

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 16-0740.01 Jane Ritter x4342

HOUSE BILL 16-1385

HOUSE SPONSORSHIP

Singer,

SENATE SPONSORSHIP

Newell,

House Committees

Public Health Care & Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE DEFINITION OF CHILD ABUSE OR NEGLECT IN THE**
102 **"COLORADO CHILDREN'S CODE" AS IT RELATES TO THE USE OF**
103 **OR EXPOSURE TO SUBSTANCES, AND, IN CONNECTION**
104 **THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill updates and modernizes the language in the definition of "abuse" or "child abuse or neglect" in the "Colorado Children's Code" to reflect the ways a child's welfare can be threatened or harmed by adults

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
May 3, 2016

through the use of or exposure to substances.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) The definition of "child abuse or neglect" in the Children's
5 Code needs to be modified to accommodate behavioral changes relating
6 to substances; and

7 (b) The general assembly's intent behind any modifications to the
8 definition of "child abuse or neglect" in the Children's Code as it relates
9 to substances is to focus on guiding assessments and investigations in the
10 child welfare system.

11 **SECTION 2.** In Colorado Revised Statutes, 19-1-103, **amend** (1)
12 (a) (VI) and (1) (a) (VII) as follows:

13 **19-1-103. Definitions.** As used in this title or in the specified
14 portion of this title, unless the context otherwise requires:

15 (1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of
16 article 3 of this title, means an act or omission in one of the following
17 categories that threatens the health or welfare of a child:

18 (VI) Any case in which ~~in the presence of a child, or on the~~
19 ~~premises where a child is found, or where a child resides, a controlled~~
20 ~~substance, as defined in section 18-18-102 (5), C.R.S., is manufactured~~
21 ~~or attempted to be manufactured;~~ SUBSTANCE USE OR SUBSTANCE
22 EXPOSURE THREATENS OR RESULTS IN HARM TO THE CHILD'S HEALTH OR
23 WELFARE UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

24 (A) BEHAVIOR INDICATING IMPAIRMENT OF A PERSON THAT
25 THREATENS OR RESULTS IN HARM TO THE CHILD. FOR PURPOSES OF THIS

1 SUB-SUBPARAGRAPH (A), A "PERSON" INCLUDES A PARENT, STEPPARENT,
2 GUARDIAN, LEGAL CUSTODIAN, RELATIVE, SPOUSAL EQUIVALENT, OR ANY
3 OTHER PERSON WHO RESIDES IN THE CHILD'S HOME OR WHO IS REGULARLY
4 IN THE CHILD'S HOME AND HAS SOLE AUTHORITY OVER OR SOLE
5 RESPONSIBILITY FOR THE CARE OF THE CHILD.

6 (B) THE KNOWING, RECKLESS, OR NEGLIGENT EXPOSURE TO OR
7 INGESTION OF ANY LEGAL OR ILLEGAL SUBSTANCE BY A CHILD THAT
8 THREATENS OR RESULTS IN HARM TO THE CHILD, UNLESS SUCH EXPOSURE
9 OR INGESTION IS THE RESULT OF THE CHILD'S LAWFUL INTAKE OF SUCH
10 SUBSTANCE; OR

11 (C) THE MANUFACTURE, DISTRIBUTION, PRODUCTION, OR
12 CULTIVATION PRACTICES OF A LEGAL OR ILLEGAL SUBSTANCE THAT
13 CREATES AN ENVIRONMENT THAT THREATENS OR RESULTS IN HARM TO
14 THE CHILD.

15 (VII) (A) Any case in which a child tests positive at birth for
16 ~~either a schedule I controlled substance, as defined in section 18-18-203,~~
17 ~~C.R.S., or a schedule II controlled substance, as defined in section~~
18 ~~18-18-204, C.R.S.~~ AN EXPOSURE TO ALCOHOL OR FOR A CONTROLLED
19 SUBSTANCE, AS DEFINED IN SECTION 18-18-102, C.R.S., unless the child
20 tests positive for a schedule II controlled substance as a result of the
21 mother's lawful intake of such substance as prescribed OR RECOMMENDED
22 BY A LICENSED HEALTH CARE PROVIDER WHO IS AWARE OF THE
23 PREGNANCY AND THE USE OF SUCH SUBSTANCE, AND MONITORED BY THE
24 SAME OR ANOTHER LICENSED HEALTH CARE PROVIDER WHO IS AWARE OF
25 THE PREGNANCY AND THE USE OF SUCH SUBSTANCE.

26 (B) A COUNTY DEPARTMENT SHALL NOT DETERMINE A CHILD TO
27 BE ABUSED OR NEGLECTED BASED SOLELY ON THE CHILD TESTING POSITIVE

1 FOR A LEGAL SUBSTANCE UNDER COLORADO LAW AT BIRTH.

2 SECTION 3. In Colorado Revised Statutes, add 19-3-308.1 as
3 follows:

4 19-3-308.1. Implementation of the definition of abuse as it
5 relates to use of or exposure to substances - rules - SMART report.

6 (1) ON OR BEFORE JULY 1, 2017, THE STATE DEPARTMENT SHALL
7 PROMULGATE AND ADOPT RULES TO ENSURE THE CONSISTENT
8 IMPLEMENTATION OF THE DEFINITION OF ABUSE SET FORTH IN SECTION
9 19-1-103 (1) (a) (VI) AND 19-1-103 (1) (a) (VII) AS IT RELATES TO THE
10 USE OF OR EXPOSURE TO SUBSTANCES. THE RULES MUST ADDRESS, AT A
11 MINIMUM, ANY PROCEDURES A COUNTY DEPARTMENT MUST FOLLOW UPON
12 RECEIVING A REPORT THAT AN INFANT HAS TESTED POSITIVE FOR A
13 SUBSTANCE AT BIRTH.

14 (2) THE STATE DEPARTMENT SHALL COLLECT DATA ON THE USE OF
15 THE MODIFIED DEFINITION OF "CHILD ABUSE OR NEGLECT" IN SECTION
16 19-1-103 (1) (a) AS CREATED IN HOUSE BILL 16-1385, AS WELL AS THE
17 USE OF THE GUIDELINES FOR THE IMPLEMENTATION OF THAT DEFINITION
18 ESTABLISHED THROUGH RULES PROMULGATED PURSUANT TO SUBSECTION
19 (1) OF THIS SECTION. THE STATE DEPARTMENT SHALL INCLUDE SUCH DATA
20 AS PART OF ITS "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE,
21 AND TRANSPARENT (SMART) GOVERNMENT ACT" HEARING REQUIRED BY
22 SECTION 2-7-203, C.R.S. AT A MINIMUM, THE STATE DEPARTMENT SHALL
23 COLLECT AND REPORT DATA ON THE DISPOSITION OF CHILD WELFARE
24 ASSESSMENTS RELATED TO THE MODIFIED DEFINITION OF "CHILD ABUSE OR
25 NEGLECT" AS IT RELATES TO SUBSTANCES AND CORRELATED WITH
26 ECONOMIC STATUS, RACE, AND ZIP CODE. THE FOLLOWING REPORTS MUST
27 INCLUDE DATA AS FOLLOWS:

1 (a) THE JANUARY 2018 REPORT MUST INCLUDE DATA FROM
2 JANUARY 1, 2017, THROUGH JULY 1, 2017, OR SUCH DATE AS THE RULES
3 PROMULGATED PURSUANT TO SUBSECTION (1) OF THIS SECTION TAKE
4 EFFECT, AND A SEPARATE COMPARISON DATA SET FROM THE DATE THE
5 RULES TAKE EFFECT THROUGH DECEMBER 31, 2017; AND

6 (b) THE JANUARY 2019 REPORT MUST INCLUDE DATA FROM
7 JANUARY 1, 2018, THROUGH DECEMBER 31, 2018. THE JANUARY 2019
8 REPORT MUST PROVIDE SEGREGATED DATA GATHERED TO ALLOW FOR A
9 COMPARISON OF THE EFFECT BEFORE THE CHANGE IN THE DEFINITION,
10 AFTER THE CHANGE IN THE DEFINITION BUT BEFORE THE RULES WERE
11 IMPLEMENTED, AND AFTER THE PROMULGATION OF RULES REGARDING THE
12 IMPLEMENTATION OF THE MODIFIED DEFINITION.

13 **SECTION 4. Appropriation.** (1) For the 2016-17 state fiscal
14 year, \$16,000 is appropriated to the department of human services for use
15 by the division of child welfare. This appropriation is from the general
16 fund. To implement this act, the division may use this appropriation for
17 training.

18 (2) For the 2016-17 state fiscal year, the general assembly
19 anticipates that the department of human services will receive \$600 in
20 federal funds to implement this act. The appropriation in subsection (1)
21 of this section is based on the assumption that the department will receive
22 this amount of federal funds, which is included for informational
23 purposes only.

24 **SECTION 5. 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.