

**First Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction on Second Reading*

LLS NO. 03-0385.01 Jeff Conway

HOUSE BILL 03-1024

HOUSE SPONSORSHIP

Jahn

SENATE SPONSORSHIP

(None)

House Committees

Health, Environment, Welfare, & Institutions
Appropriations

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, AND MAKING AN APPROPRIATION**
104 **THEREFOR.**

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

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.

HOUSE
Amended 2nd Reading
April 28, 2003

a CPA by:

Removing treatment foster care and intensive treatment 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.** Part 1 of article 6 of title 26, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **26-6-106.5. Foster care - rules applying generally -**
6 **rule-making - report.** (1) NO LATER THAN JANUARY 1, 2004, THE STATE
7 BOARD SHALL PROMULGATE RULES THAT APPLY TO FOSTER CARE
8 GENERALLY, REGARDLESS OF WHETHER THE FOSTER CARE IS PROVIDED BY
9 A FOSTER CARE HOME CERTIFIED BY A COUNTY DEPARTMENT OR BY A
10 CHILD PLACEMENT AGENCY. THE STATE BOARD SHALL DEVELOP THE
11 RULES IN CONSULTATION WITH THE STATE DEPARTMENT, COUNTY

1 DEPARTMENTS, CHILD PLACEMENT AGENCIES, AND OTHERS WITH
2 EXPERTISE IN THE DEVELOPMENT OF RULES REGARDING FOSTER CARE.

3 (2) AT A MINIMUM, THE RULES DESCRIBED IN SUBSECTION (1) OF
4 THIS SECTION SHALL INCLUDE THE FOLLOWING:

5 (a) AN ALLEGATION OF ABUSE OR NEGLECT IN A FOSTER CARE
6 HOME CERTIFIED PURSUANT TO THIS PART 1 THAT IS DEEMED UNFOUNDED
7 OR INCONCLUSIVE UPON INVESTIGATION IS NOT SUBJECT TO REVIEW BY THE
8 STATE DEPARTMENT;

9 (b) CONTINGENT UPON THE IMPLEMENTATION OF THE COMPUTER
10 "TRAILS" ENHANCEMENTS, THE PROCEDURES FOR NOTIFYING ALL COUNTY
11 DEPARTMENTS AND CHILD PLACEMENT AGENCIES THAT PLACE CHILDREN
12 IN FOSTER CARE WHEN THE STATE DEPARTMENT HAS IDENTIFIED A
13 SUBSTANTIATED CLAIM OF ABUSE OR NEGLECT IN A FOSTER CARE HOME AS
14 WELL AS THE SUSPENSION OF ANY FURTHER PLACEMENTS IN THE FOSTER
15 CARE HOME UNTIL THE INVESTIGATION IS CONCLUDED;

16 (c) THE IMMEDIATE NOTIFICATION OF A CHILD'S GUARDIAN AD
17 LITEM UPON THE CHILD'S PLACEMENT IN A FOSTER CARE HOME, AND THE
18 PROVISION OF THE GUARDIAN AD LITEM'S CONTACT INFORMATION TO THE
19 FOSTER PARENTS;

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

23 **26-6-102. Definitions.** As used in this article, unless the context
24 otherwise requires:

25 (5.6) "MEDICAL FOSTER CARE" MEANS A PROGRAM OF FOSTER
26 CARE THAT PROVIDES HOME-BASED CARE FOR MEDICALLY FRAGILE
27 CHILDREN AND YOUTH WHO WOULD OTHERWISE BE CONFINED TO A

1 HOSPITAL OR INSTITUTIONAL SETTING AND INCLUDES, BUT IS NOT LIMITED
2 TO, THE FOLLOWING:

3 (a) INFANTS IMPACTED BY PRENATAL DRUG AND ALCOHOL ABUSE;

4 (b) CHILDREN WITH [REDACTED] DEVELOPMENTAL DISABILITIES WHICH
5 REQUIRE ONGOING MEDICAL INTERVENTION;

6 (c) CHILDREN AND YOUTH DIAGNOSED WITH ACQUIRED IMMUNE
7 DEFICIENCY SYNDROME OR HUMAN IMMUNODEFICIENCY VIRUS;

8 (d) CHILDREN WITH A FAILURE TO THRIVE OR OTHER NUTRITIONAL
9 DISORDERS; AND

10 (e) CHILDREN DEPENDENT ON TECHNOLOGY SUCH AS RESPIRATORS
11 OR VENTILATORS IN ORDER TO SURVIVE.

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

16 **SECTION 3.** 26-6-104 (1) (b) (II), (7) (a) (I) (A), (7) (a) (I) (E),
17 (7) (b), and (9) (b), Colorado Revised Statutes, are amended, and the said
18 26-6-104 is further amended BY THE ADDITION OF THE
19 FOLLOWING NEW SUBSECTIONS, to read:

20 **26-6-104. Licenses - out-of-state notices and consent.**

21 (1) (b) (II) On and after July 1, 2002, and contingent upon the time lines
22 for implementation of the computer "trails" enhancements, the state board
23 shall promulgate rules requiring the annual recertification of foster care
24 homes and setting forth the procedural requirements associated with
25 recertification. Such rules shall include requirements that the certifying
26 entity shall perform on-site visits to each foster care home applying for
27 certification or recertification and shall require inspections of the entire

1 premises of the foster care home, including sleeping areas, as well as
2 other assessments of the foster care home. No foster care home shall be
3 certified AT ANY ONE TIME by more than one child placement agency or
4 county department.

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

12 (A) ~~Felony~~ Child abuse, as specified in section 18-6-401, C.R.S.;

13 (E) Any ~~felony~~ offense in any other state, the elements of which
14 are substantially similar to the elements of any one of the offenses
15 described in sub-subparagraphs (A) to (D.5) of this subparagraph (I).

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

1 the person applying for such a license or certificate has been convicted
2 of felony child abuse or any unlawful sexual offense against a child under
3 a law of any other state or the United States or the state department has
4 a certified court order from another state that the person applying for the
5 license or certificate has entered into a deferred judgment or deferred
6 prosecution agreement in another state as to felony child abuse or any
7 sexual offense against a child.

8 (7.5) NO LATER THAN JANUARY 1, 2004, THE STATE BOARD SHALL
9 PROMULGATE RULES THAT REQUIRE ALL CURRENT AND PROSPECTIVE
10 EMPLOYEES OF A COUNTY DEPARTMENT WHO IN THEIR POSITION HAVE
11 DIRECT CONTACT WITH ANY CHILD IN THE PROCESS OF BEING PLACED, OR
12 WHO HAS BEEN PLACED, IN FOSTER CARE TO SUBMIT A SET OF
13 FINGERPRINTS FOR PURPOSES OF OBTAINING A FINGERPRINT-BASED
14 CRIMINAL HISTORY RECORD CHECK, UNLESS THE PERSON HAS ALREADY
15 SUBMITTED A SET OF FINGERPRINTS. THE CHECK SHALL BE CONDUCTED IN
16 THE SAME MANNER AS PROVIDED IN SUBSECTION (7) OF THIS SECTION AND
17 IN SECTION 26-6-107 (1) (a). THE PERSON'S EMPLOYMENT SHALL BE
18 CONDITIONAL UPON A SATISFACTORY CRIMINAL BACKGROUND CHECK AND
19 SUBJECT TO THE SAME GROUNDS FOR DENIAL OR DISMISSAL AS SET FORTH
20 IN SUBSECTION (7) OF THIS SECTION AND IN SECTION 26-6-107 (1) (a). THE
21 COSTS FOR THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
22 SHALL BE BORNE BY THE APPLICANT.

23 (9) The state department is strongly encouraged to examine and
24 report to the general assembly on the benefits of licensing any private,
25 nonprofit child placement agency that is dedicated to serving the special
26 needs of foster care children through services delivered by specialized
27 foster care parents in conjunction with and supported by staff of the child

1 placement agency. Such child placement agencies examined shall be able
2 to:

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

- 5 (I) ~~Treatment foster care;~~
- 6 (II) Medical foster care;
- 7 (III) Respite foster care; ~~and~~
- 8 (IV) ~~Intensive treatment foster care;~~
- 9 (V) THERAPEUTIC FOSTER CARE; AND
- 10 (VI) DEVELOPMENTALLY DISABLED FOSTER CARE.

11

12 **SECTION 4.** 26-6-106 (2) (r), Colorado Revised Statutes, is
13 amended to read:

14 **26-6-106. Standards for facilities and agencies.** (2) Standards
15 prescribed by such rules shall be restricted to:

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

20 **SECTION 5.** 26-6-107 (1) (b) (I) and (2), Colorado Revised
21 Statutes, are amended, and the said 26-6-107 is further amended BY THE
22 ADDITION OF A NEW SUBSECTION, to read:

23 **26-6-107. Investigations and inspections - local authority -**
24 **reports - rules.** (1) (b) (I) When the state department, county
25 department, or child placement agency is ~~satisfied~~ ABLE TO CERTIFY that
26 the applicant or licensee is competent and will operate adequate facilities
27 to care for children under the requirements of this part 1 and that

1 standards are being met and will be complied with, it shall issue the
2 license for which applied. The state department shall inspect or cause to
3 be inspected the facilities to be operated by an applicant for an original
4 license before the license is granted and shall thereafter inspect or cause
5 to be inspected the facilities of all licensees that, during the period of
6 licensure, have been found to be the subject of complaints or to be out of
7 compliance with the standards set forth in section 26-6-106 and the rules
8 of the state department or that otherwise appear to be placing children at
9 risk. The state department may make such other inspections as it deems
10 necessary to ensure that the requirements of this article are being met and
11 that the health, safety, and welfare of the children being placed are
12 protected. If, as a result of an inspection of a certified foster care home,
13 the state department determines that any child residing in such foster care
14 home is subject to an immediate and direct threat to his or her safety and
15 welfare as defined by rules promulgated by the state board or that a
16 substantial violation of a fundamental standard of care warrants
17 immediate action, the state department may require a county department
18 to immediately remove such child from the foster care home.

19 (2) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II)
20 OF THIS PARAGRAPH (a), the state department may authorize or contract
21 with any county department, the county department of health, or any
22 other publicly or privately operated organization that has a declared
23 interest in children and experience working with children or on behalf of
24 children to investigate and inspect the facilities applying for an original
25 or renewal license or applying for a permanent license following the
26 issuance of a probationary or provisional license under this part 1 and
27 may accept reports on such investigations and inspections from such

1 agencies or organizations as a basis for such licensing. When contracting
2 for investigations and inspections, the state department shall assure that
3 the contractor is qualified by training and experience and has no conflict
4 of interest with respect to the facilities to be inspected.

5 (II) THE STATE DEPARTMENT SHALL NOT AUTHORIZE OR CONTRACT
6 WITH ANY COUNTY DEPARTMENT, THE COUNTY DEPARTMENT OF HEALTH,
7 OR ANY OTHER PUBLICLY OR PRIVATELY OPERATED ORGANIZATION THAT
8 HAS A DECLARED INTEREST IN CHILDREN AND EXPERIENCE WORKING WITH
9 CHILDREN OR ON BEHALF OF CHILDREN FOR INVESTIGATIONS AND
10 INSPECTIONS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) OF
11 ANY FACILITIES THAT PROVIDE TWENTY-FOUR-HOUR CARE AND ARE
12 LICENSED PURSUANT TO THIS PART 1.

13 (b) A city, county, or city and county may impose and enforce
14 higher standards and requirements for facilities licensed under this part
15 1 than the standards and requirements specified under this part 1.

16 (4) WITHIN AVAILABLE APPROPRIATIONS, THE STATE DEPARTMENT
17 SHALL MONITOR, ON AT LEAST A QUARTERLY BASIS, THE COUNTY
18 DEPARTMENT CERTIFICATION OF FOSTER CARE HOMES.

19 **SECTION 6.** 26-6-118 (2), Colorado Revised Statutes, is
20 amended to read:

21 **26-6-118. Child placement agencies - information sharing -**
22 **investigations by state department.** (2) Upon receipt of a request for
23 investigation of a child placement agency from a county department, the
24 state department shall commence an investigation and, upon conclusion,
25 report its findings to the requesting county department. THE STATE
26 DEPARTMENT SHALL INCLUDE IN ITS REPORT TO THE COUNTY DEPARTMENT
27 THE CHILD PLACEMENT AGENCY'S RESPONSE, IF ANY, TO THE FINDINGS.

1 **SECTION 7. Appropriation.** In addition to any other
2 appropriation, there is hereby appropriated, to the department of public
3 safety, for allocation to the Colorado bureau of investigation, for the
4 fiscal year beginning July 1, 2003, the sum of twenty-four thousand three
5 hundred dollars (\$24,300), or so much thereof as may be necessary, for
6 fingerprint processing services related to the implementation of this act.
7 Of said sum, twenty-one thousand dollars (\$21,000) shall be from cash
8 funds and three thousand three hundred dollars (\$3,300) shall be from
9 cash funds exempt.

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