

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

REREVISED

This Version Includes All Amendments
Adopted in the Second House

LLS NO. 03-0385.01 Jeff Conway

HOUSE BILL 03-1024

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

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House Committees

Health, Environment, Welfare, & Institutions
Appropriations

Senate Committees

Health, Environment, Welfare & Institutions
Appropriations

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.

SENATE
3rd Reading Unamended
May 7, 2003

SENATE
Amended 2nd Reading
May 6, 2003

HOUSE
3rd Reading Unamended
April 29, 2003

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
6 (a) CONTINGENT UPON THE IMPLEMENTATION OF THE COMPUTER
7 "TRAILS" ENHANCEMENTS, THE PROCEDURES FOR NOTIFYING ALL COUNTY
8 DEPARTMENTS AND CHILD PLACEMENT AGENCIES THAT PLACE CHILDREN
9 IN FOSTER CARE WHEN THE STATE DEPARTMENT HAS IDENTIFIED A
10 CONFIRMED REPORT OF CHILD ABUSE OR NEGLECT, AS DEFINED IN SECTION
11 19-1-103 (27), C.R.S., THAT INVOLVES A FOSTER CARE HOME, AS WELL AS
12 THE SUSPENSION OF ANY FURTHER PLACEMENTS IN THE FOSTER CARE HOME
13 UNTIL THE INVESTIGATION IS CONCLUDED; AND

14 (b) THE IMMEDIATE NOTIFICATION OF A CHILD'S GUARDIAN AD
15 LITEM UPON THE CHILD'S PLACEMENT IN A FOSTER CARE HOME, AND THE
16 PROVISION OF THE GUARDIAN AD LITEM'S CONTACT INFORMATION TO THE
17 FOSTER PARENTS.

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

21 **26-6-102. Definitions.** As used in this article, unless the context
22 otherwise requires:

23 (5.6) "MEDICAL FOSTER CARE" MEANS A PROGRAM OF FOSTER
24 CARE THAT PROVIDES HOME-BASED CARE FOR MEDICALLY FRAGILE
25 CHILDREN AND YOUTH WHO WOULD OTHERWISE BE CONFINED TO A
26 HOSPITAL OR INSTITUTIONAL SETTING AND INCLUDES, BUT IS NOT LIMITED
27 TO, THE FOLLOWING:

- 1 (a) INFANTS IMPACTED BY PRENATAL DRUG AND ALCOHOL ABUSE;
2 (b) CHILDREN WITH [REDACTED] DEVELOPMENTAL DISABILITIES WHICH
3 REQUIRE ONGOING MEDICAL INTERVENTION;
4 (c) CHILDREN AND YOUTH DIAGNOSED WITH ACQUIRED IMMUNE
5 DEFICIENCY SYNDROME OR HUMAN IMMUNODEFICIENCY VIRUS;
6 (d) CHILDREN WITH A FAILURE TO THRIVE OR OTHER NUTRITIONAL
7 DISORDERS; AND
8 (e) CHILDREN DEPENDENT ON TECHNOLOGY SUCH AS RESPIRATORS
9 OR VENTILATORS IN ORDER TO SURVIVE.

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

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

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

1 certified AT ANY ONE TIME by more than one child placement agency or
2 county department.

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

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

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

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

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

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

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

- 1 (b) Provide a form of specialized foster care including, but not
2 limited to, the following types of care:
- 3 (I) ~~Treatment foster care;~~
 - 4 (II) Medical foster care;
 - 5 (III) Respite foster care; ~~and~~
 - 6 (IV) ~~Intensive treatment foster care;~~
 - 7 (V) THERAPEUTIC FOSTER CARE; AND
 - 8 (VI) DEVELOPMENTALLY DISABLED FOSTER CARE.

9

10

11 **SECTION 4.** 26-6-107 (1) (b) (I) and (2), Colorado Revised
12 Statutes, are amended, and the said 26-6-107 is further amended BY THE
13 ADDITION OF A NEW SUBSECTION, to read:

14 **26-6-107. Investigations and inspections - local authority -**
15 **reports - rules.** (1) (b) (I) When the state department, county
16 department, or child placement agency is ~~satisfied~~ ABLE TO CERTIFY that
17 the applicant or licensee is competent and will operate adequate facilities
18 to care for children under the requirements of this part 1 and that
19 standards are being met and will be complied with, it shall issue the
20 license for which applied. The state department shall inspect or cause to
21 be inspected the facilities to be operated by an applicant for an original
22 license before the license is granted and shall thereafter inspect or cause
23 to be inspected the facilities of all licensees that, during the period of
24 licensure, have been found to be the subject of complaints or to be out of
25 compliance with the standards set forth in section 26-6-106 and the rules
26 of the state department or that otherwise appear to be placing children at
27 risk. The state department may make such other inspections as it deems

1 necessary to ensure that the requirements of this article are being met and
2 that the health, safety, and welfare of the children being placed are
3 protected. If, as a result of an inspection of a certified foster care home,
4 the state department determines that any child residing in such foster care
5 home is subject to an immediate and direct threat to his or her safety and
6 welfare as defined by rules promulgated by the state board or that a
7 substantial violation of a fundamental standard of care warrants
8 immediate action, the state department may require a county department
9 to immediately remove such child from the foster care home.

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

23 (II) THE STATE DEPARTMENT SHALL NOT AUTHORIZE OR CONTRACT
24 WITH ANY COUNTY DEPARTMENT, THE COUNTY DEPARTMENT OF HEALTH,
25 OR ANY OTHER PUBLICLY OR PRIVATELY OPERATED ORGANIZATION THAT
26 HAS A DECLARED INTEREST IN CHILDREN AND EXPERIENCE WORKING WITH
27 CHILDREN OR ON BEHALF OF CHILDREN FOR INVESTIGATIONS AND

1 INSPECTIONS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) OF
2 ANY FACILITIES THAT PROVIDE TWENTY-FOUR-HOUR CARE AND ARE
3 LICENSED PURSUANT TO THIS PART 1.

4 (b) A city, county, or city and county may impose and enforce
5 higher standards and requirements for facilities licensed under this part
6 1 than the standards and requirements specified under this part 1.

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

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

12 **26-6-118. Child placement agencies - information sharing -**
13 **investigations by state department.** (2) Upon receipt of a request for
14 investigation of a child placement agency from a county department, the
15 state department shall commence an investigation and, upon conclusion,
16 report its findings to the requesting county department. THE STATE
17 DEPARTMENT SHALL INCLUDE IN ITS REPORT TO THE COUNTY DEPARTMENT
18 THE CHILD PLACEMENT AGENCY'S RESPONSE, IF ANY, TO THE FINDINGS.

19 **SECTION 6.** 26-6-106 (2) (q) (I) (C), Colorado Revised Statutes,
20 is amended to read:

21 **26-6-106. Standards for facilities and agencies.** (2) Standards
22 prescribed by such rules shall be restricted to:

23 (q) (I) Standards for the training of foster care parents, which shall
24 include, at a minimum:

25 (C) In addition to the hours described in sub-subparagraph (B) of
26 this subparagraph (I), twelve hours per year for foster care parents
27 providing therapeutic services FOSTER CARE.

1 **SECTION 7.** 24-33.5-415.7 (2), Colorado Revised Statutes, is
2 amended to read:

3 **24-33.5-415.7. Amber alert program.** (2) For the purposes of
4 this section, "abducted child" means a child:

5 (a) Whose whereabouts are unknown;

6 (b) (I) Whose domicile at the time he or she was reported missing
7 was Colorado; OR

8 (II) ABOUT WHOM CREDIBLE INFORMATION IS RECEIVED FROM A
9 LAW ENFORCEMENT AGENCY LOCATED IN ANOTHER STATE THAT THE
10 ABDUCTED CHILD IS TRAVELING TO OR IN THE STATE OF COLORADO;

11 (c) Whose age at the time he or she was first reported missing was
12 seventeen years of age or younger; and

13 (d) Whose disappearance poses a credible threat as determined by
14 local law enforcement to the safety and health of the child.

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

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