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HOUSE BILL 03-1211

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also SENATOR(S) Anderson, Arnold, Evans, Groff, Hagedorn, Hanna, Isgar, Jones, Owen, Sandoval, Taylor, and Tupa.

CONCERNING RECORDS OF CHILD ABUSE OR NEGLECT FOR THE PROTECTION
OF CHILDREN.

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

SECTION 1. Legislative declaration. In repealing the state central registry of child protection, the general assembly hereby finds and declares the following:

(1) In 1969 the state central registry of child protection, referred to as the central registry, was established as a computer-based system to record perpetrators and victims of child abuse or neglect in order to aid in investigations and to screen potential employees in child care-related positions.

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

(2) Nearly 15 years ago, the legislature determined that the central registry needed improvement, and passed Senate Bill 87-63, "Concerning the deterrence of offenses against children, and, in connection therewith, *improving the effectiveness of the central registry* and amending various reporting provisions and parent-child termination procedures to facilitate child protection". *Emphasis added.*

(3) Despite the passage of Senate Bill 87-63, a report of the state auditor evaluating the performance of the central registry in October of 1990, referred to as the 1990 report, found that "the registry contains a high degree of inaccurate information". At that time, the central registry contained over forty thousand confirmed incidents of child abuse or neglect. The inaccuracies included the listing of names of individuals on the central registry for which evidence was not available to support a listing, as well as inconsistencies in reports received from counties, a failure to contain all confirmed cases of child abuse or neglect, a failure to contain information concerning deaths due to child abuse, and a failure to contain the names of persons convicted of child abuse-related felonies.

(4) In addition to these inaccuracies, the 1990 report found that county departments of social services, referred to as county departments, had differing standards for reporting cases to the central registry and in many instances failed to report confirmed cases of child abuse or neglect to the central registry. In a sample of the case files of ten different county departments, fifty percent of the cases reviewed were confirmed incidents of child abuse or neglect that were never reported to the central registry.

(5) The 1990 report found that the unreliability of the central registry could be detrimental to both children and alleged perpetrators and concluded that "because of current problems with the Registry . . . the Department needs to assess whether the Registry is fulfilling its intended purposes and functions."

(6) The state department of human services, referred to as the state department, argued in its response to the 1990 report that legislation passed in 1990 and legislation proposed for the 1991 session would improve the central registry's accuracy of information and reliability of data and that the increased resources the legislature assigned to the central registry would improve the central registry's effectiveness in meeting the goal of protecting children. Overall, the state department committed to improved functioning, better timeliness, automation of data, and improved responsiveness to those

seeking information or requesting expungement of names from the central registry. These improvements did not come to fruition.

(7) In 1997, the general assembly passed House Bill 97-1109, which bill found that "the state of Colorado could phase out the state central registry of child protection as a separate state program with no adverse impact on the state's interest in protecting children" and required the state department to convene a group of stakeholders and to submit an implementation plan to the general assembly for the phase-out of the central registry.

(8) In 1998, the group of stakeholders consisting of representatives of law enforcement, district attorneys, the attorney general's office, counties, parents, and child advocacy groups, recommended against elimination of the central registry of child protection because of the delays in implementation of the electronic TRAILS system at the state department and because there was no other database containing this information. The central registry database was maintained.

(9) Most recently, a report of the state auditor evaluating the performance of the central registry in November of 2001, referred to as the 2001 report, has found that, while there have been numerous attempts over the course of the previous ten years to modify the central registry in order to eliminate problems encountered with its operation, there are still "significant problems with the system", including problems directly related to the accuracy, reliability, and use of data in the system.

(10) The 2001 report found that there are now one hundred seven thousand eight hundred forty-eight records maintained by the central registry, but that inaccuracies and incompleteness plague the data contained in these records. Seven thousand six hundred of the records contained in the central registry were missing the perpetrator's birth date and forty-six thousand of the records were missing the perpetrator's social security number, making proper identification of alleged perpetrators nearly impossible for investigators researching prior incidents or conducting screening checks. In addition, there have been significant data entry errors by employees entering information from hard copy reports into the central registry system, resulting in incorrect social security number identification and incorrect listings of the severity of abuse, information which is critical to any useful review of these records. Further, there is no systematic check in place to ensure that information that is actually in the central registry is

accurate.

(11) In addition, the 2001 report found that county departments continued to vary in reporting confirmed incidents of child abuse or neglect to the central registry, and to differ in their interpretation of what constitutes a "confirmed incident of child abuse or neglect" for purposes of making such a report. Forty-seven percent of county departments believed that the information their county departments submitted to the central registry was not consistent with the information other county departments submitted to the central registry, and county department staff expressed concern about the inconsistent information contained in the central registry.

(12) Moreover, the 2001 report found that the central registry failed to list criminals convicted of child abuse on the central registry. Of only one thousand one hundred thirty-six criminal records reviewed in the performance audit, three hundred five of these individuals were convicted of major child abuse or sexual abuse crimes against a child on or after January 1, 1997, but were not listed on the central registry. A sample of forty-eight registered sex offenders who had perpetrated sexual crimes against children revealed that forty percent of the sample were not listed on the central registry.

(13) While sexual predators have been omitted from the central registry, the 2001 report found that some individuals remain on the central registry after they have been acquitted of related charges, despite a state statutory mandate for the director to expunge the subject's name related to the act or acts that supported such alleged criminal offense. In order for the state of Colorado to receive a federal grant for a child abuse and neglect prevention and treatment program, federal law requires the Governor to certify that Colorado has in effect and is enforcing a state law related to child abuse and neglect that includes provisions requiring, and procedures in place that facilitate, the prompt expungement of any records that are accessible to the general public or that are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false. At least one hundred ninety-one individuals acquitted of child abuse on or after June 1, 2000, were listed on the central registry in November of 2001. Moreover, cases have also been inappropriately maintained in the "status pending" category. These cases threaten Colorado's receipt of federal funding.

(14) The 2001 report found that the legislature has attempted on six

different occasions over the past thirty years to develop a clear vision for the central registry, however, despite expending nearly one million three hundred thousand dollars on the central registry in fiscal year 2001, "it is not clear that the Central Registry has been successful in protecting children, providing due process to individuals accused of child abuse, or helping employers screen potential staff." The 2001 report concluded, similarly to the conclusion in the 1990 report, that "the basic purpose and intent of the Central Registry should be challenged."

(15) Based on the foregoing, the general assembly hereby finds and declares the following:

(a) That the purpose of the central registry has been thwarted because the database designed to serve as a screening and investigative tool maintains information that is unreliable, inaccurate, and ultimately useless as a source of legitimate information;

(b) That these inaccuracies have prevented any form of consistent protection of children because the names of convicted child perpetrators have been omitted from the central registry. Further, the conclusive matching of a screened individual with a name on the central registry is impossible due to inaccurate and incomplete records.

(c) That the structure of the reporting process wherein county departments responsible for reporting confirmed reports of child abuse or neglect have failed to apply the same standard from county to county is manifestly unfair to the subjects of reports of child abuse or neglect and leads to inconsistent and, ultimately, ineffective central registry information;

(d) That the failure to review and expunge records as required by state law has prevented any meaningful protection of the due process rights of the individuals listed on the central registry, leaving alleged subjects of reports of child abuse and neglect stigmatized by having their names on the central registry despite being acquitted by a court of law;

(e) That the failure to review and expunge records as required by state law risks the loss of federal funding due to noncompliance with the federal requirement for states to expunge records that are used for purposes of employment or other background checks when the cases are determined to be unsubstantiated or false;

(f) That the state department and the county departments currently maintain and share records and reports of child abuse or neglect through computer systems, including the TRAILS electronic system, and that a review of these records and reports of child abuse or neglect by the state department and county departments is a legitimate screening alternative to the central registry system;

(g) That the Colorado bureau of investigation provides a legitimate source of information concerning criminal history background information which may be provided to individuals, the state department, and county departments of social services for the protection of children;

(h) That it is in the best interests of the children and citizens of the state of Colorado for the list of names on the central registry to be expunged and the statutory provisions concerning the central registry to be repealed; except that, nothing shall prevent the state department or the county departments of social services from maintaining case file records and reports for use in future risk and safety assessments.

SECTION 2. Repeal. 19-3-313, Colorado Revised Statutes, is repealed.

SECTION 3. Part 3 of article 3 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

19-3-313.5. State department duties - reports of child abuse or neglect - training of county departments - rules - notice and appeal process - confidentiality. (1) **Legislative declaration.** AS A RESULT OF THE REPORT OF THE STATE AUDITOR EVALUATING THE PERFORMANCE OF THE STATE CENTRAL REGISTRY OF CHILD PROTECTION RELEASED IN NOVEMBER OF 2001 AND THE SUBSEQUENT REPEAL OF THE STATE CENTRAL REGISTRY OF CHILD PROTECTION, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS IN THE BEST INTERESTS OF THE CHILDREN AND THE CITIZENS OF THE STATE OF COLORADO FOR THE STATE DEPARTMENT TO MODIFY THE PROCESSING OF RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT. THESE MODIFICATIONS ARE INTENDED TO ENSURE THAT THE STATE DEPARTMENT IS ABLE TO PROVIDE RELIABLE, ACCURATE, AND TIMELY INFORMATION CONCERNING RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT. IN ADDITION, THESE MODIFICATIONS ARE INTENDED TO ENSURE COMPLIANCE WITH FEDERAL LAW REGARDING THE PROMPT EXPUNGEMENT

OF ANY RECORDS OR REPORTS THAT ARE USED FOR PURPOSES OF EMPLOYMENT CHECKS OR OTHER BACKGROUND CHECKS IN CASES DETERMINED TO BE UNSUBSTANTIATED OR FALSE, WHILE ALLOWING THE STATE DEPARTMENT TO MAINTAIN SUCH RECORDS AND REPORTS IN CASE FILES FOR THE PURPOSE OF ASSISTING IN DETERMINATIONS OF FUTURE RISK AND SAFETY ASSESSMENTS. FINALLY, THESE MODIFICATIONS ARE INTENDED TO ENSURE THAT THE STATE DEPARTMENT'S PROCEDURAL SYSTEMS RELATED TO RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT PROVIDE ADEQUATE PROTECTION TO THE CHILDREN AND THE CITIZENS OF THE STATE OF COLORADO.

(2) **Training of county departments.** ON OR BEFORE JANUARY 1, 2004, THE STATE DEPARTMENT SHALL MODIFY THE TRAINING PROVIDED TO COUNTY DEPARTMENTS TO ACHIEVE CONSISTENCY AND STANDARDIZATION IN THE PERFORMANCE OF THE FOLLOWING DUTIES:

(a) INVESTIGATING REPORTS OF CHILD ABUSE OR NEGLECT;

(b) REPORTING CONFIRMED INCIDENTS OF CHILD ABUSE OR NEGLECT TO THE STATE DEPARTMENT;

(c) PREPARING DOCUMENTS RELATED TO RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT;

(d) ENTERING DATA INTO COMPUTER SYSTEMS MAINTAINING INFORMATION RELATED TO RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT; AND

(e) MAINTAINING CONFIDENTIALITY IN ACCORDANCE WITH FEDERAL AND STATE LAW.

(3) **Notice and appeals process - rules.** ON OR BEFORE JANUARY 1, 2004, THE STATE BOARD, IN CONSIDERATION OF INPUT AND RECOMMENDATIONS FROM THE COUNTY DEPARTMENTS, SHALL PROMULGATE RULES TO ESTABLISH A PROCESS AT THE STATE LEVEL BY WHICH A PERSON WHO IS FOUND TO BE RESPONSIBLE IN A CONFIRMED REPORT OF CHILD ABUSE OR NEGLECT FILED WITH THE STATE DEPARTMENT PURSUANT TO SECTION 19-3-307 MAY APPEAL THE FINDING OF A CONFIRMED REPORT OF CHILD ABUSE OR NEGLECT TO THE STATE DEPARTMENT. AT A MINIMUM, THE RULES ESTABLISHED PURSUANT TO THIS SUBSECTION (3) SHALL ADDRESS THE FOLLOWING MATTERS, CONSISTENT WITH FEDERAL LAW:

(a) THE PROVISION OF ADEQUATE AND TIMELY WRITTEN NOTICE BY THE COUNTY DEPARTMENTS OF SOCIAL SERVICES OR, FOR AN INVESTIGATION PURSUANT TO SECTION 19-3-308 (4.5), BY THE AGENCY THAT CONTRACTS WITH THE STATE, USING A FORM CREATED BY THE STATE DEPARTMENT, TO A PERSON FOUND TO BE RESPONSIBLE IN A CONFIRMED REPORT OF CHILD ABUSE OR NEGLECT OF THE PERSON'S RIGHT TO APPEAL THE FINDING OF A CONFIRMED REPORT OF CHILD ABUSE OR NEGLECT TO THE STATE DEPARTMENT;

(b) THE TIMELINE AND METHOD FOR APPEALING THE FINDING OF A CONFIRMED REPORT OF CHILD ABUSE OR NEGLECT;

(c) DESIGNATION OF THE ENTITY, WHICH ENTITY SHALL BE ONE OTHER THAN A COUNTY DEPARTMENT OF SOCIAL SERVICES, WITH THE AUTHORITY TO ACCEPT AND RESPOND TO AN APPEAL BY A PERSON FOUND TO BE RESPONSIBLE IN A CONFIRMED REPORT OF CHILD ABUSE OR NEGLECT AT EACH STAGE OF THE APPELLATE PROCESS;

(d) THE LEGAL STANDARDS INVOLVED IN THE APPELLATE PROCESS AND A DESIGNATION OF THE PARTY WHO BEARS THE BURDEN OF ESTABLISHING THAT EACH STANDARD IS MET;

(e) THE CONFIDENTIALITY REQUIREMENTS OF THE APPEALS PROCESS;
AND

(f) PROVISIONS REQUIRING, AND PROCEDURES IN PLACE THAT FACILITATE, THE PROMPT EXPUNGEMENT OF AND PREVENT THE RELEASE OF ANY INFORMATION CONTAINED IN ANY RECORDS AND REPORTS THAT ARE ACCESSIBLE TO THE GENERAL PUBLIC OR ARE USED FOR PURPOSES OF EMPLOYMENT OR BACKGROUND CHECKS IN CASES DETERMINED TO BE UNSUBSTANTIATED OR FALSE; EXCEPT THAT, THE STATE DEPARTMENT AND THE COUNTY DEPARTMENTS OF SOCIAL SERVICES MAY MAINTAIN INFORMATION CONCERNING UNSUBSTANTIATED REPORTS IN CASEWORK FILES TO ASSIST IN FUTURE RISK AND SAFETY ASSESSMENTS.

(4) **Confidentiality - rules.** ON OR BEFORE JANUARY 1, 2004, THE STATE BOARD SHALL PROMULGATE RULES TO ESTABLISH GUIDELINES FOR THE RELEASE OF INFORMATION CONTAINED IN RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT FOR SCREENING PURPOSES TO ASSURE COMPLIANCE WITH SECTIONS 19-1-303 AND 19-1-307 AND ANY OTHER STATE OR FEDERAL LAW RELATING TO CONFIDENTIALITY OF RECORDS AND REPORTS OF CHILD ABUSE

OR NEGLECT. RULES PROMULGATED BY THE STATE BOARD SHALL ADDRESS THE FOLLOWING:

- (a) HOW A REQUEST FOR INFORMATION IS TO BE PROCESSED;
- (b) WHO MAY BE GRANTED ACCESS TO INFORMATION;
- (c) WHAT INFORMATION IN THE RECORDS AND REPORTS IS TO BE MADE AVAILABLE TO THE PERSON OR ENTITY GRANTED ACCESS;
- (d) THE PURPOSES FOR WHICH INFORMATION CONTAINED IN THE RECORDS AND REPORTS MAY BE MADE AVAILABLE TO THE PERSON OR ENTITY GRANTED ACCESS; AND
- (e) THE CONSEQUENCES OF IMPROPER RELEASE OF INFORMATION RELATED TO RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT.

SECTION 4. 14-10-123.3, Colorado Revised Statutes, is amended to read:

14-10-123.3. Requests for parental responsibility for a child by grandparents. Whenever a grandparent seeks parental responsibility for his or her grandchild pursuant to the provisions of this article, the court entering such order shall consider any credible evidence of the grandparent's past conduct of child abuse or neglect. Such evidence may include, but shall not be limited to, medical records, school records, police reports, ~~records of the state central registry of child protection,~~ INFORMATION CONTAINED IN RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT, and court records RECEIVED BY THE COURT PURSUANT TO SECTION 19-1-307 (2) (f).

SECTION 5. Repeal. 19-1-103 (29.5), Colorado Revised Statutes, is repealed as follows:

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

(29.5) ~~"Conviction", as used in section 19-3-313, means a verdict of guilty by a judge or jury or a plea of guilty or nolo contendere that is accepted by the court. "Conviction" also includes a deferred judgment and~~

sentence:

SECTION 6. 19-1-117.7, Colorado Revised Statutes, is amended to read:

19-1-117.7. Requests for placement - legal custody by grandparents. Whenever a grandparent seeks the placement of his or her grandchild in the grandparent's home or seeks the legal custody of his or her grandchild pursuant to the provisions of this title, the court entering such order shall consider any credible evidence of the grandparent's past conduct of child abuse or neglect. Such evidence may include, but shall not be limited to, medical records, school records, police reports, ~~records of the state central registry of child protection~~, INFORMATION CONTAINED IN RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT, and court records RECEIVED BY THE COURT PURSUANT TO SECTION 19-1-307 (2) (f).

SECTION 7. 19-1-205 (3) (a), Colorado Revised Statutes, is amended, and the said 19-1-205 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

19-1-205. Selection of CASA volunteers. (3) A prospective CASA volunteer's application shall include:

(a) A copy of any criminal history record ~~central registry record~~, and motor vehicle record;

(a.5) WRITTEN AUTHORIZATION FOR THE CASA PROGRAM TO OBTAIN INFORMATION CONTAINED IN ANY RECORDS OR REPORTS OF CHILD ABUSE OR NEGLECT CONCERNING THE PROSPECTIVE CASA VOLUNTEER;

SECTION 8. 19-1-307 (2), (2.5), and (3), Colorado Revised Statutes, are amended, and the said 19-1-307 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-1-307. Dependency and neglect records and information - access - fee - records and reports fund - misuse of information - penalty. (2) **Records and reports - access to certain persons - agencies.** Except as otherwise provided in section 19-1-303, only the following persons or agencies shall be given access to child abuse or neglect records and reports:

(a) The law enforcement agency, district attorney, coroner, or county or district department of social services investigating a report of a known or suspected incident of child abuse or neglect or treating a child or family which is the subject of the report; ~~and, in addition to said reports and records, the law enforcement agency, district attorney, coroner, or county department shall have access to the state central registry of child protection for information under the name of the child or the suspected perpetrator;~~

(b) A physician who has before him or her a child whom the physician reasonably suspects to be abused or neglected;

(c) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, legal custodian, or other person who is responsible for the child's health or welfare;

(d) Any person named in the report or record who was alleged as a child to be abused or neglected or, if the child named in the report or record is a minor or is otherwise incompetent at the time of the request, his or her guardian ad litem;

(e) A parent, guardian, legal custodian, or other person responsible for the health or welfare of a child named in a report, or the assigned designee of any such person acting by and through a validly executed power of attorney, with protection for the identity of reporters and other appropriate persons;

(f) A court, upon its finding that access to such records may be necessary for determination of an issue before such court, but such access shall be limited to in camera inspection unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it;

(g) ~~The state central registry of child protection;~~

(h) All members of a child protection team;

(i) Such other persons as a court may determine, for good cause;

(j) The STATE department of human services or a county or district department of social services or a child placement agency investigating an

applicant for a license to operate a child care facility or agency pursuant to section 26-6-107, C.R.S., when the applicant, as a requirement of the license application, has given written authorization to the licensing authority to obtain INFORMATION CONTAINED IN RECORDS OR reports of child abuse or neglect. ~~or to review the state central registry of child protection.~~ Access to the ~~state central registry~~ RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT granted to the named department or agencies shall serve only as the basis for further investigation.

(k) The ~~state central registry of child protection~~ DEPARTMENT OF HUMAN SERVICES, when requested in writing by any operator of a facility or agency that is licensed by the STATE department of human services pursuant to section 26-6-107, C.R.S., to check ~~the state central registry of child protection~~ RECORDS OR REPORTS OF CHILD ABUSE OR NEGLECT for the purpose of screening an applicant for employment or a current employee. Any such operator who requests such information concerning an individual who is neither a current employee nor an applicant for employment commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. Within ten days of the operator's request, the ~~central registry~~ STATE DEPARTMENT OF HUMAN SERVICES shall provide the ~~incident~~ date OF THE REPORT OF THE INCIDENT, the location of investigation, the type of abuse and neglect, and the county which investigated the incident contained in the confirmed reports of child abuse and neglect. Any such operator who releases any information obtained under this paragraph (k) to any other person shall be deemed to have violated the provisions of ~~section 19-3-313 (10)~~ SUBSECTION (4) OF THIS SECTION and shall be subject to the penalty therefor.

(k.5) The ~~state central registry of child protection~~ STATE DEPARTMENT OF HUMAN SERVICES, when requested in writing by a qualified county department of social services, individual, or child placement agency approved to conduct home study investigations and reports pursuant to section 19-5-207.5 (2) (b) (I) for purposes of screening a prospective adoptive parent under section 19-5-207 (2.5) (a). Within ten days after the request, the ~~central registry~~ STATE DEPARTMENT OF HUMAN SERVICES shall provide the ~~incident~~ date OF THE REPORT OF THE INCIDENT, the location of investigation, the type of abuse and neglect, and the county that investigated the incident contained in the confirmed reports of child abuse or neglect. The county department, individual, or child placement agency shall be subject to the fee assessment established in subsection (2.5) of this section. Any employee of the county department or the child placement agency or

any individual who releases any information obtained under this paragraph (k.5) to any person other than the adoption court shall be deemed to have violated the provisions of ~~section 19-3-313 (10)~~ SUBSECTION (4) OF THIS SECTION and shall be subject to penalty therefor.

(l) The state ~~central registry of child protection~~ DEPARTMENT OF HUMAN SERVICES, when requested in writing by the department of education to check ~~the central registry~~ RECORDS OR REPORTS OF CHILD ABUSE OR NEGLECT for the purpose of aiding the department OF EDUCATION in its investigation of an allegation of abuse by an employee of a school district in this state. Within ten days of the ~~department's~~ DEPARTMENT OF EDUCATION'S request, the ~~central registry~~ STATE DEPARTMENT OF HUMAN SERVICES shall provide the ~~incident~~ date OF THE REPORT OF THE INCIDENT, the location of investigation, the type of abuse ~~and~~ OR neglect, and the county which investigated the incident contained in the confirmed reports of child abuse ~~and~~ OR neglect. The department of education shall be subject to the fee assessment established in subsection (2.5) of this section. Any employee of the department of education who releases any information obtained under this paragraph (l) to any person not authorized to receive such information pursuant to the provisions of section 22-32-109.7, C.R.S., or any member of the board of education of a school district who releases such information obtained pursuant to said section shall be deemed to have violated the provisions of ~~section 19-3-313 (10)~~ SUBSECTION (4) OF THIS SECTION and shall be subject to the penalty therefor.

(m) The state ~~departments of health care policy and financing and~~ DEPARTMENT OF human services and the county departments of social services, for the following purposes:

(I) Screening any person who seeks employment with, is currently employed by, or who volunteers for service with the ~~respective departments~~; STATE DEPARTMENT OF HUMAN SERVICES, DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, OR A COUNTY DEPARTMENT OF SOCIAL SERVICES, if such person's responsibilities include direct contact with children;

(II) Conducting evaluations pursuant to section 14-10-127, C.R.S.;

(III) Screening any person who will be responsible to provide child care pursuant to a contract with a county department for placements out of the home or private child care;

(IV) Screening prospective adoptive parents;

(n) Private adoption agencies, for the purpose of screening prospective adoptive parents;

(o) A person, agency, or organization engaged in a bona fide research or evaluation project or audit, but without information identifying individuals named in a report, unless having said identifying information open for review is essential to the research and evaluation, in which case the executive director of the state department of human services shall give prior written approval and the child through a legal representative shall give permission to release the identifying information;

(p) The governing body as defined in section 19-1-103 (54) and the citizen review panels created pursuant to section 19-3-211, for the purposes of carrying out their conflict resolution duties as set forth in section 19-3-211 and rules promulgated by the state department of human services;

~~(q) The state central registry of child protection, when requested in writing by the department of corrections, for aiding in determinations of recommended treatment, visitation approval, and supervised conditions. Within ten days after the department's request, the central registry shall provide the incident date, the location of investigation, the type of abuse and neglect, and the county that investigated the incident contained in the confirmed reports of child abuse and neglect. The department of corrections shall be subject to the fee assessment established in subsection (2.5) of this section.~~

(r) The STATE department of human services investigating an applicant for a supervisory employee position or an employee of a guest child care facility pursuant to section 26-6-103.5, C.R.S., when the applicant or employee, as a requirement of application for employment, has given written authorization to the STATE department of human services to ~~obtain~~ CHECK RECORDS OR reports of child abuse or neglect. ~~or to review the state central registry of child protection.~~

(s) THE STATE DEPARTMENT OF HUMAN SERVICES INVESTIGATING A PROSPECTIVE CASA VOLUNTEER FOR THE CASA PROGRAM WHEN THE PROSPECTIVE CASA VOLUNTEER HAS GIVEN WRITTEN AUTHORIZATION TO THE CASA PROGRAM TO CHECK ANY RECORDS OR REPORTS OF CHILD ABUSE OR NEGLECT PURSUANT TO SECTION 19-1-205 (3) (a.5).

(2.5) Any person or agency provided information from the state ~~central registry~~ DEPARTMENT OF HUMAN SERVICES pursuant to ~~paragraphs (i), (k) to (o), and (q)~~ PARAGRAPH (i) AND PARAGRAPHS (k) TO (o) of subsection (2) of this section and any child placement agency shall be assessed a fee which shall be established and collected pursuant to ~~section 19-3-313 (14)~~ RULE ESTABLISHED BY THE STATE BOARD OF HUMAN SERVICES. THE FEE ESTABLISHED SHALL NOT EXCEED THE DIRECT AND INDIRECT COSTS OF ADMINISTERING PARAGRAPH (i) AND PARAGRAPHS (k) TO (o) OF SUBSECTION (2) OF THIS SECTION AND THE DIRECT AND INDIRECT COSTS OF ADMINISTERING SECTION 19-3-313.5 (3) AND (4). ALL FEES COLLECTED IN ACCORDANCE WITH THIS SUBSECTION (2.5) SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE RECORDS AND REPORTS FUND, WHICH FUND IS HEREBY CREATED. ON JANUARY 1, 2004, THE STATE TREASURER SHALL TRANSFER THE MONEYS IN THE CENTRAL REGISTRY FUND CREATED IN SECTION 19-3-313 (14) TO THE RECORDS AND REPORTS FUND CREATED IN THIS SUBSECTION (2.5). THE MONEYS IN THE RECORDS AND REPORTS FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS OF ADMINISTERING PARAGRAPH (i) AND PARAGRAPHS (k) TO (o) OF SUBSECTION (2) OF THIS SECTION AND FOR THE DIRECT AND INDIRECT COSTS OF ADMINISTERING SECTION 19-3-313.5 (3) AND (4).

(3) After a child who is the subject of a report to the ~~central registry~~ STATE DEPARTMENT OF HUMAN SERVICES reaches the age of eighteen years, access to that report shall be permitted only if a sibling or offspring of such child is before any person mentioned in subsection (2) of this section and is a suspected victim of child abuse or neglect. ~~The amount and type of information released shall depend upon the source of the report and shall be determined by regulations established by the director of the central registry. However, under no circumstances shall the information be released unless the person requesting such information is entitled thereto as confirmed by the director of the central registry and the information released states whether or not the report is founded or unfounded. A person given access to the names or other information identifying the subject of a report shall not divulge or make public any identifying information unless he or she is a district attorney or other law enforcement official and the purpose is to initiate court action or unless he or she is the subject of a report.~~

(4) ANY PERSON WHO IMPROPERLY RELEASES OR WHO WILLFULLY PERMITS OR ENCOURAGES THE RELEASE OF DATA OR INFORMATION

CONTAINED IN THE RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT TO PERSONS NOT PERMITTED ACCESS TO SUCH INFORMATION BY THIS SECTION OR BY SECTION 19-1-303 COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

SECTION 9. 19-3-305 (2), Colorado Revised Statutes, is amended to read:

19-3-305. Required report of postmortem investigation. (2) The county department shall forward a copy of such report to the ~~central registry as provided for in section 19-3-313~~ STATE DEPARTMENT OF HUMAN SERVICES.

SECTION 10. 19-3-307 (1), Colorado Revised Statutes, is amended to read:

19-3-307. Reporting procedures. (1) Reports of known or suspected child abuse or neglect made pursuant to this article shall be made immediately to the county department or the local law enforcement agency and shall be followed promptly by a written report prepared by those persons required to report. The county department shall ~~forward a copy of its own~~ SUBMIT A report of confirmed child abuse or neglect within sixty days of receipt of the report to the ~~central registry on forms supplied~~ STATE DEPARTMENT IN A MANNER PRESCRIBED by the state department.

SECTION 11. 19-3-308 (4) (a), (5), and (5.3) (a), Colorado Revised Statutes, are amended, and the said 19-3-308 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-3-308. Action upon report of intrafamilial, institutional, or third-party abuse - child protection team. (4) (a) The county department, except as provided in subsections (5) and (5.3) of this section, shall be the agency responsible for the coordination of all investigations of all reports of known or suspected incidents of intrafamilial abuse or neglect. The county department shall arrange for such investigations to be conducted by persons trained to conduct either the complete investigation or such parts thereof as may be assigned. The county department shall conduct the investigation in conjunction with the local law enforcement agency, to the extent a joint investigation is possible and deemed appropriate, and any other appropriate agency. The county department may arrange for the

initial investigation to be conducted by another agency with personnel having appropriate training and skill. The county department shall provide for persons to be continuously available to respond to such reports. Contiguous counties may cooperate to fulfill the requirements of this subsection (4). The county department or other agency authorized to conduct the investigation pursuant to this subsection (4), for the purpose of such investigation, shall have access to the ~~state central registry of child protection~~ RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT MAINTAINED BY THE STATE DEPARTMENT for information under the name of the child or the suspected perpetrator.

(5) If a local law enforcement agency receives a report of a known or suspected incident of intrafamilial abuse or neglect, it shall forthwith attempt to contact the county department in order to refer the case for investigation. If the local law enforcement agency is unable to contact the county department, it shall forthwith make a complete investigation and may institute appropriate legal proceedings on behalf of the subject child or other children under the same care. As a part of an investigation pursuant to this subsection (5), the local law enforcement agency shall have access to the ~~state central registry of child protection~~ RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT MAINTAINED BY THE STATE DEPARTMENT for information under the name of the child or the suspected perpetrator. The local law enforcement agency, upon the receipt of a report and upon completion of any investigation it may undertake, shall forthwith forward a summary of the investigatory data plus all relevant documents to the county department.

(5.3) (a) Local law enforcement agencies shall have the responsibility for the coordination and investigation of all reports of third-party abuse or neglect by persons ten years of age or older. Upon receipt of a report, if the local law enforcement agency reasonably believes that the protection and safety of a child is at risk due to an act or omission on the part of persons responsible for the child's care, such agency shall notify the county department of social services for an assessment regarding neglect or dependency. In addition, the local law enforcement agency shall refer to the county department of social services any report of third-party abuse or neglect in which the person allegedly responsible for such abuse or neglect is under age ten. Upon the completion of an investigation, the local law enforcement agency shall forward a copy of its investigative report to the county department of social services. The county department shall review the law enforcement investigative report and shall determine

whether the report contains information that constitutes a case of confirmed child abuse and requires it to be ~~filed with~~ SUBMITTED TO the state ~~central registry in accordance with section 19-3-313 (2) (a)~~ DEPARTMENT, which report, upon such determination, shall be ~~filed with~~ SUBMITTED TO the state ~~central registry~~ DEPARTMENT IN THE MANNER PRESCRIBED BY THE STATE DEPARTMENT within sixty days ~~of~~ AFTER the receipt of the report by the county department.

(11) UPON A FINDING THAT A REPORT CONTAINS INFORMATION THAT CONSTITUTES A CASE OF CONFIRMED CHILD ABUSE OR NEGLECT THAT REQUIRES IT TO BE SUBMITTED TO THE STATE DEPARTMENT, THE PERSON WHO IS FOUND TO BE RESPONSIBLE FOR THE ABUSE OR NEGLECT OF A CHILD IN THE CONFIRMED REPORT SHALL BE GIVEN TIMELY NOTICE OF THIS FINDING AND OF THE RIGHT TO APPEAL PURSUANT TO RULES ESTABLISHED BY THE STATE BOARD PURSUANT TO SECTION 19-3-313.5 (3).

SECTION 12. 19-3-505 (6), Colorado Revised Statutes, is amended to read:

19-3-505. Adjudicatory hearing - findings - adjudication.

(6) When the court finds that the allegations of the petition are not supported by a preponderance of the evidence, the court shall order the petition dismissed and the child discharged from any detention or restriction previously ordered. His or her parents, guardian, or legal custodian shall also be discharged from any restriction or other previous temporary order. The court shall inform the respondent that, pursuant to section ~~19-3-313 (7)~~ (e) 19-3-313.5 (3) (f), the department ~~may hold a hearing, as soon as possible, to show cause why the respondent's name should not be removed from the central registry~~ SHALL EXPUNGE THE RECORDS AND REPORTS FOR PURPOSES RELATED TO EMPLOYMENT OR BACKGROUND CHECKS.

SECTION 13. 19-5-207 (2.5) (a), Colorado Revised Statutes, is amended to read:

19-5-207. Written consent and home study report for public adoptions. (2.5) (a) In all petitions for adoption, whether by the court, the county department of social services, or child placement agencies, in addition to the written home study report described in subsection (2) of this section, the court shall require the county department of social services, the designated qualified individual, or the child placement agency to conduct

a criminal HISTORY records check for any prospective adoptive parent and to report to the court any case in which a record check reveals that the prospective adoptive parent was convicted at any time of a felony or misdemeanor in one of the following areas: Child abuse or neglect; spousal abuse; any crime against a child; any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.; violation of a restraining order, as described in section 18-6-803.5, C.R.S.; any crime involving violence, rape, sexual assault, or homicide; or any felony physical assault or battery conviction or felony drug-related conviction within, at a minimum, the past five years. No person convicted of a felony offense specified in this subsection (2.5) shall be allowed to adopt a child. In addition to the criminal HISTORY records check, the county department of social services, the individual, or the child placement agency conducting the investigation shall ~~access the state central registry of child protection~~ CONTACT THE STATE DEPARTMENT OF HUMAN SERVICES to determine whether the prospective adoptive parent or parents ~~are the subject of~~ HAVE BEEN FOUND TO BE RESPONSIBLE IN a CONFIRMED report of ~~known or suspected~~ child abuse OR NEGLECT. Pursuant to section ~~19-1-307 (2) (k.5);~~ information shall be made available if a person's name is on the central registry of child protection or has been designated as "status pending" pursuant to section ~~19-3-313.~~

SECTION 14. 22-1-121 (2), Colorado Revised Statutes, is amended to read:

22-1-121. Nonpublic schools - employment of personnel - notification by department of education. (2) Any information received by the governing board of a nonpublic school pursuant to subsection (1) of this section shall be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. Any person who releases information obtained pursuant to the provisions of said subsection (1) or who makes an unauthorized request for information from the department shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that any person who releases information received from the department of education concerning information contained in the ~~state central registry of child protection~~ RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT MAINTAINED BY THE STATE DEPARTMENT OF HUMAN SERVICES shall be deemed to have violated section ~~19-3-313 (10), C.R.S.~~ 19-1-307 (4), C.R.S.

SECTION 15. 22-2-119 (1) (b) (II), (1) (b) (III), and (2), Colorado Revised Statutes, are amended to read:

22-2-119. Department of education - inquiries by boards of education concerning prospective employees. (1) When an inquiry is made by a board of education of a school district pursuant to the provisions of section 22-32-109.7 (1) or (1.5) or by the governing board of a nonpublic school pursuant to the provisions of section 22-1-121 concerning a prospective or current employee, the department shall provide the following information concerning such person:

(b) (II) The department of education shall not disclose to any prospective employer any information reported to the department from a school district pursuant to section 22-32-109.7 (3) unless and until the department confirms that the allegation resulted in ~~such person's name being placed on the state central registry of child protection established pursuant to section 19-3-313, C.R.S.~~ A FINDING OF A CONFIRMED REPORT OF CHILD ABUSE OR NEGLECT. The department shall request a check of the ~~central registry~~ RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT MAINTAINED BY THE STATE DEPARTMENT OF HUMAN SERVICES pursuant to the provisions of section 19-1-307 (2) (1), C.R.S.

(III) If the department confirms that the allegation resulted in ~~such person's name being placed on the central registry~~ A FINDING OF A CONFIRMED REPORT OF CHILD ABUSE OR NEGLECT and the report concerning such person is subsequently ~~sealed or~~ expunged pursuant to the provisions of section ~~19-3-313(7), C.R.S.~~ 19-3-313.5 (3) (f), C.R.S., such person may notify the department that the report has been ~~sealed or~~ expunged. If the department verifies that the report has been ~~sealed or~~ expunged, the department shall remove such information about the person from the files kept by the department.

(2) Except for authorized inquiries made by boards of education, the department shall consider information held by the department to be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. Any person who releases such information in violation of this subsection (2) shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that any person who releases information received by the department concerning information contained in the ~~state central registry of child protection~~ RECORDS AND REPORTS OF CHILD ABUSE

OR NEGLECT MAINTAINED BY THE STATE DEPARTMENT OF HUMAN SERVICES shall be deemed to have violated section ~~19-3-313 (10)~~, C.R.S. 19-1-307 (4), C.R.S.

SECTION 16. 22-32-109.7 (4), Colorado Revised Statutes, is amended to read:

22-32-109.7. Board of education - specific duties - employment of personnel. (4) Any information received by a board of education pursuant to subsection (1) or (2) of this section shall be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. Any person who releases information obtained pursuant to the provisions of said subsections or who makes an unauthorized request for information from the department shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that any person who releases information received from the department of education concerning information contained in the ~~state central registry of child protection~~ RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT MAINTAINED BY THE STATE DEPARTMENT OF HUMAN SERVICES shall be deemed to have violated section ~~19-3-313 (10)~~, C.R.S. 19-1-307 (4), C.R.S.

SECTION 17. 26-6-103.5 (2) (f) (III) and (2) (g) (III), Colorado Revised Statutes, are amended to read:

26-6-103.5. Application of part - guest child care facilities. (2) No person or entity shall operate a guest child care facility unless the following requirements are met:

(f) (III) The guest child care facility requests the state department to access ~~the state central registry of child protection~~ RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT to determine whether the supervisory employee or applicant for a supervisory employee position ~~is the subject of~~ HAS BEEN FOUND TO BE RESPONSIBLE IN a CONFIRMED report of ~~known or suspected~~ child abuse OR NEGLECT and the guest child care facility prohibits the hiring of any such person as a supervisory employee or terminates the employment of any such person as a supervisory employee. Pursuant to section ~~19-1-307 (2) (k)~~, C.R.S., central registry information shall be made available if a person's name is on the central registry of child protection or has been designated as "status pending" pursuant to section ~~19-3-313 (5.5) (b)~~, C.R.S. INFORMATION SHALL BE MADE AVAILABLE PURSUANT TO

SECTION 19-1-307 (2) (k), C.R.S., AND RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION 19-3-313.5 (4), C.R.S.

(g) (III) The guest child care facility requests the state department to access ~~the state central registry of child protection~~ RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT to determine whether the employee ~~is the subject of~~ HAS BEEN FOUND TO BE RESPONSIBLE IN a CONFIRMED report of ~~known or suspected~~ child abuse OR NEGLECT and the guest child care facility terminates the employment of any such person. ~~Pursuant to section 19-1-307 (2) (k), C.R.S., central registry information shall be made available if a person's name is on the central registry of child protection or has been designated as "status pending" pursuant to section 19-3-313 (5.5) (b), C.R.S.~~ INFORMATION SHALL BE MADE AVAILABLE PURSUANT TO SECTION 19-1-307 (2) (k), C.R.S., AND RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION 19-3-313.5 (4), C.R.S.

SECTION 18. The introductory portion to 26-6-105 (1) (b) and 26-6-105 (1) (b) (IV), Colorado Revised Statutes, are amended to read:

26-6-105. Fees - when original applications, reapplications, and renewals for licensure are required - creation of child care licensing cash fund. (1) (b) The STATE department may also establish fees pursuant to rules ~~and regulations~~ promulgated by the state board of human services, for the following situations:

(IV) Checking the ~~state central registry of child protection~~ RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT MAINTAINED BY THE STATE DEPARTMENT for an owner, employee, or resident of a facility or agency or an applicant for a license to operate a facility or agency;

SECTION 19. 26-6-107 (1) (a) (I), Colorado Revised Statutes, is amended to read:

26-6-107. Investigations and inspections - local authority - reports - rules. (1) (a) (I) (A) The state department shall investigate and pass on each original application for a license, each application for a permanent license following the issuance of a probationary or provisional license, and on and after July 1, 2002, each application for renewal, to operate a facility or an agency prior to granting such license or renewal. As part of such investigation, the state department shall require each applicant,

owner, employee, newly hired employee, licensee, and any adult who resides in the licensed facility to obtain a fingerprint-based criminal history ~~background~~ RECORDS check by reviewing any record that shall be used to assist the state department in ascertaining whether the person being investigated has been convicted of any of the criminal offenses specified in section 26-6-104 (7) or any other felony. The state board shall promulgate rules that define and identify what the criminal history ~~background~~ RECORDS check shall entail.

(B) Rules promulgated by the state board pursuant to this subparagraph (I) shall allow an exemption from the criminal ~~background~~ HISTORY RECORDS investigation and the ~~state central registry of child protection investigation~~ CHECK OF THE RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT MAINTAINED BY THE STATE DEPARTMENT for those out-of-state employees working in Colorado at a children's resident camp in a temporary capacity for fewer than ninety days. Each person so exempted from fingerprinting and the ~~state central registry of child protection investigation~~ CHECK OF THE RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT MAINTAINED BY THE STATE DEPARTMENT shall sign a statement that affirmatively states that he or she has not been convicted of any charge of child abuse, unlawful sexual offense, or any felony. Prospective employers of such exempted persons shall conduct reference checks of the prospective employees in order to verify previous work history and shall conduct personal interviews with each such prospective employee.

(C) Rules promulgated by the state board pursuant to this subparagraph (I) shall require the fingerprint-based criminal history ~~background~~ RECORDS check in all circumstances, other than those identified in sub-subparagraph (B) of this subparagraph (I), to include a fingerprint-based criminal history ~~background~~ RECORDS check through the Colorado bureau of investigation, except for persons residing in this state less than two years who shall be required to have a federal bureau of investigation fingerprint-based criminal history ~~background~~ RECORDS check through the Colorado bureau of investigation. As part of said investigation, the ~~state central registry of child protection~~ RECORDS AND REPORTS OF CHILD ABUSE OR NEGLECT MAINTAINED BY THE STATE DEPARTMENT shall be accessed to determine whether the owner, applicant, employee, newly hired employee, licensee, or individual who resides in the licensed facility being investigated ~~is the subject of~~ HAS BEEN FOUND TO BE RESPONSIBLE IN A CONFIRMED report of ~~known or suspected~~ child abuse OR NEGLECT.

~~Pursuant to section 19-1-307 (2) (j), C.R.S., information shall be made available if a person's name is on the central registry of child protection, or has been designated as "status pending" pursuant to section 19-3-313, C.R.S.~~ INFORMATION SHALL BE MADE AVAILABLE PURSUANT TO SECTION 19-1-307 (2) (j), C.R.S., AND RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION 19-3-313.5 (4), C.R.S. Any change in ownership of a licensed facility or the addition of a new resident adult or newly hired employee to the licensed facility shall require a new investigation as provided for in this section.

(D) The state board shall promulgate rules to implement this subparagraph (I).

SECTION 20. Effective date. This act shall take effect January 1, 2004.

SECTION 21. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Lola Spradley
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

John Andrews
PRESIDENT OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Mona Heustis
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO