing, the court shall first determine whether the child shall be returned to the child's parent or guardian, pursuant to section 19-1-115 (4) (b) and, if applicable, the date on which the child shall be returned, and whether reasonable efforts have been made to find a safe and permanent placement for the child. If the child is not returned to the custody of the child's parent or guardian, the court shall determine whether there is a substantial probability that the child will be returned to the physical custody of the child's parent, guardian, or legal custodian within six months. If the court so determines, it shall set another review hearing for not more than six months, which shall be a permanency hearing.

(3.5) AT ANY PERMANENCY HEARING CONDUCTED BY THE COURT, THE COURT SHALL MAKE DETERMINATIONS AS TO THE FOLLOWING:

(a) WHETHER PROCEDURAL SAFEGUARDS TO PRESERVE PARENTAL RIGHTS HAVE BEEN APPLIED IN CONNECTION WITH ANY CHANGE IN THE CHILD'S PLACEMENT OR ANY DETERMINATION AFFECTING PARENTAL VISITATION OF THE CHILD;

(b) WHETHER REASONABLE EFFORTS HAVE BEEN MADE TO FINALIZE THE PERMANENCY PLAN THAT IS IN EFFECT AT THE TIME OF THE PERMANENCY HEARING;

(c) IF A CHILD RESIDES IN A PLACEMENT OUT OF STATE, WHETHER THE OUT-OF-STATE PLACEMENT CONTINUES TO BE APPROPRIATE AND IN THE BEST

INTERESTS OF THE CHILD; AND

(d) IF THE CHILD IS SIXTEEN YEARS OF AGE OR OLDER, WHETHER THE PERMANENCY PLAN INCLUDES INDEPENDENT LIVING SERVICES.

(4) If the court determines that the child cannot be returned to the physical custody of such child's parent or guardian and that there is not a substantial probability that the child will be returned to the physical custody of such child's parent or guardian within six months, the court shall enter an order determining the future status or placement of the child. Any court order regarding future status or placement of a child out of the home shall include specific findings concerning the placement goal for the child. Such findings shall include a determination of whether the placement goal for the child is that the child be returned to the parent, be referred for legal guardianship or custody, BE PLACED IN A PLANNED PERMANENT LIVING ARRANGEMENT, or be placed for adoption, in which case the county department shall file a motion for termination of parental rights. In cases in which the county department has documented to the court a compelling reason for determining that it would not be in the best interests of the child to return home, the court's findings shall include a determination of whether the placement goal for the child is that the child be referred for termination of parental rights, be placed for adoption, be placed with a fit and willing relative, be placed with a legal guardian or custodian, or be placed in another permanent living arrangement. THE COURT MUST BE PROVIDED WITH DOCUMENTATION OF A COMPELLING REASON FOR ESTABLISHING A PERMANENCY PLAN WITH A GOAL OTHER THAN REUNIFICATION, ADOPTION, OR LEGAL GUARDIANSHIP.

(5) In order to enable the child to obtain a permanent home, the court may make the following determinations and orders:

(a) If the court finds from the materials submitted by the county department of social services that the child appears to be adoptable and meets the criteria for adoption in section 19-5-203, the court may order the county department of social services to show cause why it should not file a motion to terminate the parent-child legal relationship pursuant to part 6 of this article. Cause may include, but need not be limited to, any of the following conditions:

(I) The parents or guardians have maintained regular parenting time and contact with the child, and the child would benefit from continuing this

relationship; or

(II) A child who is twelve years of age or older objects to the termination of the parent-child legal relationship; or

(III) The child's foster parents are unable to adopt the child because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the child but are willing and capable of providing the child with a stable and permanent environment, and the removal of the child from the physical custody of his OR HER foster parents would be seriously detrimental to the emotional well-being of the child; or

(IV) The criteria of section 19-3-604 have not yet been met.

(b) If the child is currently in a foster home and the foster parents are capable of providing and willing to provide a stable and permanent environment, the court may determine that the child shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the foster parents.

(6) (a) Periodic reviews conducted by the court or, if there is no objection by any party to the action, in the court's discretion, through an administrative review conducted by the state department of human services, shall determine whether the child's safety is protected in the placement, whether reasonable efforts have been made to find a safe and permanent placement, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care and shall project a likely date by which the child may be returned to and safely maintained at the home, placed for adoption, legal guardianship, or guardianship of the person, or placed in another permanent safe placement setting.

(b) If the ~~juvenile~~ CHILD resides in a placement out of state, the entity conducting the review shall make a determination that the out-of-state placement continues to be appropriate and in the best interests of the ~~juvenile~~ CHILD.

(c) ~~If the review is conducted by the department of human services as an administrative review, the department shall forward a copy of the~~

~~findings required in paragraph (a) of this subsection (6) to the appropriate judicial district.~~

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

(8) (a) Subsequent reviews by the court or, if there is no objection by any party to the action, in the court's discretion, through an administrative review conducted by the state department of human services, shall be conducted every six months except when the court requires a court review or when a court review is requested by the child's parents or guardians or by the child. In the event that an administrative review is ordered, all counsel of record shall be notified and may appear at said review. The entity conducting the review shall make the same determinations as are required at a periodic review conducted pursuant to paragraph (a) of subsection (6) of this section.

(b) If the ~~juvenile~~ CHILD resides in a placement out of state, the entity conducting the review shall make a determination that the out-of-state placement continues to be appropriate and in the best interests of the ~~juvenile~~ CHILD.

(c) ~~If the review is conducted by the department of human services as an administrative review, the department shall forward a copy of the findings required in paragraph (a) of this subsection (8) to the appropriate judicial district.~~

SECTION 12. 19-3-703, Colorado Revised Statutes, is amended to read:

19-3-703. Permanent home. In a county designated pursuant to section 19-1-123, if a child is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2), the child shall be placed in a permanent home no later than twelve months after the original placement out of the home unless the court determines that a placement in a permanent home is not in the best interests of the child at that time. In determining whether such a placement delay is in the best interests of the child, the court must be shown clear and convincing evidence that reasonable efforts, as defined in section 19-1-103 (89), were made to find the child an appropriate permanent home and such a home is not currently available or that the child's mental or physical needs or conditions deem it

improbable that such child would have a successful permanent placement. The caseworker and the child's guardian ad litem shall provide the court with a report specifying which services are being given the child in order to remedy the child's problems. The case shall be reviewed at least every six months until the child is permanently placed. THE SIX-MONTH REVIEWS AND TWELVE-MONTH PERMANENCY HEARINGS SHALL CONTINUE AS LONG AS THE CHILD REMAINS IN FOSTER CARE. Clear and convincing standards of evidence shall be applicable at any such review. For the purposes of this section, a permanent home shall include, but not be limited to, the child's reunification with the child's parents; placement with a relative, with a potential adoptive parent, or permanent custody granted to another; or, if the child cannot be returned home, placement in the least restrictive level of care.

SECTION 13. 19-5-207 (2.5), Colorado Revised Statutes, is amended to read:

19-5-207. Written consent and home study report for public adoptions. (2.5) (a) In all petitions for adoption, whether by the court, the county department of social services, or child placement agencies, in addition to the written home study report described in subsection (2) of this section, the court shall require the county department of social services, the designated qualified individual, or the child placement agency to conduct a criminal records check for any prospective adoptive parent and to report to the court any case in which a record check reveals that the prospective adoptive parent was convicted at any time of a felony or misdemeanor in one of the following areas: Child abuse or neglect; spousal abuse; any crime against a child; any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.; violation of a restraining order, as described in section 18-6-803.5, C.R.S.; ~~or~~ any crime involving violence, rape, sexual assault, or homicide; ~~excluding other physical assault or battery~~ OR ANY FELONY PHYSICAL ASSAULT OR BATTERY CONVICTION OR FELONY DRUG-RELATED CONVICTION WITHIN, AT A MINIMUM, THE PAST FIVE YEARS. NO PERSON CONVICTED OF A FELONY OFFENSE SPECIFIED IN THIS SUBSECTION (2.5) SHALL BE ALLOWED TO ADOPT A CHILD. In addition to the criminal records check, the county department of social services, the individual, or the child placement agency conducting the investigation shall access the state central registry of child protection to determine whether the prospective adoptive parent or parents are the subject of a report of known

or suspected child abuse. Pursuant to section 19-1-307 (2) (k.5), information shall be made available if a person's name is on the central registry of child protection or has been designated as "status pending" pursuant to section 19-3-313.

(b) The state board of human services shall promulgate rules setting forth the procedures for the criminal records check described in paragraph (a) of this subsection (2.5).

SECTION 14. Appropriation. (1) (a) In addition to any other appropriation, there is hereby appropriated, to the department of human services, for allocation to the executive director's office, special purpose, for child welfare staff training, for the fiscal year beginning July 1, 2001, the sum of eighty-one thousand seven hundred thirteen dollars ($81,713), or so much thereof as may be necessary, for the implementation of this act. Said amount shall be from the general fund and shall be subject to the "(M)" notation as defined in the general appropriation act. Said amount is exempt from the statutory limit on state general fund appropriations pursuant to section 24-75-201.1 (1) (a) (III) (A), Colorado Revised Statutes.

(b) In addition to the appropriation made in paragraph (a) of this subsection (1), the general assembly anticipates that, for the fiscal year beginning July 1, 2001, the department of human services will receive the sum of nine thousand seventy-nine dollars ($9,079) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds.

SECTION 15. 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.

Doug Dean SPEAKER OF THE HOUSE OF REPRESENTATIVES	Stan Matsunaka PRESIDENT OF THE SENATE
Judith Rodrigue CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES	Karen Goldman SECRETARY OF THE SENATE

APPROVED_____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO