

CHAPTER 216

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 19-1288

BY REPRESENTATIVE(S) Singer and Duran, Gonzales-Gutierrez, Exum, Arndt, Baisley, Benavidez, Bird, Buck, Buckner, Buentello, Caraveo, Coleman, Cutter, Esgar, Froelich, Galindo, Gray, Hansen, Herod, Hooton, Humphrey, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Lewis, Lontine, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Pelton, Ransom, Roberts, Saine, Sirota, Snyder, Soper, Sullivan, Tipper, Titone, Valdez A., Weissman; also SENATOR(S) Fields and Crowder, Cooke, Coram, Court, Donovan, Fenberg, Gardner, Ginal, Hill, Hisey, Holbert, Lundeen, Marble, Moreno, Pettersen, Priola, Rankin, Rodriguez, Scott, Smallwood, Sonnenberg, Story, Tate, Todd, Williams A., Winter, Woodward, Zenzinger, Garcia.

AN ACT

CONCERNING INCREASING PROTECTIONS TO ENSURE FOSTER YOUTH SIBLINGS MAINTAIN SIBLING RELATIONSHIPS BY PROVIDING FOSTER YOUTH SIBLINGS WITH CERTAIN RIGHTS, AND, IN CONNECTION THEREWITH, ESTABLISHING THE FOSTER YOUTH SIBLING BILL OF RIGHTS.

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

SECTION 1. In Colorado Revised Statutes, 19-1-103, **amend** (98.5) as follows:

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

(98.5) "Sibling group", as used in article 3 and article 5 of this ~~title~~ TITLE 19, means biological siblings. ~~who have been raised together or have lived together.~~

SECTION 2. In Colorado Revised Statutes, **add with amended and relocated provisions** part 2 to article 7 of title 19 as follows:

PART 2
YOUTH SIBLINGS IN FOSTER CARE

19-7-201. Short title. THE SHORT TITLE OF THIS PART 2 IS THE "FOSTER YOUTH SIBLINGS BILL OF RIGHTS".

19-7-202. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

DECLARES THAT IT IS BENEFICIAL FOR A YOUTH PLACED IN FOSTER CARE TO BE ABLE TO CONTINUE RELATIONSHIPS WITH THE YOUTH'S SIBLINGS, REGARDLESS OF AGE, SO THAT SIBLINGS MAY SHARE THEIR STRENGTHS AND ASSOCIATION IN THEIR EVERYDAY AND OFTEN COMMON EXPERIENCES.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT IT IS THE RESPONSIBILITY OF ALL ADULTS INVOLVED IN A YOUTH'S LIFE, INCLUDING BUT NOT LIMITED TO COUNTY DEPARTMENTS, PARENTS, FOSTER PARENTS, GUARDIANS AD LITEM, COURT-APPOINTED SPECIAL ADVOCATES, NEXT OF KIN, TREATMENT PROVIDERS, AND OTHERS, TO SEEK OPPORTUNITIES TO FOSTER THOSE SIBLING RELATIONSHIPS TO PROMOTE CONTINUITY AND HELP TO SUSTAIN FAMILY RELATIONSHIPS.

(3) BECAUSE THE NUMBER OF FAMILY FOSTER HOMES IN COLORADO IS OFTEN INSUFFICIENT TO MEET THE NEEDS OF YOUTH, INCLUDING SIBLING GROUPS, IT IS, THEREFORE, COLORADO'S GOAL TO CONTINUE TO RECRUIT FOSTER FAMILIES AND BUILD RESOURCES SUFFICIENT TO MEET THIS NEED.

19-7-203. Foster care sibling rights. (1) SIBLING YOUTH IN FOSTER CARE, EXCEPT YOUTH IN THE CUSTODY OF THE DIVISION OF YOUTH SERVICES CREATED PURSUANT TO SECTION 19-2-203 OR A STATE HOSPITAL FOR PERSONS WITH MENTAL HEALTH DISORDERS, SHALL ENJOY THE FOLLOWING RIGHTS, UNLESS THEY ARE NOT IN THE BEST INTERESTS OF EACH SIBLING, REGARDLESS OF WHETHER THE PARENTAL RIGHTS OF ONE OR MORE OF THE FOSTER YOUTH'S PARENTS HAVE BEEN TERMINATED:

(a) TO BE PLACED IN FOSTER CARE HOMES WITH THE YOUTH'S SIBLINGS, WHEN IT IS IN THE BEST INTERESTS OF EACH SIBLING AND WHEN THE COUNTY DEPARTMENT LOCATES AN APPROPRIATE, CAPABLE, WILLING, AND AVAILABLE JOINT PLACEMENT FOR THE YOUTH SIBLINGS, IN ORDER TO SUSTAIN FAMILY RELATIONSHIPS, PURSUANT TO SECTIONS 19-3-213 (1)(c), 19-3-500.2, 19-3-507 (1)(b), 19-3-508 (1)(c), 19-3-605 (2), AND 19-5-207.3 (2);

(b) TO BE PLACED IN CLOSE GEOGRAPHICAL DISTANCE TO THE YOUTH'S SIBLINGS IN ORDER TO PROMOTE CONTINUITY IN THE SIBLINGS' RELATIONSHIP;

(c) TO OBTAIN TEMPORARY RESPITE PLACEMENTS TOGETHER, WHEN POSSIBLE;

(d) TO BE PLACED WITH FOSTER PARENTS, PLACED WITH POTENTIAL ADOPTIVE PARENTS, AND ASSIGNED TO CHILD WELFARE CASEWORKERS WHO HAVE BEEN PROVIDED WITH TRAINING ON THE IMPORTANCE OF SIBLING RELATIONSHIPS;

(e) TO BE PROMPTLY NOTIFIED, AS PERMITTED PURSUANT TO STATE OR FEDERAL LAW, ABOUT CHANGES IN SIBLING PLACEMENT, CATASTROPHIC EVENTS, OR OTHER CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO NEW PLACEMENTS, SIGNIFICANT LIFE EVENTS, AND DISCHARGE FROM FOSTER CARE;

(f) TO BE INCLUDED IN PERMANENCY PLANNING DISCUSSIONS OR MEETINGS FOR SIBLINGS, IF APPROPRIATE;

(g) TO MAINTAIN FREQUENT AND MEANINGFUL CONTACT WITH THE YOUTH'S SIBLINGS PURSUANT TO SECTION 19-7-204 (2), IF PLACEMENT TOGETHER IS NOT

POSSIBLE;

(h) TO BE ACTIVELY INVOLVED IN EACH OTHER'S LIVES AND SHARE CELEBRATIONS, IF THE SIBLINGS CHOOSE TO DO SO, INCLUDING BUT NOT LIMITED TO BIRTHDAYS, GRADUATIONS, HOLIDAYS, SCHOOL AND EXTRACURRICULAR ACTIVITIES, CULTURAL CUSTOMS IN THE SIBLINGS' NATIVE LANGUAGE, AND OTHER MILESTONES;

(i) TO ANNUALLY RECEIVE CONTACT INFORMATION FOR ALL SIBLINGS IN FOSTER CARE, WHICH MAY INCLUDE A TELEPHONE NUMBER, ADDRESS, SOCIAL MEDIA ACCOUNTS, AND E-MAIL ADDRESS, UNLESS A FOSTER PARENT HAS REQUESTED THE FOSTER PARENT'S IDENTIFIABLE INFORMATION NOT BE DISCLOSED PURSUANT TO SECTION 19-1-303 (2.7)(a), AND TO RECEIVE UPDATED PHOTOS OF SIBLINGS REGULARLY BY MAIL OR E-MAIL, AS APPROPRIATE;

(j) TO HAVE MORE PRIVATE OR LESS RESTRICTIVE COMMUNICATION WITH SIBLINGS AS COMPARED TO COMMUNICATION WITH OTHERS WHO ARE NOT SIBLINGS;

(k) TO BE PROVIDED WITH AN EXPLANATION IF CONTACT WITH A SIBLING IS RESTRICTED OR DENIED, AS PERMITTED PURSUANT TO STATE OR FEDERAL LAW;

(l) TO EXPECT THAT THE YOUTH'S GUARDIAN AD LITEM ADVOCATE ON BEHALF OF THE YOUTH FOR FREQUENT CONTACT AND VISITS WITH SIBLINGS, UNLESS THE GUARDIAN AD LITEM DETERMINES THROUGH THE GUARDIAN AD LITEM'S INDEPENDENT INVESTIGATION THAT THE CONTACT IS NOT IN THE BEST INTERESTS OF THE YOUTH;

(m) TO HAVE CONTACT WITH SIBLINGS ENCOURAGED IN ANY ADOPTIVE OR GUARDIANSHIP PLACEMENT; AND

(n) TO RECEIVE AN AGE-APPROPRIATE AND DEVELOPMENTALLY APPROPRIATE DOCUMENT FROM THE DEPARTMENT OF HUMAN SERVICES SETTING FORTH THE RIGHTS DESCRIBED IN THIS SECTION:

(I) WITHIN THIRTY DAYS OF THE DATE OF ANY PLACEMENT OR ANY CHANGE IN PLACEMENT;

(II) ON EACH OCCASION THAT A YOUTH'S CASE PLAN IS MODIFIED;

(III) AT EACH PLACEMENT WHERE THE YOUTH RESIDES; AND

(IV) ON AT LEAST AN ANNUAL BASIS.

(2) ADULT SIBLINGS OF YOUTH IN FOSTER CARE HAVE THE RIGHT TO BE CONSIDERED AS FOSTER CARE PROVIDERS, ADOPTIVE PARENTS, AND RELATIVE CUSTODIANS FOR THEIR SIBLINGS, IF THEY CHOOSE TO DO SO.

19-7-204. [Formerly 19-1-128] Foster care sibling visits - contact plan - rules - definition. (1) THE DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE INFORMATION ON SIBLING CONTACT IN THE VISITATION PLAN FOR A YOUTH. IN DOING SO, THE YOUTH SHALL BE CONSULTED ABOUT THE YOUTH'S WISHES AS TO SIBLING CONTACT.

(2) AS WRITTEN IN THE VISITATION PLAN, THE DEPARTMENT OF HUMAN SERVICES SHALL, IF IT IS IN THE BEST INTERESTS OF EACH SIBLING:

(a) PROMOTE FREQUENT CONTACT BETWEEN SIBLINGS IN FOSTER CARE, WHICH MAY INCLUDE TELEPHONE CALLS, TEXT MESSAGES, SOCIAL MEDIA, VIDEO CALLS, AND IN-PERSON VISITS;

(b) CLARIFY THAT SIBLING CONTACT SHOULD NOT BE LIMITED IN TIME OR DURATION TO PERIODS OF PARENTAL CONTACT;

(c) CLARIFY THAT RESTRICTION OF SIBLING VISITS SHOULD NOT BE A CONSEQUENCE FOR BEHAVIORAL PROBLEMS. VISITS SHOULD ONLY BE RESTRICTED IF CONTRARY TO THE BEST INTERESTS OF A SIBLING.

(d) ENSURE TIMING AND REGULARLY SCHEDULED SIBLING VISITS ARE OUTLINED IN CASE PLANS BASED ON INDIVIDUAL CIRCUMSTANCES AND NEEDS OF THE YOUTH.

~~(1)~~ (3) If a ~~child~~ YOUTH in foster care ~~and his or her sibling mutually request~~ REQUESTS an opportunity to visit ~~each other~~ A SIBLING, the county department that has legal custody of the ~~child~~ YOUTH shall arrange the visit within a reasonable amount of time and document the visit.

~~(2)~~ (4) If a ~~child~~ YOUTH in foster care ~~and his or her sibling mutually request~~ REQUESTS an opportunity to visit ~~each other~~ A SIBLING on a regular basis, the county department that has legal custody of the ~~child~~ YOUTH shall arrange the visits and ensure that the visits occur with sufficient frequency and duration to promote continuity in the siblings' relationship.

~~(3)~~ (5) If, in arranging sibling visits pursuant to this section, a county department determines that a requested visit between the siblings would not be in the best interests of one or both of the siblings, the county department shall deny the request, ~~and~~ document its reasons for making the determination, AND PROVIDE THE SIBLINGS WITH AN EXPLANATION FOR THE DENIAL, AS PERMITTED UNDER STATE AND FEDERAL LAW. In determining whether a requested visit would be in the best interests of one or both of the siblings, the county department shall ascertain whether there is pending in any jurisdiction a criminal action in which either of the siblings is either a victim or a witness. If such a criminal action is pending, the county department, before arranging any visit between the siblings, shall consult with the district attorney for the jurisdiction in which the criminal action is pending to determine whether the requested visit may have a detrimental effect upon the prosecution of the pending criminal action.

~~(4)~~ (6) Nothing in this section ~~shall be construed to require~~ REQUIRES or ~~permit~~ PERMITS a county department to arrange a sibling visit if such visit would violate an existing protection order in any case pending in this state or any other state.

~~(5)~~ (7) As used in this section, "sibling" means:

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

(b) A ~~stepbrother or former stepbrother or a stepsister or former stepsister;~~
STEP-SIBLING OR FORMER STEP-SIBLING; OR

(c) AN ADOPTIVE SIBLING.

~~(6)~~ (8) The state board of human services, created in section 26-1-107, ~~C.R.S.~~, may promulgate rules for the implementation of this section.

SECTION 3. Repeal of provisions being relocated in this act. In Colorado Revised Statutes, **repeal** 19-1-128.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 20, 2019