

CHAPTER 127

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 16-1316

BY REPRESENTATIVE(S) Rosenthal, Fields, Ginal, Kraft-Tharp, Primavera, Ryden, Singer, Vigil, Young, Lontine, Windholz;
also SENATOR(S) Cooke, Heath, Jahn, Kefalas, Lambert, Martinez Humenik, Merrifield, Newell, Steadman, Tate, Todd, Woods.

AN ACT

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

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

SECTION 1. In Colorado Revised Statutes, 19-3-201, **amend** (2); and **add** (1.5) and (2.5) as follows:

19-3-201. Venue. (1.5) 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 SUCH CIRCUMSTANCE, IF A CHILD IS PLACED OUT OF THE HOME, THE COURT SHALL NOT TRANSFER VENUE PURSUANT TO SUBSECTION (2) OF THIS SECTION DURING THE PERIOD OF OUT-OF-HOME PLACEMENT TO ANY COUNTY OTHER THAN THE COUNTY IN WHICH THE CHILD'S LEGAL PARENT OR GUARDIAN RESIDES OR IS LOCATED.

(2) 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~~ CHILD'S LEGAL PARENT OR GUARDIAN resides ~~under~~ OR IS LOCATED UNLESS ANY OF the following circumstances exist:

- (a) The transfer would ~~not~~ be detrimental to the best interests of the child; ~~and~~
- (b) Adjudication has ~~not~~ taken place ~~or~~ AND the case has NOT been continued pursuant to section 19-3-505 (5);

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

(c) 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 SIX OR MORE MONTHS, SUCH AS THE LEGAL PARENT OR GUARDIAN HAS SIGNED A LEASE WHOSE TERM IS SIX OR MORE MONTHS;

(d) THE CASE IS LIKELY TO BE CLOSED WITHIN THREE TO SIX MONTHS;

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

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

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

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

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

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

SECTION 3. 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 10, 2016, if adjournment sine die is on May 11, 2016); 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 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 21, 2016