

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0976.02 Debbie Haskins x2045

HOUSE BILL 16-1316

HOUSE SPONSORSHIP

Rosenthal,

SENATE SPONSORSHIP

Cooke,

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PROCEDURES FOR CHANGING VENUE FOR
102 PROCEEDINGS RELATING TO A CHILD PLACED IN THE LEGAL
103 CUSTODY OF A COUNTY DEPARTMENT OF SOCIAL OR HUMAN
104 SERVICES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under the "Colorado Children's Code", venue for commencing child welfare proceedings is the county in which the child resides or is physically located, and the law allows for the transfer of venue to another

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

county in certain circumstances.

The bill sets forth the procedures for determining proper venue and for transferring the case to another county when a child is placed in the legal custody of a county department of social or human services (county department) and the child is initially placed in out-of-home placement in another county. The bill states that for purposes of determining proper venue, a child who is placed in the legal custody of a county department shall be deemed for the entire period of placement to reside in the county in which the child's legal parent or guardian resides or is located, even if the child is physically residing in a foster care or residential facility located in another county. In that circumstance, the court shall not transfer venue during the period of out-of-home placement to any county other than to the county in which the child's legal parent or guardian resides or is located.

Under current law, when proceedings are commenced in a county other than that of the child's residence, the court in which the proceedings were initiated may, on its own motion or on the motion of an interested party, file a motion to transfer the case to the court in which the child's legal parent or guardian resides as long as the transfer is not detrimental to the best interests of the child and adjudication has taken place or the case has been continued. The bill clarifies the circumstances when a case may not be transferred and adds to the statute factors that are in rule where transfers should not occur, including:

- ! Where the legal parent or guardian has a history of frequent moves unless there is evidence of stability in the most recent move indicating an intent to remain in the new residence for 6 or more months;
- ! The transfer will disrupt continuity or provision of services;
- ! The case is likely to close within 3 to 6 months;
- ! The case is an expedited permanency planning case for a child under 6 years of age, unless the presumption that a transfer of proceedings is not in the best interest of the child has been rebutted by a preponderance of the evidence.

The bill sets forth the requirements for notifying the county attorney in the receiving county that a motion to change venue has been filed and states that the attorney for the receiving county has a right to file responsive pleadings and appear at the hearing.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-3-201, **amend** (2);

3 and **add** (1.5) and (2.5) as follows:

4 **19-3-201. Venue.** (1.5) FOR PURPOSES OF DETERMINING PROPER

1 VENUE, A CHILD WHO IS PLACED IN THE LEGAL CUSTODY OF A COUNTY
2 DEPARTMENT SHALL BE DEEMED FOR THE ENTIRE PERIOD OF PLACEMENT
3 TO RESIDE IN THE COUNTY IN WHICH THE CHILD'S LEGAL PARENT OR
4 GUARDIAN RESIDES OR IS LOCATED, EVEN IF THE CHILD IS PHYSICALLY
5 RESIDING IN A FOSTER CARE OR RESIDENTIAL FACILITY LOCATED IN
6 ANOTHER COUNTY. IN SUCH CIRCUMSTANCE, IF A CHILD IS PLACED OUT OF
7 THE HOME, THE COURT SHALL NOT TRANSFER VENUE PURSUANT TO
8 SUBSECTION (2) OF THIS SECTION DURING THE PERIOD OF OUT-OF-HOME
9 PLACEMENT TO ANY COUNTY OTHER THAN THE COUNTY IN WHICH THE
10 CHILD'S LEGAL PARENT OR GUARDIAN RESIDES OR IS LOCATED.

11 (2) When proceedings are commenced under this article in a
12 county other than that of the child's residence, the court in which
13 proceedings were initiated may, on its own motion or on the motion of
14 any interested party, transfer the case to the court in the county where the
15 ~~child~~ CHILD'S LEGAL PARENT OR GUARDIAN resides ~~under~~ OR IS LOCATED
16 UNLESS ANY OF the following circumstances EXIST:

17 (a) The transfer would ~~not~~ be detrimental to the best interests of
18 the child; ~~and~~

19 (b) Adjudication has ~~not~~ taken place ~~or~~ AND the case has NOT been
20 continued pursuant to section 19-3-505 (5);

21 (c) THE LEGAL PARENT OR GUARDIAN HAS A HISTORY OF FREQUENT
22 MOVES UNLESS THERE IS EVIDENCE OF STABILITY IN THE MOST RECENT
23 MOVE INDICATING AN INTENT TO REMAIN IN THE NEW RESIDENCE FOR SIX
24 OR MORE MONTHS, SUCH AS THE LEGAL PARENT OR GUARDIAN HAS SIGNED
25 A LEASE WHOSE TERM IS SIX OR MORE MONTHS;

26 (d) THE CASE IS NOT LIKELY TO BE CLOSED WITHIN THREE TO SIX
27 MONTHS;

1 (e) THE TRANSFER WILL DISRUPT CONTINUITY OR PROVISIONS OF
2 SERVICES; OR

3 (f) THE CASE IS AN EXPEDITED PERMANENCY PLANNING CASE,
4 UNLESS THE REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION HAVE
5 BEEN MET. PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE
6 PRESUMPTION THAT A TRANSFER OF THE PROCEEDINGS IS NOT IN THE
7 CHILD'S BEST INTEREST HAS BEEN REBUTTED BY A PREPONDERANCE OF THE
8 EVIDENCE.

9 (2.5) THE COUNTY ATTORNEY OF A COUNTY THAT FILES A MOTION
10 TO CHANGE VENUE PURSUANT TO THIS SECTION SHALL IMMEDIATELY
11 PROVIDE NOTICE OF THE MOTION TO THE PROPOSED RECEIVING COUNTY.
12 UPON RECEIPT OF A MOTION TO CHANGE VENUE, THE COURT SHALL SET A
13 HEARING TO RULE ON THE MOTION. THE REQUESTING COUNTY ATTORNEY
14 SHALL PROVIDE FOURTEEN DAYS WRITTEN NOTICE OF THE HEARING TO THE
15 OFFICE OF THE COUNTY ATTORNEY IN THE PROPOSED RECEIVING COUNTY,
16 WHO SHALL HAVE A RIGHT TO FILE RESPONSIVE PLEADINGS AND APPEAR AT
17 THE HEARING.

18 **SECTION 2.** In Colorado Revised Statutes, 19-1-103, **amend**
19 (32) (b) as follows:

20 **19-1-103. Definitions.** As used in this title or in the specified
21 portion of this title, unless the context otherwise requires:

22 (32) (b) "County department" ~~as used in section 19-3-211 and in~~
23 ~~article 3.3 of this title,~~ means a county or a city and county department of
24 human or social services.

25 **SECTION 3. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2016 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.