

First Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 03-0385.01 Jeff Conway

HOUSE BILL 03-1024

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

(None)

House Committees

Health, Environment, Welfare, & Institutions

Senate Committees

A BILL FOR AN ACT

101 CONCERNING CHILD CARE, AND, IN CONNECTION THEREWITH, MAKING
102 MODIFICATIONS TO CERTAIN STATUTES AFFECTING CHILD
103 PLACEMENT AGENCIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Excludes medical foster care from the definition of therapeutic services in the foster care statutes. Defines medical foster care.

Clarifies that a foster care home cannot be certified by more than one child placement agency ("CPA") or county at any one time.

Modifies the list of specialized foster care that may be provided by a CPA by:

- Removing treatment foster care and intensive treatment

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.

- foster care; and
- Adding therapeutic foster care and developmentally disabled foster care.

Expands the list of offenses for which a conviction will result in the denial of a child care license to include misdemeanor child abuse.

Requires county departments of social services ("county departments") that certify foster care homes to obtain a state license and to comply with the same statutes and rules that apply to CPAs that place children.

Clarifies that child care rules are to apply to orientation and prelicensing training of foster care providers rather than to CPAs.

Clarifies that the state department of human services ("state department"), county departments, and CPAs may only issue the applicable child care licenses after certifying the applicant or licensee is competent and that standards are met and will be complied with.

States that the state department may only authorize or contract for child care facility investigations and inspections of facilities that provide less than 24-hour care.

Requires the findings of any investigation of a CPA, conducted by the state department at the request of a county department, to include the CPA's response to those findings in the state department's report to the county department.

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

2 **SECTION 1.** 26-6-102 (11), Colorado Revised Statutes, is
3 amended, and the said 26-6-102 is further amended BY THE ADDITION
4 OF A NEW SUBSECTION, to read:

5 **26-6-102. Definitions.** As used in this article, unless the context
6 otherwise requires:

7 (5.6) "MEDICAL FOSTER CARE" MEANS A PROGRAM OF FOSTER
8 CARE THAT PROVIDES HOME-BASED CARE FOR MEDICALLY FRAGILE
9 CHILDREN AND YOUTH WHO WOULD OTHERWISE BE CONFINED TO A
10 HOSPITAL OR INSTITUTIONAL SETTING AND INCLUDES, BUT IS NOT LIMITED
11 TO, THE FOLLOWING:

- 12 (a) INFANTS IMPACTED BY PRENATAL DRUG AND ALCOHOL ABUSE;
13 (b) CHILDREN WITH PHYSICALLY DEBILITATING DEVELOPMENTAL

1 DISABILITIES WHICH REQUIRE ONGOING MEDICAL INTERVENTION;
2 (c) CHILDREN AND YOUTH DIAGNOSED WITH ACQUIRED IMMUNE
3 DEFICIENCY SYNDROME OR HUMAN IMMUNODEFICIENCY VIRUS;
4 (d) CHILDREN WITH A FAILURE TO THRIVE OR OTHER NUTRITIONAL
5 DISORDERS; AND
6 (e) CHILDREN DEPENDENT ON TECHNOLOGY SUCH AS RESPIRATORS
7 OR VENTILATORS IN ORDER TO SURVIVE.

8 (11) "Therapeutic services" means a program of foster care that
9 incorporates treatment for the special physical, psychological, or
10 emotional needs of a child placed with specially trained foster parents,
11 BUT DOES NOT INCLUDE MEDICAL FOSTER CARE.

12 **SECTION 2.** 26-6-104 (1) (b) (II), (7) (a) (I) (A), (7) (a) (I) (E),
13 (7) (b), and (9) (b), Colorado Revised Statutes, are amended, and the said
14 26-6-104 is further amended BY THE ADDITION OF A NEW
15 SUBSECTION, to read:

16 **26-6-104. Licenses - out-of-state notices and consent.**
17 (1) (b) (II) On and after July 1, 2002, and contingent upon the time lines
18 for implementation of the computer "trails" enhancements, the state board
19 shall promulgate rules requiring the annual recertification of foster care
20 homes and setting forth the procedural requirements associated with
21 recertification. Such rules shall include requirements that the certifying
22 entity shall perform on-site visits to each foster care home applying for
23 certification or recertification and shall require inspections of the entire
24 premises of the foster care home, including sleeping areas, as well as
25 other assessments of the foster care home. No foster care home shall be
26 certified AT ANY ONE TIME by more than one child placement agency or
27 county department.

1 (7) (a) (I) No license or certificate to operate a family child care
2 home, a foster care home, a child care center, a residential child care
3 facility, a secure residential child care facility, or a child placement
4 agency shall be issued by the state department, a county department, or
5 a child placement agency licensed under the provisions of this part 1 if
6 the person applying for such a license or certificate has been convicted
7 of:

- 8 (A) ~~Felony~~ Child abuse, as specified in section 18-6-401, C.R.S.;
- 9 (E) Any ~~felony~~ offense in any other state, the elements of which
10 are substantially similar to the elements of any one of the offenses
11 described in sub-subparagraphs (A) to (D.5) of this subparagraph (I).

12 (b) The convictions identified in paragraph (a) of this subsection
13 (7) shall be determined according to the records of the Colorado bureau
14 of investigation, the ICON system at the state judicial department, or any
15 other source, as set forth in section 26-6-107 (1) (a) (I.5). A certified
16 copy of the judgment of a court of competent jurisdiction of such
17 conviction, deferred judgment and sentence agreement, deferred
18 prosecution agreement, or deferred adjudication agreement shall be prima
19 facie evidence of such conviction or agreement. No license or certificate
20 to operate a family child care home, a foster care home, a child care
21 center, a residential child care facility, a secure residential child care
22 facility, or a child placement agency shall be issued if the state
23 department has a certified court order from another state indicating that
24 the person applying for such a license or certificate has been convicted
25 of ~~felony~~ child abuse or any unlawful sexual offense against a child under
26 a law of any other state or the United States or the state department has
27 a certified court order from another state that the person applying for the

1 license or certificate has entered into a deferred judgment or deferred
2 prosecution agreement in another state as to ~~felony~~ child abuse or any
3 sexual offense against a child.

4 (9) The state department is strongly encouraged to examine and
5 report to the general assembly on the benefits of licensing any private,
6 nonprofit child placement agency that is dedicated to serving the special
7 needs of foster care children through services delivered by specialized
8 foster care parents in conjunction with and supported by staff of the child
9 placement agency. Such child placement agencies examined shall be able
10 to:

11 (b) Provide a form of specialized foster care including, but not
12 limited to, the following types of care:

- 13 (I) ~~Treatment foster care;~~
- 14 (II) Medical foster care;
- 15 (III) Respite foster care; ~~and~~
- 16 (IV) ~~Intensive treatment foster care;~~
- 17 (V) THERAPEUTIC FOSTER CARE; AND
- 18 (VI) DEVELOPMENTALLY DISABLED FOSTER CARE.

19 (10) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 1 TO
20 THE CONTRARY, ANY COUNTY DEPARTMENT THAT CERTIFIES A FOSTER
21 CARE HOME SHALL OBTAIN A LICENSE FROM THE DIVISION OF CHILD CARE
22 AND SHALL COMPLY WITH ALL STATUTES AND RULES THAT ARE
23 APPLICABLE TO A CHILD PLACEMENT AGENCY THAT IS LICENSED TO PLACE
24 OR ARRANGE FOR PLACEMENT FOR THE CARE OF ANY CHILD.

25 **SECTION 3.** 26-6-106 (2) (r), Colorado Revised Statutes, is
26 amended to read:

27 **26-6-106. Standards for facilities and agencies.** (2) Standards

1 prescribed by such rules shall be restricted to:

2 (r) Initial and ongoing training of providers of foster care services
3 in facilities licensed and certified pursuant to this part 1, including
4 orientation and prelicensing training for ~~child placement agency staff~~
5 THOSE FOSTER CARE PROVIDERS.

6 **SECTION 4.** 26-6-107 (1) (b) (I) and (2), Colorado Revised
7 Statutes, are amended to read:

8 **26-6-107. Investigations and inspections - local authority -**
9 **reports - rules.** (1) (b) (I) When the state department, county
10 department, or child placement agency is ~~satisfied~~ ABLE TO CERTIFY that
11 the applicant or licensee is competent and will operate adequate facilities
12 to care for children under the requirements of this part 1 and that
13 standards are being met and will be complied with, it shall issue the
14 license for which applied. The state department shall inspect or cause to
15 be inspected the facilities to be operated by an applicant for an original
16 license before the license is granted and shall thereafter inspect or cause
17 to be inspected the facilities of all licensees that, during the period of
18 licensure, have been found to be the subject of complaints or to be out of
19 compliance with the standards set forth in section 26-6-106 and the rules
20 of the state department or that otherwise appear to be placing children at
21 risk. The state department may make such other inspections as it deems
22 necessary to ensure that the requirements of this article are being met and
23 that the health, safety, and welfare of the children being placed are
24 protected. If, as a result of an inspection of a certified foster care home,
25 the state department determines that any child residing in such foster care
26 home is subject to an immediate and direct threat to his or her safety and
27 welfare as defined by rules promulgated by the state board or that a

1 substantial violation of a fundamental standard of care warrants
2 immediate action, the state department may require a county department
3 to immediately remove such child from the foster care home.

4 (2) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II)
5 OF THIS PARAGRAPH (a), the state department may authorize or contract
6 with any county department, the county department of health, or any
7 other publicly or privately operated organization that has a declared
8 interest in children and experience working with children or on behalf of
9 children to investigate and inspect the facilities applying for an original
10 or renewal license or applying for a permanent license following the
11 issuance of a probationary or provisional license under this part 1 and
12 may accept reports on such investigations and inspections from such
13 agencies or organizations as a basis for such licensing. When contracting
14 for investigations and inspections, the state department shall assure that
15 the contractor is qualified by training and experience and has no conflict
16 of interest with respect to the facilities to be inspected.

17 (II) THE STATE DEPARTMENT SHALL NOT AUTHORIZE OR CONTRACT
18 FOR INVESTIGATIONS AND INSPECTIONS DESCRIBED IN SUBPARAGRAPH (I)
19 OF THIS PARAGRAPH (a) OF ANY FACILITIES THAT PROVIDE
20 TWENTY-FOUR-HOUR CARE AND ARE LICENSED PURSUANT TO THIS PART 1.

21 (b) A city, county, or city and county may impose and enforce
22 higher standards and requirements for facilities licensed under this part
23 1 than the standards and requirements specified under this part 1.

24 **SECTION 5.** 26-6-118 (2), Colorado Revised Statutes, is
25 amended to read:

26 **26-6-118. Child placement agencies - information sharing -**
27 **investigations by state department.** (2) Upon receipt of a request for

1 investigation of a child placement agency from a county department, the
2 state department shall commence an investigation and, upon conclusion,
3 report its findings to the requesting county department. THE STATE
4 DEPARTMENT SHALL INCLUDE IN ITS REPORT TO THE COUNTY DEPARTMENT
5 THE CHILD PLACEMENT AGENCY'S RESPONSE, IF ANY, TO THE FINDINGS.

6 **SECTION 6. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.