

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.*

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;

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 after an allegation of abuse or neglect rather than to
11 dictate absolute findings of abuse or neglect in a given situation;

12 (c) Every child welfare situation is unique, the issues surrounding
13 substances and abuse or neglect have multiple nuances, and one question
14 or one test alone may not yield an accurate finding of abuse or neglect;
15 and

16 (d) Therefore, a modification to the definition of "child abuse or
17 neglect" in the Children's Code requires the department of human services
18 to provide guidance, through the promulgation of rules, on assessments
19 to county-level case workers.

20 (2) The general assembly further finds that to create stronger
21 cooperation, transparency, and consistency between the multiple parties
22 involved in these difficult child welfare situations, the collection of
23 additional data following any modification of the definition of "child
24 abuse or neglect" as it relates to substances is a necessary component of
25 successfully protecting the best interests of the children of Colorado and

1 their parents.

2 **SECTION 2.** In Colorado Revised Statutes, 19-1-103, **amend** (1)

3 (a) (VI) and (1) (a) (VII) as follows:

4 **19-1-103. Definitions.** As used in this title or in the specified
5 portion of this title, unless the context otherwise requires:

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

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

15 (A) BEHAVIOR INDICATING IMPAIRMENT OF A PERSON THAT
16 THREATENS OR RESULTS IN HARM TO THE CHILD. FOR PURPOSES OF THIS
17 SUB-SUBPARAGRAPH (A), A "PERSON" INCLUDES A PARENT, STEPPARENT,
18 GUARDIAN, LEGAL CUSTODIAN, RELATIVE, SPOUSAL EQUIVALENT, OR ANY
19 OTHER PERSON WHO RESIDES IN THE CHILD'S HOME OR WHO IS REGULARLY
20 IN THE CHILD'S HOME AND HAS SOLE AUTHORITY OVER OR SOLE
21 RESPONSIBILITY FOR THE CARE OF THE CHILD.

22 (B) THE KNOWING, RECKLESS, OR NEGLIGENT EXPOSURE TO OR
23 INGESTION OF ANY LEGAL OR ILLEGAL SUBSTANCE BY A CHILD THAT
24 THREATENS OR RESULTS IN HARM TO THE CHILD, UNLESS SUCH EXPOSURE
25 OR INGESTION IS THE RESULT OF THE CHILD'S LAWFUL INTAKE OF SUCH
26 SUBSTANCE; OR

27 (C) THE MANUFACTURE, DISTRIBUTION, PRODUCTION, OR

1 CULTIVATION PRACTICES OF A LEGAL OR ILLEGAL SUBSTANCE THAT
2 CREATES AN ENVIRONMENT THAT THREATENS OR RESULTS IN HARM TO
3 THE CHILD.

4 (VII) (A) Any case in which a child tests positive at birth for
5 ~~either a schedule I controlled substance, as defined in section 18-18-203,~~
6 ~~C.R.S., or a schedule II controlled substance, as defined in section~~
7 ~~18-18-204, C.R.S.~~ AN EXPOSURE TO ALCOHOL OR FOR A CONTROLLED
8 SUBSTANCE, AS DEFINED IN SECTION 18-18-102, C.R.S., unless the child
9 tests positive for a ~~schedule II controlled substance~~ as a result of the
10 mother's lawful intake of such substance as prescribed OR RECOMMENDED
11 BY A LICENSED HEALTH CARE PROVIDER WHO IS AWARE OF THE
12 PREGNANCY AND THE USE OF SUCH SUBSTANCE, AND MONITORED BY THE
13 SAME OR ANOTHER LICENSED HEALTH CARE PROVIDER WHO IS AWARE OF
14 THE PREGNANCY AND THE USE OF SUCH SUBSTANCE.

15 (B) A COUNTY DEPARTMENT SHALL NOT DETERMINE A CHILD TO
16 BE ABUSED OR NEGLECTED BASED SOLELY ON THE CHILD TESTING POSITIVE
17 FOR A LEGAL SUBSTANCE UNDER COLORADO LAW AT BIRTH.

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

20 **19-3-308.1. Implementation of the definition of abuse as it**
21 **relates to use of or exposure to substances - rules - SMART report.**

22 (1) ON OR BEFORE JULY 1, 2017, THE STATE DEPARTMENT SHALL
23 PROMULGATE AND ADOPT RULES TO IMPROVE THE CONSISTENT
24 IMPLEMENTATION OF THE DEFINITION OF ABUSE SET FORTH IN SECTION
25 19-1-103 (1) (a) (VI) AND 19-1-103 (1) (a) (VII) AS IT RELATES TO THE
26 USE OF OR EXPOSURE TO SUBSTANCES. THE RULES MUST ADDRESS, AT A
27 MINIMUM, ANY PROCEDURES A COUNTY DEPARTMENT MUST FOLLOW UPON

1 RECEIVING A REPORT THAT AN INFANT HAS TESTED POSITIVE FOR A
2 SUBSTANCE AT BIRTH.

3 (2) THE STATE DEPARTMENT SHALL COLLECT DATA ON THE USE OF
4 THE MODIFIED DEFINITION OF "CHILD ABUSE OR NEGLECT" IN SECTION
5 19-1-103 (1) (a) AS CREATED IN HOUSE BILL 16-1385, AS WELL AS THE
6 USE OF THE GUIDELINES FOR THE IMPLEMENTATION OF THAT DEFINITION
7 ESTABLISHED THROUGH RULES PROMULGATED PURSUANT TO SUBSECTION
8 (1) OF THIS SECTION. THE STATE DEPARTMENT SHALL INCLUDE SUCH DATA
9 AS PART OF ITS "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE,
10 AND TRANSPARENT (SMART) GOVERNMENT ACT" HEARING REQUIRED BY
11 SECTION 2-7-203, C.R.S. AT A MINIMUM, THE STATE DEPARTMENT SHALL
12 COLLECT AND REPORT DATA ON THE DISPOSITION OF CHILD WELFARE
13 ASSESSMENTS RELATED TO THE MODIFIED DEFINITION OF "CHILD ABUSE OR
14 NEGLECT" AS IT RELATES TO SUBSTANCES AND CORRELATED WITH
15 ECONOMIC STATUS, RACE, AND ZIP CODE. THE FOLLOWING REPORTS MUST
16 INCLUDE DATA AS FOLLOWS:

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

22 (b) THE JANUARY 2019 REPORT MUST INCLUDE DATA FROM
23 JANUARY 1, 2018, THROUGH DECEMBER 31, 2018. THE JANUARY 2019
24 REPORT MUST PROVIDE SEGREGATED DATA GATHERED TO ALLOW FOR A
25 COMPARISON OF THE EFFECT BEFORE THE CHANGE IN THE DEFINITION,
26 AFTER THE CHANGE IN THE DEFINITION BUT BEFORE THE RULES WERE
27 IMPLEMENTED, AND AFTER THE PROMULGATION OF RULES REGARDING THE

1 IMPLEMENTATION OF THE MODIFIED DEFINITION.

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

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

13 **SECTION 5. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.