

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 21-0214.01 Brita Darling x2241

HOUSE BILL 21-1101

HOUSE SPONSORSHIP

Ransom,

SENATE SPONSORSHIP

Buckner,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PRESERVING FAMILIAL CONNECTIONS IN ACTIONS**
102 **INITIATED PURSUANT TO THE CHILDREN'S CODE.**

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://leg.colorado.gov>.)

With respect to a hearing in dependency and neglect for a child under 6 years of age, the bill states that a court may find good cause for granting a delay or continuance if there is evidence that in-person visitation or services were significantly delayed or interrupted by a public health emergency.

When a child is taken into the custody of a county department of

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

human or social services (county department) for allegations of neglect or for other reasons, the bill requires the court to enter temporary visitation orders with the child's parent if such orders are in the child's best interests. The bill sets forth the contents of those orders, including the minimum frequency and level of supervision of the visits. The court shall order ongoing, in-person visitation unless it finds that in-person visitation would endanger the child's health or welfare. Within 30 days after the initial hearing, the county department shall make recommendations to the court concerning ongoing visitation between the parent and child and between the child and the child's siblings. A parent is entitled to a hearing prior to an ongoing reduction in, suspension of, or increase in the level of supervision, including a change from in-person visitation to virtual visitation. The bill requires the court to enter visitation orders consistent with the bill in various phases of the court proceedings.

The bill sets forth requirements for an open adoption in Colorado, including provisions for entering into post-adoption contact agreements between a child and the child's birth parent or parents, a birth relative, or an Indian tribe if the child is a member. A post-adoption contact agreement may include provisions for contact, visitation, or the exchange of information. If a child is 12 years of age or older, the court shall not order a post-adoption contact agreement unless the child consents to all terms of the contact agreement. The bill includes provisions for the enforcement, modification, and termination of a post-adoption contact agreement.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 19-3-104 as
3 follows:

4 **19-3-104. Hearings - procedure.** Any hearing conducted
5 pursuant to this article 3 in a county designated pursuant to section
6 19-1-123 regarding a child who is under six years of age at the time a
7 petition is filed in accordance with section 19-3-501 (2) must not be
8 delayed or continued unless good cause is shown and unless the court
9 finds that the best interests of the child will be served by granting a delay
10 or continuance. THE COURT MAY FIND GOOD CAUSE FOR GRANTING A
11 DELAY OR CONTINUANCE IF THERE IS EVIDENCE THAT IN-PERSON

1 VISITATION OR SERVICES WERE SIGNIFICANTLY DELAYED OR INTERRUPTED
2 BY A PUBLIC HEALTH EMERGENCY. Whenever any such delay or
3 continuance is granted, the court shall set forth the specific reasons
4 necessitating the delay or continuance and shall schedule the matter
5 within thirty days after the date of granting the delay or continuance. If
6 appropriate, in any hearing conducted pursuant to this article 3 in a county
7 designated pursuant to section 19-1-123 regarding a child who is under
8 six years of age at the time a petition is filed in accordance with section
9 19-3-501 (2), the court shall include all other children residing in the
10 same household whose placement is subject to determination pursuant to
11 this article 3.

12 **SECTION 2.** In Colorado Revised Statutes, **add** 19-3-217 as
13 follows:

14 **19-3-217. Parent-child visitation upon removal - sibling**
15 **contact plan.** (1) AT ANY HEARING HELD PURSUANT TO SECTION
16 19-3-403 (2) OR (3.5), THE COURT SHALL ENTER TEMPORARY ORDERS FOR
17 REASONABLE VISITATION WITH THE CHILD'S PARENT THAT IS CONSISTENT
18 WITH THE AGE AND DEVELOPMENTAL NEEDS OF A CHILD IF THE COURT
19 FINDS THAT VISITATION IS IN A CHILD'S BEST INTERESTS. THE COURT'S
20 ORDER MUST SPECIFY THE MINIMUM FREQUENCY, DURATION, AND TERMS
21 OF VISITATION, INCLUDING THE LEVEL OF SUPERVISION REQUIRED. THE
22 COURT SHALL ENTER TEMPORARY ORDERS FOR VISITATION THAT ARE FOR
23 THE LEAST RESTRICTIVE LOCATION AND LEVEL OF SUPERVISION THAT
24 MEETS THE NEEDS OF THE CHILD OR YOUTH. THE COURT SHALL ORDER
25 CONTACT BETWEEN THE PARENT AND CHILD, INCLUDING BUT NOT LIMITED
26 TO TELEPHONE, VIRTUAL, OR IN-PERSON VISITS, COMMENCING WITHIN
27 SEVENTY-TWO HOURS AFTER ANY HEARING PURSUANT TO SECTION

1 19-3-403 (2) OR (3.5), EXCLUDING SATURDAYS, SUNDAYS, AND ANY
2 COURT HOLIDAY. THE COURT MAY AUTHORIZE AN EXTENSION OF TIME FOR
3 CONTACT TO COMMENCE IF THE DELAY IS AGREED UPON BY THE PARENT,
4 COUNTY DEPARTMENT, AND GUARDIAN AD LITEM OR IF THE COURT FINDS
5 THAT A DELAY IN CONTACT IS IN THE CHILD'S BEST INTERESTS.

6 (2) THE COURT SHALL ORDER ONGOING, IN-PERSON VISITATION
7 WITH A PARENT UNLESS IT FINDS THAT IN-PERSON VISITATION WOULD
8 ENDANGER THE CHILD'S HEALTH OR WELFARE. THE COURT SHALL PRESUME
9 THAT A DENIAL OF ALL CONTACT BETWEEN A PARENT AND CHILD IS NOT IN
10 THE BEST INTERESTS OF THE CHILD. THIS PRESUMPTION MAY BE
11 OVERCOME BY A SHOWING THAT ANY LEVEL OR TYPE OF CONTACT
12 ENDANGERS THE CHILD'S HEALTH OR WELFARE. NOTHING IN THIS SECTION
13 PREVENTS THE COUNTY DEPARTMENT FROM CANCELING A VISIT IF THE
14 CHILD'S HEALTH OR WELFARE WOULD BE ENDANGERED OR IF THE PARENT
15 CONSENTS TO THE CANCELLATION OF THE VISIT.

16 (3) (a) WITHIN THIRTY DAYS AFTER THE FILING OF A PETITION
17 PURSUANT TO SECTION 19-3-502, THE COUNTY DEPARTMENT SHALL MAKE
18 RECOMMENDATIONS TO THE COURT REGARDING THE TIME AND PLACE OF
19 VISITS, THE FREQUENCY OF VISITS, THE LENGTH OF VISITS, THE PERSONS
20 WHO SHALL BE PRESENT AT THE VISITS, AND, WHERE APPROPRIATE, THE
21 CHILD'S OPPORTUNITIES TO HAVE TELEPHONE, MAIL, AND OTHER
22 COMMUNICATION WITH THE PARENT.

23 (b) IF SIBLINGS ARE NOT PLACED TOGETHER, WITHIN THIRTY DAYS
24 AFTER THE FILING OF A PETITION PURSUANT TO SECTION 19-3-502, THE
25 COUNTY DEPARTMENT SHALL MAKE RECOMMENDATIONS TO THE COURT
26 REGARDING SIBLING CONTACT PURSUANT TO SECTION 19-7-204 (2).

27 (4) NOTHING IN THIS SECTION RESTRICTS THE COURT FROM

1 GRANTING DISCRETIONARY AUTHORITY TO THE DEPARTMENT AND
2 GUARDIAN AD LITEM TO INCREASE OPPORTUNITIES FOR ADDITIONAL
3 PARENT-CHILD CONTACTS OR SIBLING CONTACTS WITHOUT FURTHER
4 COURT ORDER.

5 (5) ABSENT THE ISSUANCE OF AN EMERGENCY ORDER, A PARENT
6 GRANTED VISITATION IS ENTITLED TO A HEARING PRIOR TO AN ONGOING
7 REDUCTION IN, SUSPENSION OF, OR INCREASE IN THE LEVEL OF
8 SUPERVISION, INCLUDING A CHANGE FROM IN-PERSON VISITATION TO
9 VIRTUAL VISITATION. IF THE COURT ISSUES AN EMERGENCY ORDER
10 SUSPENDING, REDUCING, OR RESTRICTING VISITATION, A PARENT IS
11 ENTITLED TO A HEARING WITHIN SEVENTY-TWO HOURS AFTER THE ORDER
12 IS ISSUED, EXCLUDING SATURDAYS, SUNDAYS, AND COURT HOLIDAYS. THE
13 COURT NEED NOT HOLD A HEARING IF THERE IS AGREEMENT BY THE
14 PETITIONER, GUARDIAN AD LITEM, AND PARENT TO THE REDUCTION,
15 SUSPENSION, OR INCREASE IN LEVEL OF SUPERVISION OF VISITS. ANY SUCH
16 AGREEMENT MUST BE REDUCED TO WRITING.

17 (6) NOTHING IN THIS SECTION REQUIRES OR PERMITS A COUNTY
18 DEPARTMENT TO ARRANGE A VISIT IF THE VISIT WOULD VIOLATE AN
19 EXISTING PROTECTION ORDER IN ANY CASE PENDING IN THIS STATE OR ANY
20 OTHER STATE. THE COUNTY DEPARTMENT IS NOT REQUIRED TO PRODUCE
21 A CHILD FOR COURT-ORDERED VISITATION IF THE VISITATION IS MADE
22 IMPOSSIBLE DUE TO THE POLICIES OF A FACILITY WHERE THE PARENT IS
23 INCARCERATED OR IN TREATMENT.

24 **SECTION 3.** In Colorado Revised Statutes, 19-3-403, **amend** (7)
25 as follows:

26 **19-3-403. Temporary custody - hearing - time limits -**
27 **restriction - rules.** (7) The court may also issue temporary orders for

1 legal custody as provided in section 19-1-115. THE COURT SHALL ENTER
2 VISITATION ORDERS CONSISTENT WITH SECTION 19-3-217.

3 **SECTION 4.** In Colorado Revised Statutes, 19-3-507, **add** (4.5)
4 as follows:

5 **19-3-507. Dispositional hearing.** (4.5) THE COURT SHALL ENTER
6 VISITATION ORDERS CONSISTENT WITH SECTION 19-3-217.

7 **SECTION 5.** In Colorado Revised Statutes, 19-3-702, **amend**
8 (3)(e) and (3)(f); and **add** (3)(g) as follows:

9 **19-3-702. Permanency hearing.** (3) At any permanency
10 planning hearing, the court shall first determine if the child or youth
11 should be returned to the child's or youth's parent, named guardian, or
12 legal custodian and, if applicable, the date on which the child or youth
13 must be returned. If the child or youth cannot be returned home, the court
14 shall also determine whether reasonable efforts have been made to find
15 a safe and stable permanent home for the child or youth. The court shall
16 not delay permanency planning by considering the placement of children
17 or youth together as a sibling group. At any permanency planning hearing,
18 the court shall make the following determinations, when applicable:

19 (e) Whether a child or youth who is fourteen years of age or older
20 is receiving transition services to successful adulthood, regardless of ~~his~~
21 ~~or her~~ THE CHILD'S OR YOUTH'S permanency goal; ~~and~~

22 (f) Whether the current placement of the child or youth could be
23 a permanent placement, if necessary; AND

24 (g) WHETHER THERE IS A VISITATION ORDER IN PLACE CONSISTENT
25 WITH SECTION 19-3-217.

26 **SECTION 6.** In Colorado Revised Statutes, 19-5-208, **add** (4.5)
27 as follows:

1 **19-5-208. Petition for adoption - open adoption - post-adoption**

2 **contact agreement. (4.5) (a)** AN AGREEMENT ENTERED INTO PURSUANT
3 TO THIS SUBSECTION (4.5) IS CONSIDERED AN OPEN ADOPTION.

4 (b) THE PETITIONER MAY REQUEST A POST-ADOPTION CONTACT
5 AGREEMENT FOR CONTACT BETWEEN A CHILD AND THE BIRTH PARENT OR
6 PARENTS; A BIRTH RELATIVE, AS SET FORTH IN SECTION 19-3-605 (1); OR
7 AN INDIAN TRIBE IF THE CHILD IS A MEMBER OF THE INDIAN TRIBE. A
8 POST-ADOPTION CONTACT AGREEMENT MAY INCLUDE PROVISIONS FOR
9 CONTACT, VISITATION, OR THE EXCHANGE OF INFORMATION. IF A CHILD IS
10 AVAILABLE FOR ADOPTION THROUGH AN EXPEDITED RELINQUISHMENT
11 PURSUANT TO SECTION 19-5-103.5, THE CONTACT AGREEMENT MUST BE
12 LIMITED TO CONTACT BETWEEN THE CHILD AND THE BIRTH PARENTS AND
13 BIOLOGICAL SIBLINGS OF THE CHILD.

14 (c) IF A CHILD IS TWELVE YEARS OF AGE OR OLDER, THE COURT
15 SHALL NOT ORDER A POST-ADOPTION CONTACT AGREEMENT UNLESS THE
16 CHILD CONSENTS TO ALL TERMS OF THE CONTACT AGREEMENT.

17 (d) THE COURT SHALL INCLUDE THE POST-ADOPTION CONTACT
18 AGREEMENT IN THE ADOPTION DECREE IF THE COURT FINDS THE CONTACT
19 AGREEMENT IS IN THE CHILD'S BEST INTERESTS, AFTER CONSIDERING THE
20 CHILD'S WISHES AND ANY OTHER RELEVANT INFORMATION.

21 (e) A PARENT WHO HAS RELINQUISHED PARENTAL RIGHTS
22 PURSUANT TO SECTION 19-5-104, OR WHOSE PARENTAL RIGHTS HAVE BEEN
23 TERMINATED PURSUANT TO SECTION 19-3-604 OR 19-5-105, OR ANY BIRTH
24 RELATIVE, AS SET FORTH IN SECTION 19-3-605 (1), MUST NOT BE A PARTY
25 TO THE ADOPTION. ACCESS TO THE ADOPTION FILE, WITH THE EXCEPTION
26 OF THE POST-ADOPTION CONTACT AGREEMENT AND ANY PLEADINGS OR
27 ORDERS MADE PURSUANT TO THIS SECTION TO ENFORCE THE CONTACT

1 AGREEMENT, IS GOVERNED BY PART 3 OF THIS ARTICLE 5.

2 (f) A POST-ADOPTION CONTACT AGREEMENT ENTERED INTO
3 PURSUANT TO THIS SUBSECTION (4.5) MUST BE SUBMITTED TO THE COURT
4 ON A STANDARDIZED AFFIDAVIT FORM PRESCRIBED BY THE JUDICIAL
5 DEPARTMENT THAT CONTAINS THE FOLLOWING WARNINGS
6 ACKNOWLEDGED BY ALL PARTIES TO THE CONTACT AGREEMENT:

7 (I) AFTER THE ENTRY OF A DECREE FOR ADOPTION, AN ADOPTION,
8 RELINQUISHMENT, OR TERMINATION OF PARENTAL RIGHTS CANNOT BE SET
9 ASIDE DUE TO THE FAILURE OF THE ADOPTIVE PARENT, BIOLOGICAL
10 PARENT, A BIRTH RELATIVE, OR THE CHILD TO FOLLOW THE TERMS OF THE
11 CONTACT AGREEMENT OR ANY SUBSEQUENT MODIFICATIONS OF THE
12 AGREEMENT; AND

13 (II) A DISAGREEMENT BETWEEN THE PARTIES OR LITIGATION
14 BROUGHT PURSUANT TO SECTION 19-5-217 TO ENFORCE OR TERMINATE
15 THE CONTACT AGREEMENT DOES NOT AFFECT THE VALIDITY OF THE
16 ADOPTION, RELINQUISHMENT, OR TERMINATION OF PARENTAL RIGHTS AND
17 IS NOT A BASIS FOR ORDERS AFFECTING THE CUSTODY OF THE CHILD.

18 (g) NOTHING IN THIS SUBSECTION (4.5) PERMITS THE COURT TO
19 ORDER ONGOING CONTACT OR OTHER DUTIES FOR THE PETITIONER WHEN
20 THE PETITIONER DOES NOT CONSENT TO A POST-ADOPTION CONTACT
21 AGREEMENT AS SET FORTH IN THIS SUBSECTION (4.5).

22 (h) IN ANY CASE WHERE A POST-ADOPTION CONTACT AGREEMENT
23 IS BEING CONSIDERED BY THE COURT AND A GUARDIAN AD LITEM IS
24 CURRENTLY APPOINTED FOR THE CHILD PURSUANT TO SECTION 19-3-203,
25 THE COURT SHALL APPOINT THE GUARDIAN AD LITEM TO REPRESENT THE
26 BEST INTERESTS OF THE CHILD WITH RESPECT TO THE CONTACT
27 AGREEMENT. THE DUTIES OF THE GUARDIAN AD LITEM OR THE CHILD'S

1 ATTORNEY TERMINATE UPON THE ENTRY OF THE DECREE OF ADOPTION,
2 UNLESS OTHERWISE ORDERED BY THE COURT.

3 **SECTION 7.** In Colorado Revised Statutes, **add** 19-5-217 as
4 follows:

5 **19-5-217. Enforcement of post-adoption contact agreement.**

6 (1) IF THE DECREE OF ADOPTION CONTAINS A POST-ADOPTION CONTACT
7 AGREEMENT PURSUANT TO SECTION 19-5-208 (4.5), THE COURT RETAINS
8 JURISDICTION AFTER THE DECREE OF ADOPTION IS ENTERED TO HEAR
9 MOTIONS TO ENFORCE OR TERMINATE THE CONTACT AGREEMENT, OR TO
10 ENTER STIPULATED AGREEMENTS OF THE PARTIES TO MODIFY THE
11 CONTACT AGREEMENT.

12 (2) THE COURT MAY APPOINT A GUARDIAN AD LITEM FOR THE
13 ADOPTED CHILD AT THE TIME OF ANY ACTION FOR THE ENFORCEMENT OR
14 TERMINATION OF THE POST-ADOPTION CONTACT AGREEMENT IF THE COURT
15 DETERMINES THAT CONSIDERATION OF THE FACTORS SET FORTH IN
16 SECTION 19-5-103 (9)(a) REQUIRE THE APPOINTMENT OF A GUARDIAN AD
17 LITEM. IF THE CHILD IS TWELVE YEARS OF AGE OR OLDER, THE COURT MAY
18 APPOINT AN ATTORNEY FOR THE CHILD. IN ALL ADOPTIONS OTHER THAN
19 THOSE IN WHICH THE CHILD IS PLACED BY THE COUNTY DEPARTMENT, THE
20 COURT MAY ASSESS THE PARTIES FOR THE COST OF SERVICES RENDERED BY
21 THE GUARDIAN AD LITEM OR THE CHILD'S ATTORNEY.

22 (3) IF THERE IS A POST-ADOPTION AGREEMENT FOR CONTACT
23 ESTABLISHED PURSUANT TO SECTION 19-5-208 (4.5), A PARTY TO THE
24 CONTACT AGREEMENT, EVEN IF HE OR SHE IS NOT A PARTY TO THE
25 ADOPTION, MAY FILE A MOTION TO ENFORCE OR TERMINATE THE CONTACT
26 AGREEMENT AS SET FORTH IN THIS SECTION.

27 (4) PRIOR TO FILING A MOTION SEEKING THE ENFORCEMENT OR

1 TERMINATION OF A POST-ADOPTION CONTACT AGREEMENT ESTABLISHED
2 PURSUANT TO SECTION 19-5-208 (4.5), THE PARTY SEEKING ENFORCEMENT
3 OR TERMINATION SHALL SHOW THAT THE PARTY ATTEMPTED IN GOOD
4 FAITH TO RESOLVE THE DISPUTED MATTERS THROUGH MEDIATION OR
5 OTHER METHOD OF DISPUTE RESOLUTION.

6 (5) THE COURT SHALL NOT TERMINATE A POST-ADOPTION CONTACT
7 AGREEMENT ESTABLISHED PURSUANT TO SECTION 19-5-208 (4.5) UNLESS
8 THE MOVING PARTY ESTABLISHES THAT THERE HAS BEEN A CHANGE IN
9 CIRCUMSTANCES AND THAT THE CONTACT AGREEMENT IS NO LONGER IN
10 THE ADOPTED CHILD'S BEST INTERESTS.

11 (6) AT ANY TIME AFTER THE ENTRY OF A POST-ADOPTION CONTACT
12 AGREEMENT PURSUANT TO SECTION 19-5-208 (4.5), THE PARTIES TO THE
13 AGREEMENT MAY FILE WITH THE COURT A SIGNED, MODIFIED
14 POST-ADOPTION CONTACT AGREEMENT. AN ADOPTED CHILD TWELVE
15 YEARS OF AGE OR OLDER AT THE TIME OF THE TERMINATION OR
16 MODIFICATION OF THE CONTACT AGREEMENT MUST CONSENT TO ANY
17 MODIFICATION OR TERMINATION OF THE CONTACT AGREEMENT.

18 (7) THE COURT MAY CONSIDER DOCUMENTARY EVIDENCE AND
19 OFFERS OF PROOF IN DETERMINING MOTIONS TO ENFORCE OR TERMINATE
20 A POST-ADOPTION CONTACT AGREEMENT ESTABLISHED PURSUANT TO
21 SECTION 19-5-208 (4.5), OR MAY, IN ITS DISCRETION, HOLD A HEARING ON
22 THE MOTION.

23 (8) THE COURT SHALL NOT ORDER FURTHER INVESTIGATION OR
24 EVALUATION BY ANY PUBLIC OR PRIVATE AGENCY OR INDIVIDUAL
25 RELATING TO A POST-ADOPTION CONTACT AGREEMENT ESTABLISHED
26 PURSUANT TO SECTION 19-5-208 (4.5) ABSENT A FINDING BY CLEAR AND
27 CONVINCING EVIDENCE THAT THE BEST INTERESTS OF THE CHILD MAY BE

1 PROTECTED OR ADVANCED ONLY BY FURTHER INVESTIGATION OR
2 EVALUATION AND THAT THE INVESTIGATION OR EVALUATION WILL NOT
3 DISTURB THE STABILITY OF THE CHILD'S HOME TO THE DETRIMENT OF THE
4 CHILD.

5 **SECTION 8. Effective date.** This act takes effect September 1,
6 2021.

7 **SECTION 9. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, or safety.