

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

**REVISED**

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

LLS NO. 03-0385.01 Jeff Conway

**HOUSE BILL 03-1024**

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**HOUSE SPONSORSHIP**

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**House Committees**

Health, Environment, Welfare, & Institutions  
Appropriations

**Senate Committees**

Health, Environment, Welfare & Institutions  
Appropriations

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**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.**

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**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  
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 preclicensing 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.

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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).

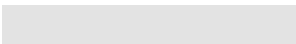
14 (b) The convictions identified in paragraph (a) of this subsection  
15 (7) shall be determined according to the records of the Colorado bureau  
16 of investigation, the ICON system at the state judicial department, or any  
17 other source, as set forth in section 26-6-107 (1) (a) (I.5). A certified  
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.