

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0633.02 Debbie Haskins x2045

SENATE BILL 12-138

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SENATE SPONSORSHIP

**Lundberg**, Renfroe, Harvey, Cadman, Lambert, Grantham, Scheffel, Mitchell, King K., Brophy, King S., Neville, Roberts

HOUSE SPONSORSHIP

(None),

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Senate Committees

Health and Human Services

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF CHILD CARE CENTERS BY THE  
102 DEPARTMENT OF HUMAN SERVICES.

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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>.)*

The bill eliminates references in the child care licensing statutes describing standards relating to quality care. The bill rewrites the legislative declaration to state that the primary goal of the regulation and licensing of child care facilities is to contribute to a safe and healthy environment for children and that the secondary goal is to preserve a

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.*

range of affordable child care options.

The bill eliminates the periodic review by the department of human services (state department) of child care licensing rules and regulatory scheme every 5 years. In place of the periodic review by the state department, the general assembly, acting by resolution, or the governor, acting by executive order, may initiate the review of child care center licensing rules and regulatory scheme by creating a committee of representative persons that shall report on its findings and recommendations.

When adopting rules based on the federal department of defense standards for the department of defense quality child care standards pilot program for private child care facilities that provide child care to military families, the state department and the local public health agency shall ensure that the federal department of defense quality standards are in addition to the state standards for child care centers. The bill states that the statute on the pilot program should not be construed to give the state department the authority to use the federal department of defense quality standards as a model for standards for other child care centers licensed by the state department.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 26-6-101.4  
3 as follows:

4 **26-6-101.4. Legislative declaration concerning the protections**  
5 **afforded by regulation.** (1) The general assembly finds and declares that  
6 increasing numbers of children in Colorado are spending a significant  
7 portion of their day in care settings outside their own homes. In addition,  
8 some children are placed in facilities for residential care for their  
9 protection and well-being. The general assembly finds that THE PRIMARY  
10 GOAL OF THE regulation and licensing of child care facilities IS TO  
11 contribute to a safe and healthy environment for children. The provision  
12 of such environment affords benefits to children, their families, their  
13 communities, and the larger society.

14 (2) The general assembly acknowledges that there is a need to

1 balance accessibility and quality of care when regulating child care  
2 facilities. THE GENERAL ASSEMBLY RECOGNIZES THAT THE COST OF  
3 REGULATORY COMPLIANCE AT CHILD CARE CENTERS IS PASSED ON TO  
4 PARENTS AND THAT EXCESSIVE REGULATORY BURDENS CAN LEAD TO  
5 FEWER AFFORDABLE CHILD CARE OPTIONS. THEREFORE, THE GENERAL  
6 ASSEMBLY FINDS THAT THE SECONDARY GOAL OF THE REGULATION AND  
7 LICENSING OF CHILD CARE FACILITIES IS TO PRESERVE A RANGE OF  
8 AFFORDABLE CHILD CARE OPTIONS. It is the intent of the general assembly  
9 that those who regulate and those who are regulated work together to  
10 meet the needs of the children, their families, and the child care industry.

11 ~~(2)~~ (3) In balancing the needs of children and their families with  
12 the needs of the child care industry, the general assembly also recognizes  
13 the financial demands with which the department of human services is  
14 faced in its attempt to ensure a safe and sanitary environment for those  
15 children of the state of Colorado who are in child care facilities. In an  
16 effort to reduce the risk to children outside their homes while recognizing  
17 the financial constraints placed upon the department, it is the intent of the  
18 general assembly that the limited resources available be focused primarily  
19 on those child care facilities that have demonstrated that children in their  
20 care may be at higher risk pursuant to section 26-6-107.

21 **SECTION 2.** In Colorado Revised Statutes, **amend** 26-6-113 as  
22 follows:

23 **26-6-113. Review of licensing regulations and procedures -**  
24 **legislative declaration.** (1) The general assembly finds that changes in  
25 demographics and economic trends in Colorado have increased the need  
26 for high quality SAFE and affordable child care. The general assembly also  
27 recognizes that the provision of child care in this state and in the nation

1 is a rapidly growing industry subject to many changes. The general  
2 assembly further finds that ~~there is a need for continuing comprehensive~~  
3 ANY review of the rules ~~and regulations~~ and the licensing procedures  
4 governing child care centers, family child care homes, and foster care  
5 homes ~~that includes~~ SHOULD INCLUDE the adequate and full participation  
6 of parents, consumers, child care providers, and interested persons. The  
7 general assembly finds that such a review with the goal of identifying  
8 problems in the fragmentation and lack of uniformity of standards in the  
9 licensing process would benefit the state and result in improvements in  
10 the regulation of this industry that is so vital to the health and well-being  
11 of the state's children and citizens. THE GENERAL ASSEMBLY FINDS THAT  
12 SUCH REVIEW SHOULD NOT BE INITIATED AND CONDUCTED BY THE STATE  
13 DEPARTMENT BUT INSTEAD SHOULD BE DONE BY A BROADER GROUP OF  
14 STAKEHOLDERS AND AT THE DIRECTION OF THE GOVERNOR OR THE  
15 GENERAL ASSEMBLY.

16 (2) ~~Beginning with fiscal year 1995-1996, an initial~~  
17 ~~comprehensive rule and regulation review shall be conducted in~~  
18 ~~conjunction with the performance audit required by section 26-6-107~~  
19 ~~(1.5), and, at least every fifth fiscal year thereafter~~ THE GENERAL  
20 ASSEMBLY, ACTING BY RESOLUTION, OR THE GOVERNOR, BY EXECUTIVE  
21 ORDER, MAY INITIATE a comprehensive review of the licensing rules and  
22 regulations for child care centers, family child care homes, and foster care  
23 homes and the procedures relating to and governing child care centers,  
24 family child care homes, and foster care homes ~~shall be conducted by the~~  
25 ~~department~~, including procedures for the review of backgrounds of  
26 employees and owners. ~~In conducting such periodic review,~~ WHEN  
27 INITIATING SUCH A REVIEW, THE GOVERNOR, ACTING BY EXECUTIVE

1 ORDER, OR THE GENERAL ASSEMBLY, ACTING BY RESOLUTION, SHALL  
2 CREATE A COMMITTEE INCLUDING, BUT NOT LIMITED TO,  
3 REPRESENTATIVES OF THE STATE DEPARTMENT, PARENTS, CHILD CARE  
4 PROVIDERS, AND REPRESENTATIVES OF THE DEPARTMENT OF PUBLIC  
5 HEALTH AND ENVIRONMENT TO CONDUCT THE REVIEW. ~~The department~~  
6 COMMITTEE shall ~~consult with~~ SOLICIT INPUT FROM parents and consumers  
7 of child care, child care providers, the department of public health and  
8 environment, experts in the child care field, and other interested parties  
9 throughout the state. ~~The periodic~~ ANY review shall include an  
10 examination of the rules ~~and regulations~~ applicable to child care centers,  
11 family child care homes, and foster care homes, the process of licensing  
12 such facilities, uniformity of standards or lack thereof in the licensing  
13 process, statewide standardization of investigations and enforcement of  
14 licensing by the department, duplication and conflicts in regulations,  
15 requirements, or procedures between the department and the department  
16 of public health and environment, and recommendations for streamlining  
17 and unifying the licensing process. ~~Said review shall also include an~~  
18 ~~examination of regulations and procedures regarding the general physical~~  
19 ~~and mental health of employees and owners.~~ At the conclusion of each  
20 ANY review, the ~~department~~ COMMITTEE shall report its findings and  
21 conclusions and its recommendations for administrative changes and for  
22 legislation to the GOVERNOR, THE HEALTH AND HUMAN SERVICES  
23 COMMITTEE OF THE SENATE, OR ITS SUCCESSOR COMMITTEE, THE HEALTH  
24 AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR  
25 ITS SUCCESSOR COMMITTEE, THE STATE DEPARTMENT, THE state board, the  
26 advisory committee on licensing of child care facilities, and the executive  
27 director of the department of public health and environment.

1           **SECTION 3.** In Colorado Revised Statutes, 26-6-114, **amend** (5)  
2 as follows:

3           **26-6-114. Civil penalties - fines - child care cash fund -**  
4 **created.** (5) The fines collected pursuant to this section, section 26-6-108  
5 (2) and (2.7), and section 26-6-108.5 (1) (c) shall be transmitted to the  
6 state treasurer, who shall credit the same to the child care cash fund,  
7 which fund is hereby created in the state treasury. All interest derived  
8 from the deposit and investment of moneys in the fund shall be credited  
9 to the fund. At the end of any fiscal year, all unexpended and  
10 unencumbered moneys in the fund shall remain therein and shall not be  
11 credited or transferred to the general fund or any other fund. Moneys in  
12 the child care cash fund are hereby continuously appropriated to the  
13 department to fund activities related to ~~the improvement of the quality of~~  
14 PROTECTING THE HEALTH AND SAFETY OF CHILDREN AND PRESERVING  
15 AFFORDABLE child care OPTIONS in the state of Colorado.

16           **SECTION 4.** In Colorado Revised Statutes, **amend** 26-6-116 as  
17 follows:

18           **26-6-116. Child care resource and referral system - created.**  
19 (1) The state department shall design and develop a child care resource  
20 and referral system, referred to in this section as the "system", to assist in  
21 promoting THE availability, accessibility, ~~and quality~~ AFFORDABILITY,  
22 AND SAFETY of child care services in Colorado. The executive director,  
23 or his or her designee, shall have the authority, within available  
24 appropriations, to designate a public or private entity that shall be  
25 responsible for the administration of the system, and may enter into a  
26 contract with the administering entity for such purpose. The executive  
27 director shall designate or redesignate such administering entity on a

1 biennial basis.

2 (2) The state department shall report to the members of the health  
3 and human services ~~committees~~ COMMITTEE of the senate, OR ANY  
4 SUCCESSOR COMMITTEE, and the HEALTH AND ENVIRONMENT COMMITTEE  
5 OF THE house of representatives, ~~of the general assembly~~, or any successor  
6 ~~committees~~ COMMITTEE, concerning the child care resource and referral  
7 system by December 1, 2001, and by each December 1 thereafter. The  
8 report shall specify, at a minimum, the entity that the state department has  
9 currently designated to administer the system and the qualifications of  
10 that entity to serve in such capacity, the types of services that are being  
11 provided pursuant to the system, the numbers and types of persons  
12 receiving such services, and the cost associated with the system.

13 **SECTION 5.** In Colorado Revised Statutes, 26-6-604, **amend** (2)  
14 and (6) as follows:

15 **26-6-604. Department of defense quality child care standards**  
16 **pilot program - creation - program scope - reporting requirements -**  
17 **rules.** (2) Pilot sites may apply to the state department to be considered  
18 for inclusion in the program. The state department, with input from the  
19 local public health agency, local county resource and referral agencies,  
20 and early childhood councils of impacted counties, shall designate pilot  
21 site facilities to serve military families. Designation of pilot sites shall be  
22 dependent upon funding from the federal department of defense as child  
23 care stipends to military families and funding of the pilot site licensing  
24 unit through fees collected pursuant to subsection (7) of this section. The  
25 designated child care facilities shall provide child care to military  
26 families, provided the facility meets the quality child care standards  
27 ESTABLISHED BY THE FEDERAL DEPARTMENT OF DEFENSE AS

1 INCORPORATED IN RULES adopted by ~~rule~~ of the state department.

2 (6) (a) On or before June 30, 2012, the state department and the  
3 local public health agency shall promulgate rules for the implementation  
4 of this part 6. The rules shall include, at a minimum:

5 (a) (I) Pilot site compliance with department of defense quality  
6 child care standards;

7 (b) (II) A requirement for compliance with existing state and  
8 federal regulations; and

9 (c) (III) A procedure to establish a fee for and charge pilot site  
10 facilities for any additional inspections and services required to  
11 implement the enhanced department of defense quality child care  
12 standards.

13 (b) IN ADOPTING RULES, THE STATE DEPARTMENT AND THE LOCAL  
14 PUBLIC HEALTH AGENCY SHALL ENSURE THAT THE QUALITY STANDARDS  
15 OF THE FEDERAL DEPARTMENT OF DEFENSE ARE IN ADDITION TO THE STATE  
16 STANDARDS FOR CHILD CARE CENTERS. THIS SECTION SHOULD NOT BE  
17 CONSTRUED TO GIVE THE STATE DEPARTMENT THE AUTHORITY TO USE THE  
18 QUALITY STANDARDS OF THE FEDERAL DEPARTMENT OF DEFENSE AS A  
19 MODEL FOR CHILD CARE CENTERS LICENSED UNDER PART 1 OF THIS  
20 ARTICLE.

21 **SECTION 6. Act subject to petition - effective date.** This act  
22 takes effect at 12:01 a.m. on the day following the expiration of the  
23 ninety-day period after final adjournment of the general assembly (August  
24 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a  
25 referendum petition is filed pursuant to section 1 (3) of article V of the  
26 state constitution against this act or an item, section, or part of this act  
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in  
2 November 2012 and, in such case, will take effect on the date of the  
3 official declaration of the vote thereon by the governor.