

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

PREAMENDED

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

LLS NO. 07-0341.02 Jane Ritter

SENATE BILL 07-033

SENATE SPONSORSHIP

Brophy,

HOUSE SPONSORSHIP

(None),

Senate Committees
Health and Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING ADOPTION OF HIGH-RISK CHILDREN.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires the state department of human services ("state department") to make or continue to make payments in subsidization of adoption to adoptive parents if it is determined after the time the child is placed for adoption that the child is one with special needs requiring mental health treatment and that the special needs are not the result of abuse or neglect inflicted by one of the adoptive parents subsequent to placement of the child. Limits the amount of foster care fees payable by the adoptive parents to an amount that does not exceed the amount of the payments in subsidization of adoption the adoptive parents receive during

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.

the period of time that the adopted child is receiving treatment in a mental health treatment facility.

For purposes of the "Child Mental Health Treatment Act" ("act"), includes a child on behalf of whom the state department is making payments in subsidization of adoption in the definition of the term "child at risk of out-of-home placement". Further specifies that an adoptive family shall not be required to pay a family share for mental health services provided to their adopted child that is not otherwise covered by the family's insurance, federal medicaid funding, or other funding provided pursuant to the act.

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

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

4 (a) That although the state of Colorado encourages the adoption
5 of children in foster care, a family that adopts or seeks to adopt a foster
6 child with challenging behaviors and emotional problems is frequently
7 provided inadequate support to address the long-term needs of the child;

8 (b) There will be a decrease in the number of adoptions of
9 children with challenging behaviors and emotional problems and an
10 increase in the number of failed adoptions of these children unless
11 adoptive families are provided with adequate support to meet the unique
12 needs of these children;

13 (c) Adopted children are disproportionately represented in the
14 population of children diagnosed with behavioral or mental disorders.
15 More often than not, these behaviors are related to a history of
16 maltreatment and prolonged stays in foster care;

17 (d) It is in the state's best interest to provide a continuum of
18 services to adoptive families to meet the needs of adopted children with
19 serious challenging behaviors, emotional problems, or mental illness.
20 These services should be provided without requiring the adoptive family

1 to relinquish custody of the adopted child to the state or county and
2 without charging the adoptive family for support payments in excess of
3 the child's monthly adoption subsidy payment to pay for the cost of
4 services.

5 **SECTION 2.** 19-1-103 (30), Colorado Revised Statutes, is
6 amended to read:

7 (30) "Cost of care" as used in section 19-2-114, means the cost to
8 the department or the county charged with the custody of the juvenile for
9 providing room, board, clothing, education, medical care, and other
10 normal living expenses to a juvenile sentenced to a placement out of the
11 home, as determined by the court. AS USED IN PART 2 OF THIS TITLE,
12 "COST OF CARE" ALSO INCLUDES ANY COSTS ASSOCIATED WITH
13 MAINTENANCE OF A JUVENILE IN A HOME DETENTION PROGRAM,
14 SUPERVISION OF PROBATION WHEN THE JUVENILE IS GRANTED PROBATION,
15 OR SUPERVISION OF PAROLE WHEN THE JUVENILE IS PLACED ON PAROLE.

16 **SECTION 3.** 19-2-114 (1), Colorado Revised Statutes, is
17 amended to read:

18 **19-2-114. Cost of care.** (1) (a) Notwithstanding the provisions
19 of section 19-1-115 (4) (d), where a juvenile is sentenced to a placement
20 out of the home or is granted probation as a result of an adjudication,
21 deferral of adjudication, or direct filing in or transfer to district court, the
22 court may order the juvenile or the juvenile's parent to make such
23 payments toward the cost of care as are appropriate under the
24 circumstances. In setting the amount of such payments, the court shall
25 take into consideration and make allowances for any restitution ordered
26 to the victim or victims of a crime, which shall take priority over any
27 payments ordered pursuant to this section, and for the maintenance and

1 support of the juvenile's spouse, dependent children, any other persons
2 having a legal right to support and maintenance out of the estate of the
3 juvenile, or any persons having a legal right to support and maintenance
4 out of the estate of the juvenile's parent. The court shall also consider the
5 financial needs of the juvenile for the six-month period immediately
6 following the juvenile's release, for the purpose of allowing said juvenile
7 to seek employment.

8 (b) FOR AN ADOPTIVE FAMILY WHO RECEIVES AN APPROVED TITLE
9 IV-E ADOPTION ASSISTANCE SUBSIDY PURSUANT TO THE FEDERAL "SOCIAL
10 SECURITY ACT", 42 U.S.C. SEC. 673 ET SEQ., OR AN APPROVED PAYMENT
11 IN SUBSIDIZATION OF ADOPTION PURSUANT TO SECTION 26-7-103, C.R.S.,
12 THE COST OF CARE, AS DEFINED IN SECTION 19-1-103 (30), SHALL NOT
13 EXCEED THE AMOUNT OF THE ADOPTION ASSISTANCE PAYMENT.

14 **SECTION 4.** 19-1-115 (4) (d), Colorado Revised Statutes, is
15 amended to read:

16 **19-1-115. Legal custody - guardianship - placement out of the**
17 **home.** (4) (d) (I) A decree vesting legal custody of a child or providing
18 for placement of a child with an agency in which public moneys are
19 expended shall be accompanied by an order of the court ~~which~~ THAT
20 obligates the parent of the child to pay a fee, based on the parent's ability
21 to pay, to cover the costs of the guardian ad litem and of providing for
22 residential care of the child. When custody of the child is given to the
23 county department of social services, such fee for residential care shall be
24 in accordance with the fee requirements as provided by rule of the
25 department of human services, and such fee shall apply, to the extent
26 unpaid, to the entire period of placement. When a child is committed to
27 the department of human services, such fee for care and treatment shall

1 be in accordance with the fee requirements as provided by rule of the
2 department of human services, and such fee shall apply, to the extent
3 unpaid, to the entire period of placement.

4 (II) FOR AN ADOPTIVE FAMILY WHO RECEIVES AN APPROVED TITLE
5 IV-E ADOPTION ASSISTANCE SUBSIDY PURSUANT TO THE FEDERAL "SOCIAL
6 SECURITY ACT", 42 U.S.C. SEC. 673 ET SEQ., OR AN APPROVED PAYMENT
7 IN SUBSIDIZATION OF ADOPTION PURSUANT TO SECTION 26-7-103,
8 C.R.S., THE COST OF CARE, AS DEFINED IN SECTION 19-1-103 (30), SHALL
9 NOT EXCEED THE AMOUNT OF THE ADOPTION ASSISTANCE PAYMENT.

10 **SECTION 5.** 26-7-104, Colorado Revised Statutes, is amended
11 BY THE ADDITION OF A NEW SUBSECTION to read:

12 **26-7-104. Administration.** (5) FOR AN ADOPTIVE FAMILY WHO
13 RECEIVES AN APPROVED TITLE IV-E ADOPTION ASSISTANCE SUBSIDY
14 PURSUANT TO THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 673
15 ET SEQ., OR AN APPROVED PAYMENT IN SUBSIDIZATION OF ADOPTION
16 PURSUANT TO SECTION 26-7-103, THE COST OF CARE, AS DEFINED IN
17 SECTION 19-1-103 (30), C.R.S., SHALL NOT EXCEED THE AMOUNT OF THE
18 ADOPTION ASSISTANCE PAYMENT.

19 **SECTION 6. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.