

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

2nd REREVISED

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

LLS NO. 10-0631.01 Richard Sweetman

HOUSE BILL 10-1106

HOUSE SPONSORSHIP

Casso,

SENATE SPONSORSHIP

Sandoval,

House Committees

Health and Human Services
Appropriations

Senate Committees

Health and Human Services
Appropriations

A BILL FOR AN ACT

101 CONCERNING BRINGING CERTAIN STATUTORY PROVISIONS
102 CONCERNING CHILD WELFARE INTO COMPLIANCE WITH
103 FEDERAL LAW, AND MAKING AN APPROPRIATION THEREFOR.

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>.)

To bring Colorado law into compliance with certain provisions of the federal "Social Security Act of 1965", as amended, the bill requires group home parents and any person working in a 24-hour child care facility to submit to a federal bureau of investigation fingerprint-based

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
Recall 3rd Reading
May 3, 2010

SENATE
Am ended 3rd Reading
April 28, 2010

SENATE
Am ended 2nd Reading
April 27, 2010

HOUSE
3rd Reading Unam ended
February 22, 2010

HOUSE
Am ended 2nd Reading
February 19, 2010

criminal history records check through the Colorado bureau of investigation.

The bill also amends certain statutory provisions to bring them into compliance with the federal "Multiethnic Placement Act of 1994", as amended. Specifically, the bill:

- ! Requires a child's best interests to be the primary consideration for a court, county department of social services, or licensed child placement agency in making determinations concerning the placement of the child for the purpose of adoption;
- ! Requires a court, county department of social services, or licensed child placement agency making a foster care or pre-adoptive placement of a child to give preference to placement with the child's relative if the child's relative can safely meet the child's needs;
- ! Requires an agency that has responsibility for placing children out of the home to recruit and retain prospective foster and adoptive families from communities that reflect the child's racial, ethnic, cultural, and linguistic background;
- ! Prohibits a court, county department of social services, or licensed child placement agency, in making determinations concerning the placement of a child for the purpose of adoption, from considering the racial or ethnic background, color, or national origin of either the child or a family who has submitted an application to adopt except in extraordinary circumstances;
- ! Prohibits a court, county department of social services, or licensed child placement agency from delaying a foster or adoptive placement of a child as a result of the racial or ethnic background, color, or national origin of the child or a family who has submitted an application to adopt; and
- ! Allows a birth parent to designate a specific applicant with whom he or she wishes to place his or her child for purposes of adoption in private adoption cases.

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

2 **SECTION 1.** 26-6-107 (1) (a) (I) (C), Colorado Revised Statutes,
3 is amended, and the said 26-6-107 (1) (a) (I) is further amended BY THE
4 **ADDITION OF A NEW SUB-SUBPARAGRAPH**, to read:

5 **26-6-107. Investigations and inspections - local authority -**

1 **reports - rules.** (1) (a) (I) (C) Rules promulgated by the state board
2 pursuant to this subparagraph (I) shall require the fingerprint-based
3 criminal history records check in all circumstances, other than those
4 identified in sub-subparagraph (B) OR (C.5) of this subparagraph (I), to
5 include a fingerprint-based criminal history records check through the
6 Colorado bureau of investigation. ~~except for persons residing in this state~~
7 ~~less than two years, who shall be required to have a federal bureau of~~
8 ~~investigation fingerprint-based criminal history records check through the~~
9 ~~Colorado bureau of investigation.~~ As part of said investigation, the
10 records and reports of child abuse or neglect maintained by the state
11 department shall be accessed to determine whether the owner, applicant,
12 employee, newly hired employee, licensee, or individual who resides in
13 the licensed facility being investigated has been found to be responsible
14 in a confirmed report of child abuse or neglect. Information shall be
15 made available pursuant to section 19-1-307 (2) (j), C.R.S., and rules
16 promulgated by the state board pursuant to section 19-3-313.5 (4), C.R.S.
17 Any change in ownership of a licensed facility or the addition of a new
18 resident adult or newly hired employee to the licensed facility shall
19 require a new investigation as provided for in this section.

20 (C.5) FOR PERSONS RESIDING IN THIS STATE LESS THAN TWO
21 YEARS, SPECIALIZED GROUP HOME PARENTS, OR ANY PERSON WORKING IN
22 A TWENTY-FOUR-HOUR CHILD CARE FACILITY, THE RULES PROMULGATED
23 BY THE STATE BOARD PURSUANT TO THIS SUBPARAGRAPH (I) SHALL
24 REQUIRE, IN ADDITION TO THE FINGERPRINT-BASED CRIMINAL HISTORY
25 RECORDS CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION
26 DESCRIBED IN SUB-SUBPARAGRAPH (C) OF THIS SUBPARAGRAPH (I), A
27 FEDERAL BUREAU OF INVESTIGATION FINGERPRINT-BASED CRIMINAL

1 HISTORY RECORDS CHECK THROUGH THE COLORADO BUREAU OF
2 INVESTIGATION.

3 SECTION 2. 19-5-206 (2) and (3), Colorado Revised Statutes,
4 are amended to read:

5 19-5-206. Placement for purposes of adoption. (2) (a) Birth
6 parent or parents may designate a specific applicant with whom they may
7 wish to place their child for purposes of adoption. After assessment and
8 approval of the potential adoptive parents and subsequent relinquishment
9 of the child, the court shall grant guardianship of the child to a person or
10 agency described in section 19-5-104 (1) until finalization of adoptive
11 placement. A county department may provide adoption services to birth
12 parents who request designated adoption only in cases in which the
13 county has legal custody of the child prior to the filing of the petition to
14 relinquish. All requirements and provisions of this article pertaining to
15 relinquishment and adoption shall apply to designated adoptions. IN
16 CHILD WELFARE CASES, A CHILD'S BEST INTERESTS SHALL BE THE PRIMARY
17 CONSIDERATION FOR A COURT, COUNTY DEPARTMENT, OR LICENSED CHILD
18 PLACEMENT AGENCY IN MAKING DETERMINATIONS CONCERNING THE
19 PLACEMENT OF THE CHILD FOR THE PURPOSE OF ADOPTION.

20 (b) The court may waive the assessment and approval
21 requirements of paragraph (a) of this subsection (2) in cases where the
22 birth parent or parents have designated the child's grandparent, aunt,
23 uncle, brother, or sister as the person with whom they wish to place their
24 child for purposes of adoption. The court may proceed to finalize such
25 adoptive placement upon finding that the placement is in the best interests
26 of the child.

27 (c) The court may waive the assessment and approval of the

1 ~~potential adoptive parents in cases involving kinship or custodial adoption~~
2 ~~or may determine and order what kind of information or written report it~~
3 ~~deems necessary, including an abbreviated home study or home~~
4 ~~evaluation. The court may proceed to finalize such adoptive placement~~
5 ~~upon finding that the placement is in the best interests of the child.~~ AN
6 AGENCY THAT HAS RESPONSIBILITY FOR PLACING CHILDREN OUT OF THE
7 HOME SHALL USE GOOD FAITH EFFORTS AND DUE DILIGENCE TO RECRUIT
8 AND RETAIN PROSPECTIVE FOSTER AND ADOPTIVE FAMILIES FROM
9 COMMUNITIES THAT REFLECT THE RACIAL, ETHNIC, CULTURAL, AND
10 LINGUISTIC BACKGROUNDS OF THE CHILDREN IN THE AGENCY'S CARE.

11 (d) IN MAKING DETERMINATIONS CONCERNING THE PLACEMENT OF
12 A CHILD FOR THE PURPOSE OF ADOPTION, A COURT, COUNTY DEPARTMENT,
13 OR LICENSED CHILD PLACEMENT AGENCY MAY, UNDER EXTRAORDINARY
14 CIRCUMSTANCES, CONSIDER THE RACIAL OR ETHNIC BACKGROUND, COLOR,
15 OR NATIONAL ORIGIN OF:

- 16 (I) THE CHILD; OR
- 17 (II) A FAMILY WHO HAS SUBMITTED AN APPLICATION TO ADOPT.

18 (e) A COURT, COUNTY DEPARTMENT, OR LICENSED CHILD
19 PLACEMENT AGENCY SHALL NOT DELAY A FOSTER OR ADOPTIVE
20 PLACEMENT OF A CHILD AS A RESULT OF THE RACIAL OR ETHNIC
21 BACKGROUND, COLOR, OR NATIONAL ORIGIN OF:

- 22 (I) THE CHILD; OR
- 23 (II) A FAMILY WHO HAS SUBMITTED AN APPLICATION TO FOSTER OR
24 ADOPT A CHILD.

25 (f) IN PRIVATE ADOPTION CASES, A BIRTH PARENT OR BIRTH
26 PARENTS MAY DESIGNATE A SPECIFIC APPLICANT WITH WHOM THEY MAY
27 WISH TO PLACE THEIR CHILD FOR PURPOSES OF ADOPTION. AFTER

1 ASSESSMENT AND APPROVAL OF THE POTENTIAL ADOPTIVE PARENTS AND
2 SUBSEQUENT RELINQUISHMENT OF THE CHILD, THE COURT SHALL GRANT
3 GUARDIANSHIP OF THE CHILD TO A PERSON OR AGENCY DESCRIBED IN
4 SECTION 19-5-104 (1) UNTIL FINALIZATION OF ADOPTIVE PLACEMENT.

5 (g) THE COURT MAY WAIVE THE ASSESSMENT AND APPROVAL OF
6 THE POTENTIAL ADOPTIVE PARENTS IN CASES INVOLVING KINSHIP OR
7 CUSTODIAL ADOPTION OR MAY DETERMINE AND ORDER THE KIND OF
8 INFORMATION OR WRITTEN REPORT IT DEEMS NECESSARY FOR THE
9 ASSESSMENT AND APPROVAL OF THE POTENTIAL ADOPTIVE PARENTS,
10 INCLUDING AN ABBREVIATED HOME STUDY OR HOME EVALUATION. THE
11 COURT MAY PROCEED TO FINALIZE SUCH ADOPTIVE PLACEMENT UPON
12 FINDING THAT THE PLACEMENT IS IN THE BEST INTERESTS OF THE CHILD.

13 (3) ~~Consideration given to the racial background of a child legally~~
14 ~~available for adoption in placing such child with an adopting family shall~~
15 ~~not delay the placement of the child due to attempts to assure racial~~
16 ~~resemblance between the child and the adopting family.~~

17 **SECTION 3.** The introductory portion to 19-5-104 (1) and
18 19-5-104 (1) (d), Colorado Revised Statutes, are amended to read:

19 **19-5-104. Final order of relinquishment.** (1) If the court
20 terminates the parent-child legal relationship of both parents or of the
21 only living parent, the court, after taking into account the racial, cultural,
22 and religious background of the child, shall order guardianship of the
23 person and legal custody transferred to:

24 (d) An individual determined to be of good moral character
25 through a process that includes the assessment made pursuant to ~~section~~
26 ~~19-5-206 (2) (a)~~ SECTION 19-5-206 (2) (g), if such individual shall have
27 had the child living in his or her home for six months or more, including

1 a foster parent or a designated adoptive parent.

2 **SECTION 4.** Part 1 of article 5 of title 19, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **19-5-100.5. Applicability of article.** EXCEPT WHERE INDICATED
6 OTHERWISE, EACH PROVISION OF THIS ARTICLE PERTAINING TO
7 RELINQUISHMENT OR ADOPTION SHALL APPLY ONLY TO CHILD WELFARE
8 ADOPTIONS AND NOT TO PRIVATE ADOPTIONS.

9 **SECTION 5.** 19-3-208 (2) (a) (V), Colorado Revised Statutes,
10 is amended to read:

11 **19-3-208. Services - county required to provide - rules.**

12 (2) (a) "Services" shall be designed to accomplish the following goals:

13 (V) Take into account the racial background of the child if
14 placement out-of-home is necessary; except that the placement of a child
15 shall not be delayed due to attempts to assure racial resemblance between
16 the child and the foster family ENSURE THAT THE PLACEMENT OF A CHILD
17 IS NEITHER DELAYED NOR DENIED DUE TO CONSIDERATION OF THE RACE,
18 COLOR, OR NATIONAL ORIGIN OF THE CHILD OR ANY OTHER PERSON UNLESS
19 SUCH CONSIDERATION IS PERMITTED PURSUANT TO FEDERAL LAW; and

20 **SECTION 6. Appropriation.** In addition to any other
21 appropriation, there is hereby appropriated, to the department of public
22 safety, for allocation to the Colorado bureau of investigation, for the
23 fiscal year beginning July 1, 2010, from the Colorado bureau of
24 investigation identification unit fund created in section 24-33.5-426,
25 Colorado Revised Statutes, the sum of fifty-six thousand three hundred
26 eight dollars (\$56,308) and 0.3 FTE, or so much thereof as may be
27 necessary, for fingerprint processing services related to the

1 implementation of this act. Of this sum, thirty-two thousand one hundred
2 fifty-eight dollars (\$32,158) shall be cash funds from fingerprint and
3 name check processing fees collected by the department, and twenty-four
4 thousand one hundred fifty dollars (\$24,150) shall be cash funds from
5 fingerprint and name check processing fees collected by the department
6 for transmittal to the federal bureau of investigation.

7 **SECTION 7. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.