

## CHAPTER 180

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**CHILDREN AND DOMESTIC MATTERS**


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**SENATE BILL 19-178**

BY SENATOR(S) Foote, Bridges, Cooke, Court, Crowder, Donovan, Fenberg, Gardner, Ginal, Gonzales, Hisey, Holbert, Lee, Lundeen, Marble, Moreno, Pettersen, Priola, Rankin, Scott, Smallwood, Sonnenberg, Story, Tate, Todd, Williams A., Winter, Woodward, Zenzinger, Garcia;  
 also REPRESENTATIVE(S) Singer, Arndt, Baisley, Beckman, Bird, Buck, Buckner, Buentello, Caraveo, Catlin, Cutter, Duran, Esgar, Exum, Froelich, Galindo, Gonzales-Gutierrez, Gray, Hansen, Herod, Hooton, Humphrey, Jackson, Jaquez Lewis, Kraft-Tharp, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Ransom, Saine, Sirota, Snyder, Soper, Sullivan, Titone, Valdez A., Van Winkle, Will, Wilson.

**AN ACT**

**CONCERNING THE SUBSIDIZATION OF ADOPTION FOR ELIGIBLE CHILDREN IN COLORADO, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1.** In Colorado Revised Statutes, **repeal and reenact, with amendments**, article 7 of title 26 as follows:

**ARTICLE 7**  
**Subsidization of Adoption**

**26-7-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) COLORADO CHILDREN AND YOUTH WHO RESIDE IN OR HAVE PREVIOUSLY RESIDED IN AN OUT-OF-HOME PLACEMENT DESERVE AND CAN BENEFIT FROM THE STABILITY AND SECURITY OF PERMANENT, SAFE ADOPTIVE HOMES;

(b) IN PARTICULAR, ADOPTION IS AN IMPORTANT TOOL TO HELP INCREASE THE NUMBER OF PERMANENT AND STABLE HOMES FOR COLORADO'S ABUSED AND NEGLECTED CHILDREN AND YOUTH; AND

(c) MANY CHILDREN AND YOUTH WHO ARE ADOPTED IN COLORADO HAVE EXPERIENCED PRIOR ABUSE, NEGLECT, MULTIPLE PLACEMENTS, AND

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*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.*

INSTITUTIONALIZATION. THESE PRIOR EXPERIENCES OFTEN CAUSE PHYSICAL, PSYCHOLOGICAL, EMOTIONAL, AND DEVELOPMENTAL HARM THAT AFFECTS THESE CHILDREN AND YOUTH THROUGHOUT THEIR LIVES.

(2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS THE INTENT OF THIS ARTICLE 7 TO:

(a) ENCOURAGE FAMILIES OF ANY ECONOMIC STATUS TO ADOPT ELIGIBLE CHILDREN AND YOUTH AND TO PROVIDE SUCH FAMILIES WITH BENEFITS THAT WILL ENABLE THEM TO MEET THE NEEDS OF ELIGIBLE CHILDREN AND YOUTH WHO MEET THE CRITERIA FOR THE BENEFITS AS ESTABLISHED IN THIS ARTICLE 7;

(b) ENSURE THAT ALL FAMILIES AND ELIGIBLE CHILDREN AND YOUTH IN COLORADO HAVE EQUAL OPPORTUNITIES TO ACCESS THE BENEFITS ESTABLISHED IN THIS ARTICLE 7;

(c) ENSURE THAT ALL FAMILIES AND ELIGIBLE CHILDREN AND YOUTH IN COLORADO HAVE EQUAL ACCESS TO CONSISTENT INFORMATION, GUIDANCE, AND PRACTICES TO ENSURE THAT THE NEEDS OF EACH CHILD OR YOUTH RECEIVE CONSISTENT CONSIDERATION, REGARDLESS OF THE AGENCY THAT IS ADMINISTERING BENEFITS PURSUANT TO THIS ARTICLE 7;

(d) ENSURE THAT FAMILIES ARE ABLE TO MAINTAIN SAFE AND STABLE HOMES FOR THE ELIGIBLE CHILDREN AND YOUTH THEY ADOPT THROUGH BENEFITS TAILORED TO ACCOMMODATE AND SUPPORT THE NEEDS OF THE ADOPTED ELIGIBLE CHILDREN AND YOUTH; AND

(e) ENSURE THAT ANY AGENCY PROVIDING BENEFITS PURSUANT TO THIS ARTICLE 7 HAS CLEAR GUIDANCE AND SUPPORT IN ITS EFFORTS TO HELP ELIGIBLE CHILDREN AND YOUTH FIND AND MAINTAIN SAFE, PERMANENT ADOPTIVE HOMES.

**26-7-102. Definitions.** AS USED IN THIS ARTICLE 7, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGREEMENT" MEANS AN ADOPTION ASSISTANCE AGREEMENT NEGOTIATED AND ENTERED INTO PURSUANT TO SECTION 26-7-107.

(2) "ANTICIPATED NEEDS" MEANS THOSE NEEDS THAT ARE REASONABLY FORESEEABLE AND AS DEFINED IN THE ELIGIBILITY CRITERIA LISTED IN SUBSECTION (8) OF THIS SECTION THAT ARE KNOWN AT THE TIME OF FINALIZATION OF THE ADOPTION. CONSIDERATION OF THESE ANTICIPATED NEEDS AND SERVICES ARE PART OF THE GOOD-FAITH NEGOTIATION OF THE AMOUNT OF THE ADOPTION ASSISTANCE PAYMENT AND SERVICES AND MUST COMPLY WITH THE FUNDING REQUIREMENTS IN SECTION 26-7-103.

(3) "BENEFIT" MEANS ANY SUBSIDY OR SERVICE AVAILABLE TO ADOPTIVE FAMILIES PURSUANT TO THIS ARTICLE 7, INCLUDING MONTHLY SUBSIDY PAYMENTS. THESE PAYMENTS MUST NOT INCLUDE PAYMENTS FOR SERVICES THAT ARE REASONABLY ACCESSIBLE AND CAN BE FUNDED THROUGH OTHER PUBLIC OR PRIVATE SOURCES, INCLUDING BUT NOT LIMITED TO SOCIAL SECURITY AND MEDICAID, AS REQUIRED IN 20 U.S.C. SEC. 1440.

(4) "CHILD PLACEMENT AGENCY" MEANS ANY ENTITY THAT, PURSUANT TO THE REQUIREMENTS IN SECTION 26-6-102 (7), MAY PLACE, FACILITATE PLACEMENT, OR ARRANGE FOR THE PLACEMENT OF AN ELIGIBLE CHILD OR YOUTH FOR THE PURPOSE OF ADOPTION, TREATMENT, OR FOSTER CARE. ONLY ELIGIBLE CHILDREN OR YOUTH WHO ARE PLACED BY A COUNTY DEPARTMENT OR THROUGH A CHILD PLACEMENT AGENCY THAT IS DESIGNATED AS A NONPROFIT ENTITY AND LICENSED BY THE STATE DEPARTMENT ARE ELIGIBLE TO RECEIVE BENEFITS PURSUANT TO THIS ARTICLE 7.

(5) "CIRCUMSTANCES OF THE FAMILY" MEANS THE CAPACITY OF THE FAMILY, INCLUDING BUT NOT LIMITED TO FINANCIAL CAPACITY, TO MEET THE ANTICIPATED NEEDS OF THE ELIGIBLE CHILD OR YOUTH.

(6) "COUNTY DEPARTMENT" MEANS A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES.

(7) "DISSOLVED ADOPTION" MEANS AN ADOPTION IN WHICH THE LEGAL RELATIONSHIP BETWEEN THE ADOPTIVE PARENTS AND ADOPTIVE CHILD OR YOUTH IS SEVERED, EITHER VOLUNTARILY OR INVOLUNTARILY, AFTER THE ADOPTION IS LEGALLY FINALIZED. THIS MAY RESULT IN THE CHILD OR YOUTH'S RETURN TO, OR ENTRY INTO, FOSTER CARE.

(8) "ELIGIBLE CHILD OR YOUTH" MEANS A CHILD OR YOUTH WHO MEETS THE MEDICAL AND DISABILITY REQUIREMENTS FOR FEDERAL SUPPLEMENTAL SECURITY INCOME OR IS A CHILD OR YOUTH WITH ONE OR MORE SPECIFIC FACTORS OR CONDITIONS THAT WOULD MAKE IT REASONABLE TO CONCLUDE THAT A CHILD OR YOUTH CANNOT BE ADOPTED WITHOUT PROVIDING BENEFITS TO ASSIST IN THE ADOPTION. SUCH FACTORS MAY INCLUDE BUT ARE NOT LIMITED TO:

(a) A PHYSICAL DISABILITY, SUCH AS HEARING, VISION, OR PHYSICAL IMPAIRMENT; NEUROLOGICAL CONDITIONS; DISFIGURING DEFECTS; METABOLIC DISORDER; A CHILD OR YOUTH INFECTED WITH THE HUMAN IMMUNODEFICIENCY VIRUS; OR HEART DEFECTS THAT HAVE BEEN DOCUMENTED BY A LICENSED MEDICAL PROFESSIONAL;

(b) A MENTAL, INTELLECTUAL, OR DEVELOPMENTAL DISABILITY THAT HAS BEEN DOCUMENTED BY A LICENSED MEDICAL PROFESSIONAL, SUCH AS A PERCEPTUAL, SPEECH, OR LANGUAGE DISABILITY OR ANY DISABILITY THAT RESULTS IN EDUCATIONAL DELAYS OR SIGNIFICANT LEARNING DIFFICULTIES;

(c) AN EMOTIONAL HANDICAP, SUCH AS POST-TRAUMATIC STRESS DISORDER, BIPOLAR DISORDER, OR OTHER MENTAL HEALTH DISORDER THAT HAS BEEN DOCUMENTED BY A LICENSED MENTAL HEALTH PROFESSIONAL;

(d) HEREDITARY FACTORS THAT HAVE BEEN DOCUMENTED BY A LICENSED MEDICAL PROVIDER OR MENTAL HEALTH PROFESSIONAL;

(e) AN EDUCATIONAL DISABILITY THAT QUALIFIES FOR SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF 1973", AS AMENDED, 29 U.S.C. SEC. 701 ET SEQ., OR SPECIAL EDUCATION SERVICES;

(f) FACTORS THAT PLACE A CHILD OR YOUTH IN A "HIGH-RISK" CATEGORY, SUCH AS BEING DRUG- OR ALCOHOL-EXPOSED IN UTERO;

(g) OTHER CONDITIONS THAT ACT AS A BARRIER TO THE CHILD'S OR YOUTH'S ADOPTION, INCLUDING BUT NOT LIMITED TO A HEALTHY CHILD OR YOUTH OVER SEVEN YEARS OF AGE OR A SIBLING GROUP THAT SHOULD REMAIN INTACT AND MEDICAL CONDITIONS THAT ARE LIKELY TO REQUIRE FURTHER TREATMENT; OR

(h) ETHNIC BACKGROUND OR MEMBERSHIP IN A MINORITY GROUP WHOSE CHILDREN OR YOUTH MIGHT BE DIFFICULT TO PLACE.

(9) "PROGRAM" MEANS THE ADOPTION ASSISTANCE PROGRAM CREATED IN SECTION 26-7-103.

(10) "SERVICES" MEANS ANY BENEFITS OTHER THAN MONTHLY SUBSIDY PAYMENTS THAT A FAMILY MAY RECEIVE AS PART OF AN AGREEMENT.

(11) "STATE DEPARTMENT" MEANS THE STATE DEPARTMENT OF HUMAN SERVICES.

(12) "SUBSIDY" REFERS EXCLUSIVELY TO MONTHLY CASH PAYMENTS THAT ARE PROVIDED TO ELIGIBLE FAMILIES AS PART OF AN AGREEMENT.

(13) "TITLE IV-E" REFERS TO FEDERAL FUNDS ADMINISTERED THROUGH THE SOCIAL SECURITY ACT TO SUPPORT STATES' PROGRAMS, INCLUDING BUT NOT LIMITED TO FOSTER CARE, ADOPTION ASSISTANCE, AND GUARDIANSHIP ASSISTANCE.

**26-7-103. Adoption assistance program - created - administration - funding - reporting - rules - definition.** (1) THE ADOPTION ASSISTANCE PROGRAM IS CREATED IN THE STATE DEPARTMENT AND SUPERVISED BY THE STATE DEPARTMENT. THE PROGRAM SHALL BE ADMINISTERED BY COUNTY DEPARTMENTS PURSUANT TO THIS ARTICLE 7. THE STATE DEPARTMENT SHALL, THROUGH THE STATE BOARD OF HUMAN SERVICES, ADOPT ANY RULES NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE 7.

(2) IN ADDITION TO ANY MONEY APPROPRIATED TO THE STATE DEPARTMENT BY THE GENERAL ASSEMBLY FOR THE PROGRAM, THE STATE DEPARTMENT IS ALSO AUTHORIZED TO ACCEPT, ON BEHALF OF THE PROGRAM, ANY FEDERAL FUNDS MADE AVAILABLE FOR ANY PURPOSE CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE 7.

(3) THE STATE DEPARTMENT SHALL KEEP DATA AS NECESSARY TO EVALUATE THE PROGRAM'S EFFECTIVENESS IN PROVIDING STABILITY TO ELIGIBLE CHILDREN, YOUTH, AND FAMILIES INVOLVED IN ADOPTION THROUGH THE CHILD WELFARE SYSTEM. ON OR BEFORE NOVEMBER 1, 2020, AND EVERY NOVEMBER 1 THEREAFTER, THE STATE DEPARTMENT SHALL PREPARE AND MAKE AVAILABLE TO THE PUBLIC A REPORT THAT INCLUDES, BUT IS NOT LIMITED TO, INFORMATION CONCERNING:

(a) THE COST OF ADMINISTERING THE PROGRAM, INCLUDING EXPENDITURES FOR MONTHLY SUBSIDIES AND OTHER BENEFITS;

(b) THE TYPES OF SERVICES AWARDED THROUGH THE PROGRAM ON A STATEWIDE BASIS;

(c) THE NUMBER OF DISSOLVED ADOPTIONS INVOLVING CHILDREN AND YOUTH

WHO QUALIFIED FOR OR RECEIVED BENEFITS FROM THE PROGRAM;

(d) THE RESULTS OF ANY PROGRAM EVALUATION PERFORMED BY THE STATE DEPARTMENT.

**26-7-104. General information for prospective adoptive families.** (1) AT THE TIME THAT THE FAMILY IS MATCHED FOR ADOPTION OF A CHILD OR YOUTH WHO IS POTENTIALLY ELIGIBLE FOR BENEFITS PURSUANT TO THIS ARTICLE 7, THE STATE DEPARTMENT, A COUNTY DEPARTMENT, OR A NONPROFIT CHILD PLACEMENT AGENCY, AS APPROPRIATE, SHALL PROVIDE THE PROSPECTIVE ADOPTIVE FAMILY, IN WRITING, WITH INFORMATION CONCERNING THE FOLLOWING:

(a) THE AVAILABILITY OF BENEFITS, WITH AN EXPLANATION OF THE DIFFERENCES BETWEEN THESE BENEFITS AND FOSTER CARE MAINTENANCE PAYMENTS;

(b) THE AVAILABILITY OF REIMBURSEMENT FOR ANY NONRECURRING EXPENSES INCURRED IN THE ADOPTION OF AN ELIGIBLE CHILD OR YOUTH;

(c) THE AVAILABILITY OF MENTAL HEALTH SERVICES THROUGH THE STATE MEDICAL ASSISTANCE PROGRAM PURSUANT TO ARTICLES 4, 5, AND 6 OF TITLE 25.5 OR OTHER PROGRAMS;

(d) THE FEDERAL ADOPTION TAX CREDIT FOR AN INDIVIDUAL WHO IS ADOPTING OR IS CONSIDERING ADOPTING A CHILD OR YOUTH IN FOSTER CARE OR THROUGH A NONPROFIT CHILD PLACEMENT AGENCY, IN ACCORDANCE WITH SECTION 403 OF THE FEDERAL "FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008", PUB.L.110-351;

(e) NOTICE OF THE GENERAL RIGHT TO BRING TO THE ADOPTION ASSISTANCE NEGOTIATION PROCESS:

(I) PARTIES WHO POSSESS RELEVANT INFORMATION ABOUT A CHILD'S OR YOUTH'S HISTORY AND NEEDS, INCLUDING THE CHILD'S GUARDIAN AD LITEM OR THE FAMILY'S ADVOCATE; AND

(II) LEGAL REPRESENTATION FOR A CHILD OR YOUTH OR PROSPECTIVE ADOPTIVE FAMILY;

(f) NOTICE OF THE RIGHT TO APPEAL AND BE REPRESENTED BY LEGAL COUNSEL, AT THE PROSPECTIVE ADOPTIVE PARENTS' EXPENSE, IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, AND PURSUANT TO SECTION 26-7-109; AND

(g) NOTICE OF THE GENERAL RIGHT TO REQUEST A NEGOTIATION MEETING.

(2) THE STATE DEPARTMENT SHALL ALSO MAKE THE INFORMATION DESCRIBED IN THIS SECTION AVAILABLE ON ITS WEBSITE.

**26-7-105. Eligibility for adoption benefits.** (1) ONLY AN ELIGIBLE CHILD OR YOUTH WHO HAS SPECIAL NEEDS THAT CREATE A BARRIER TO HIS OR HER ADOPTION IS ELIGIBLE FOR ADOPTION BENEFITS.

(2) THE FOLLOWING CONDITIONS MUST BE PRESENT AT THE TIME THE ELIGIBLE CHILD OR YOUTH WAS PLACED FOR ADOPTION; EXCEPT THAT A CHILD OR YOUTH WHO MEETS THE MEDICAL AND DISABILITY REQUIREMENTS FOR FEDERAL SUPPLEMENTAL SECURITY INCOME DOES NOT NEED TO MEET THE ADDITIONAL CONDITIONS:

(a) THE ELIGIBLE CHILD OR YOUTH WAS IN THE CUSTODY OF A COUNTY DEPARTMENT, A PERSON TO WHOM THE CUSTODY OF THE CHILD HAS BEEN GIVEN BY PROPER ORDER OF A DEPENDENCY AND NEGLECT COURT, OR A NONPROFIT CHILD PLACEMENT AGENCY, AND IS LEGALLY AVAILABLE FOR ADOPTION, INCLUDING THE RESOLUTION OF ALL APPEALS; AND

(b) IT HAS BEEN DETERMINED THAT THE ELIGIBLE CHILD OR YOUTH CANNOT OR SHOULD NOT BE RETURNED HOME TO HIS OR HER BIOLOGICAL PARENTS; AND

(c) REASONABLE BUT UNSUCCESSFUL EFFORTS TO PLACE THE ELIGIBLE CHILD OR YOUTH FOR ADOPTION WITHOUT BENEFITS HAVE BEEN MADE, EXCEPT UNDER THE FOLLOWING CIRCUMSTANCES:

(I) IT IS DETERMINED THAT SUCH EFFORTS WOULD BE AGAINST THE BEST INTEREST OF THE ELIGIBLE CHILD OR YOUTH BECAUSE OF FACTORS THAT INCLUDE, BUT ARE NOT LIMITED TO, THE EXISTENCE OF A SIGNIFICANT BOND WITH THE PROSPECTIVE ADOPTIVE PARENTS OR A SEARCH FOR A NONSUBSIDIZED ADOPTIVE PLACEMENT WOULD DELAY A CHILD'S OR YOUTH'S RIGHT TO PERMANENCY IN A TIMELY MANNER; OR

(II) THE ELIGIBLE CHILD OR YOUTH IS BEING PLACED BY A BIRTH PARENT WITH DESIGNATED ADOPTIVE PARENTS THROUGH A NONPROFIT CHILD PLACEMENT AGENCY; AND

(d) THE COUNTY DEPARTMENT OR NONPROFIT CHILD PLACEMENT AGENCY HAS DETERMINED THAT THE ADOPTIVE FAMILY HAS THE CAPABILITY OF PROVIDING FOR THE NONFINANCIAL NEEDS OF THE ELIGIBLE CHILD OR YOUTH.

**26-7-106. Available benefits.** (1) A COUNTY DEPARTMENT MAY AUTHORIZE OR ADMINISTER ONE OR MORE OF THE TYPES OF BENEFITS AVAILABLE PURSUANT TO THIS ARTICLE 7, AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

(2) THE BENEFITS AVAILABLE PURSUANT TO THIS ARTICLE 7 INCLUDE:

(a) MONTHLY SUBSIDY PAYMENTS;

(b) MEDICAL ASSISTANCE PURSUANT TO ARTICLES 4, 5 AND 6 OF TITLE 25.5;

(c) REIMBURSEMENT FOR NONRECURRING EXPENSES INCURRED BY OR ON BEHALF OF THE ADOPTIVE PARENT IN CONNECTION WITH THE ADOPTION, INCLUDED BUT NOT LIMITED TO:

(I) ANY FEES ORDINARILY ASSESSED BY THE STATE DEPARTMENT, A COUNTY DEPARTMENT, OR A CHILD PLACEMENT AGENCY FOR ADOPTION INVESTIGATIONS AND HOME STUDY REPORTS; AND

(II) ANY REASONABLE AND NECESSARY ADOPTION FEES, COURT COSTS, ATTORNEY FEES, AND OTHER EXPENSES THAT ARE DIRECTLY RELATED TO THE LEGAL ADOPTION OF THE CHILD AS DESCRIBED IN 42 U.S.C. SEC. 673 (a)(1); AND

(d) PAYMENT OR REIMBURSEMENT FOR OTHER SERVICES OR BENEFITS AS DEFINED IN SECTION 26-7-102 (3).

**26-7-107. Determination of benefits - adoption assistance agreement - review - definitions.** (1) THE BENEFITS PROVIDED IN ANY CASE PURSUANT TO THIS ARTICLE 7 MUST BE DETERMINED THROUGH AN AGREEMENT BETWEEN THE ADOPTIVE PARENTS AND THE COUNTY DEPARTMENT ADMINISTERING THE PROGRAM. THE TERMS OF THE AGREEMENT MUST BE REACHED THROUGH A DISCUSSION AND GOOD-FAITH NEGOTIATION PROCESS THAT ADDRESSES THE NEEDS OF THE ELIGIBLE CHILD OR YOUTH. ONCE THE TERMS OF THE AGREEMENT ARE REACHED BY THE RESPECTIVE PARTIES, THE PARTIES SHALL SIGN THE AGREEMENT PRIOR TO ADOPTION FINALIZATION. IF AN AGREEMENT CANNOT BE REACHED WITH THE CONCURRENCE OF THE ADOPTIVE PARENTS, THE ADOPTIVE PARENTS' REQUEST FOR ADOPTION ASSISTANCE MAY BE REVIEWABLE THROUGH THE ADMINISTRATIVE LAW APPEALS PROCESS.

(2) THE USE OF A MEANS TEST IS PROHIBITED IN THE PROCESS OF SELECTING AN ADOPTIVE FAMILY. A MEANS TEST ALSO MUST NOT BE SUBSTITUTED FOR THE NEGOTIATION OF AN ADOPTIVE FAMILY'S BENEFITS. THE CIRCUMSTANCES OF THE FAMILY, AS DEFINED IN SECTION 26-7-102 (5), SHOULD BE CONSIDERED IN NEGOTIATING A FAMILY'S BENEFITS.

(3) DETERMINATION OF THE TYPE AND AMOUNT OF BENEFITS TO BE PROVIDED MUST TAKE INTO CONSIDERATION THE CIRCUMSTANCES OF THE ADOPTIVE FAMILY AND THE CURRENT AND ANTICIPATED NEEDS OF THE ELIGIBLE CHILD OR YOUTH BEING ADOPTED. IN NO CASE MAY THE AMOUNT OF THE MONTHLY SUBSIDY PAYMENT EXCEED THE FOSTER CARE MAINTENANCE PAYMENT THAT WOULD HAVE BEEN PAID IF THE ELIGIBLE CHILD OR YOUTH HAD BEEN IN FOSTER CARE AT THE TIME OF THE ELIGIBLE CHILD OR YOUTH'S ADOPTION OR AT THE TIME OF RENEGOTIATION IN THE CASE OF ADOPTION ASSISTANCE ADJUSTMENT. THE AMOUNT OF PAYMENTS MAY BE ADJUSTED PERIODICALLY IF EITHER THE NEEDS OF THE ELIGIBLE CHILD OR YOUTH OR THE CIRCUMSTANCES OF THE FAMILY CHANGE, BUT ONLY WITH THE CONCURRENCE OF THE ADOPTIVE PARENTS.

(4) IN CASES WHERE A SUBSIDY IS NOT PROVIDED IN AN AGREEMENT, THE COUNTY DEPARTMENT SHALL DOCUMENT:

(a) THE CHILD'S OR YOUTH'S SPECIAL NEEDS IN THE SERVICES RECORD AND IN THE STATE DEPARTMENT'S AUTOMATED CHILD WELFARE SYSTEM; AND

(b) THE POTENTIAL NEED FOR FINANCIAL SUBSIDIES THAT EXIST AND MAY NEED TO BE ACTIVATED AT A FUTURE TIME.

(5) AN AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION MUST BE REVIEWED AT LEAST EVERY THREE YEARS. THE COUNTY DEPARTMENTS SHALL PROVIDE WRITTEN NOTICE OF THE UPCOMING REVIEW TO THE ADOPTIVE FAMILY.

(6) ANY NEW AGREEMENT MUST INCLUDE THE CIRCUMSTANCES UNDER WHICH THE COUNTY DEPARTMENT MAY SUSPEND SUBSIDY PAYMENTS.

(7) THE AGREEMENT MAY BE ADJUSTED AFTER GOOD-FAITH NEGOTIATION AND WITH THE CONCURRENCE OF THE ADOPTIVE FAMILY. AN ADJUSTMENT IS REVIEWABLE THROUGH THE ADMINISTRATIVE LAW PROCESS UPON THE REQUEST OF THE FAMILY. ANY PARTY MAY REQUEST A REVIEW OF THE AGREEMENT PRIOR TO THE THREE-YEAR MANDATORY REVIEW IF CHANGES OCCUR IN THE NEEDS OF THE ADOPTIVE CHILD OR YOUTH OR IN THE CIRCUMSTANCES OF THE FAMILY.

(8) BENEFITS PROVIDED THROUGH THE PROGRAM MUST BE CONTINUED IF THE ADOPTIVE PARENTS LEAVE THE STATE OF COLORADO WITH THE ADOPTED CHILD OR YOUTH.

**26-7-108. Suspension of subsidies.** (1) THE COUNTY DEPARTMENT MAY SUSPEND THE PAYMENT OF SUBSIDIES AVAILABLE PURSUANT TO THIS ARTICLE 7 WHEN CONTACT WITH THE ADOPTIVE FAMILY CANNOT BE ESTABLISHED AND THE COUNTY DEPARTMENT CANNOT ESTABLISH THAT THE ADOPTIVE PARENT IS PROVIDING ANY SUPPORT, WHICH INCLUDES FINANCIAL SUPPORT AS DETERMINED BY THE TITLE IV-E AGENCY.

(2) PRIOR TO SUSPENSION, THE COUNTY DEPARTMENT SHALL PROVIDE NOTICE TO THE ADOPTIVE PARENTS OF INTENT TO SUSPEND SUBSIDY PAYMENTS AT LEAST TEN DAYS PRIOR TO SUSPENSION AND SHALL INCLUDE IN THE NOTICE:

(a) A STATEMENT OF THE COUNTY DEPARTMENT'S INTENT TO SUSPEND SUBSIDY PAYMENTS, AS WELL AS THE REASONS AND LEGAL BASIS FOR THE INTENDED SUSPENSION;

(b) A DESCRIPTION OF THE ADOPTIVE PARENTS' RIGHT TO REQUEST A FAIR HEARING PURSUANT TO 45 CFR 205.10;

(c) A DESCRIPTION OF THE CIRCUMSTANCES UNDER WHICH ADOPTION ASSISTANCE MUST BE CONTINUED IF A HEARING IS REQUESTED; AND

(d) THE CIRCUMSTANCES UNDER WHICH A SUSPENSION MAY BE REVERSED WITHOUT A FAIR HEARING.

(3) WHEN THE SUBSIDY PAYMENT IS SUSPENDED, THE ELIGIBLE CHILD OR YOUTH REMAINS TITLE IV-E ELIGIBLE, THE TITLE IV-E AGREEMENT REMAINS IN EFFECT, AND THE ELIGIBLE CHILD OR YOUTH REMAINS ELIGIBLE FOR, AND IN RECEIPT OF, MEDICAL ASSISTANCE PURSUANT TO ARTICLES 4, 5 AND 6 OF TITLE 25.5, IF APPLICABLE.

**26-7-109. Termination of adoption assistance agreement.** (1) THE COUNTY DEPARTMENT SHALL TERMINATE THE PAYMENT OF SUBSIDIES AVAILABLE PURSUANT TO THIS ARTICLE 7 WHEN ANY OF THE FOLLOWING SITUATIONS OCCUR:

(a) THE CHILD OR YOUTH REACHES EIGHTEEN YEARS OF AGE; EXCEPT THAT, IN CASES WHERE THE COUNTY DEPARTMENT HAS DETERMINED THAT THE CHILD OR YOUTH HAS A MENTAL OR PHYSICAL HANDICAP THAT WARRANTS CONTINUED

ASSISTANCE, THE PAYMENT OF SUBSIDIES SHALL CONTINUE UNTIL THE CHILD OR YOUTH REACHES TWENTY-ONE YEARS OF AGE;

(b) THE ADOPTIVE PARENT OR PARENTS ARE NO LONGER LEGALLY RESPONSIBLE FOR THE SUPPORT OF THE CHILD OR YOUTH;

(c) THE CHILD OR YOUTH IS NO LONGER RECEIVING SUPPORT FROM THE ADOPTIVE FAMILY, WHICH INCLUDES FINANCIAL SUPPORT AS DETERMINED BY THE TITLE IV-E AGENCY; OR

(d) THE COUNTY DEPARTMENT CERTIFIES THE DEATH, MARRIAGE, OR ENROLLMENT IN MILITARY SERVICE OF THE CHILD OR YOUTH.

(2) ADOPTIVE PARENTS WHO RECEIVE SUBSIDIES SHALL KEEP THE COUNTY DEPARTMENT THAT IS ADMINISTERING THE PROGRAM INFORMED OF CIRCUMSTANCES THAT WOULD MAKE THEM INELIGIBLE TO CONTINUE TO RECEIVE SUBSIDIES PURSUANT TO THIS ARTICLE 7.

**26-7-110. Appeals.** (1) IN ANY DECISION MADE PURSUANT TO THIS ARTICLE 7, THE ADOPTIVE PARENTS HAVE THE RIGHT TO APPEAL TO THE STATE DEPARTMENT, WITH A HEARING BEFORE A STATE DEPARTMENT ADMINISTRATIVE LAW JUDGE IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24.

(2) THE FOLLOWING SITUATIONS ARE SUBJECT TO APPEAL:

(a) A DETERMINATION OF A CHILD'S OR YOUTH'S ELIGIBILITY FOR BENEFITS PURSUANT TO SECTION 26-7-105;

(b) ANY DETERMINATION, REDETERMINATION, OR REDUCTION OF BENEFITS PURSUANT TO THIS ARTICLE 7;

(c) TERMINATION OF THE AGREEMENT ENTERED INTO PURSUANT TO SECTION 26-7-107; OR

(d) THE FAILURE OF THE STATE DEPARTMENT, COUNTY DEPARTMENT, OR NONPROFIT CHILD PLACEMENT AGENCY TO NOTIFY THE ADOPTIVE FAMILY OF AN ELIGIBLE CHILD OR YOUTH ABOUT THE AVAILABILITY OF BENEFITS PURSUANT TO THIS ARTICLE 7.

**SECTION 2.** In Colorado Revised Statutes, 19-1-115, **amend** (4)(d)(II) as follows:

**19-1-115. Legal custody - guardianship - placement out of the home - petition for review for need of placement.** (4) (d) (II) For an adoptive family who receives an approved Title IV-E adoption assistance subsidy pursuant to the federal "Social Security Act", 42 U.S.C. sec. 673 et seq., or an approved payment in subsidization of adoption pursuant to ~~section 26-7-103, C.R.S.~~ ARTICLE 7 OF TITLE 26, the cost of care, as defined in section 19-1-103 (30), ~~shall~~ MUST not exceed the amount of the adoption assistance payment.

**SECTION 3.** In Colorado Revised Statutes, 19-2-114, **amend** (1)(b) as follows:

**19-2-114. Cost of care.** (1) (b) For an adoptive family who receives an approved Title IV-E adoption assistance subsidy pursuant to the federal "Social Security Act", 42 U.S.C. sec. 673 et seq., or an approved payment in subsidization of adoption pursuant to ~~section 26-7-103, C.R.S.~~ ARTICLE 7 OF TITLE 26, the cost of care, as defined in section 19-1-103 (30), ~~shall~~ MUST not exceed the amount of the adoption assistance payment.

**SECTION 4. Appropriation.** (1) For the 2019-20 state fiscal year, \$42,143 is appropriated to the department of human services for use by the office of information technology services. This appropriation is from the general fund. To implement this act, the office may use this appropriation for Colorado trails.

(2) For the 2019-20 state fiscal year, the general assembly anticipates that the department of human services will receive \$18,061 in federal funds to implement this act. The appropriation in subsection (1) of this section is based on the assumption that the department will receive this amount of federal funds, which is included for informational purposes only.

(3) For the 2019-20 state fiscal year, \$60,204 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of human services under subsection (1) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of human services.

**SECTION 5. 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 16, 2019