

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

INTRODUCED

LLS NO. 11-0173.01 Jane Ritter

SENATE BILL 11-120

SENATE SPONSORSHIP

Newell, Bacon, Foster, Giron, Guzman, Hudak, Jahn, Johnston, Morse, Nicholson, Schwartz, Shaffer B., Steadman, Williams S.

HOUSE SPONSORSHIP

Kefalas, Ferrandino, Kagan

Senate Committees

Health and Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING RIGHTS OF CERTAIN CHILDREN IN FOSTER CARE, AND, IN**
102 **CONNECTION THEREWITH, ESTABLISHING RIGHTS FOR CHILDREN**
103 **IN FOSTER CARE EXCEPT FOR THOSE IN THE CUSTODY OF THE**
104 **DIVISION OF YOUTH CORRECTIONS OR A STATE MENTAL**
105 **HOSPITAL.**

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 sets forth a legislative declaration concerning a bill of

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.

rights for youth in foster care, excluding those in the custody of the division of youth corrections or a state mental hospital (youth).

The court shall ensure that youth who are 16 to 18 years of age are provided assistance in obtaining a free credit report for the youth. If there is evidence of identity theft, staff shall refer the case to a governmental or nonprofit entity, as approved by the state department of human services (department), to take remedial action to clear the youth's credit report.

The department is required to promulgate rules concerning policies for allowing youth 12 years of age and older greater access to extracurricular activities.

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

SECTION 1. Title 19, Colorado Revised Statutes, is amended BY
THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 7

Protections for Youth in Foster Care

19-7-101. Legislative declaration. (1) THE GENERAL ASSEMBLY
HEREBY FINDS AND DECLARES THAT YOUTH IN FOSTER CARE, EXCLUDING
THOSE IN THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A
STATE MENTAL HOSPITAL, SHOULD ENJOY THE FOLLOWING RIGHTS:

(a) TO LIVE IN A SAFE, HEALTHY, AND COMFORTABLE
ENVIRONMENT WHERE HE OR SHE IS TREATED WITH RESPECT AND DIGNITY;

(b) TO BE FREE FROM PHYSICAL, SEXUAL, EMOTIONAL, OR OTHER
ABUSE OR CORPORAL PUNISHMENT;

(c) TO RECEIVE ADEQUATE AND HEALTHY FOOD, ADEQUATE
CLOTHING, AND AN ADEQUATE ALLOWANCE, AS APPROPRIATE;

(d) TO RECEIVE MEDICAL, DENTAL, VISION, AND MENTAL HEALTH
SERVICES AS NEEDED;

(e) TO BE FREE OF THE ADMINISTRATION OF PRESCRIPTION
MEDICATION OR OTHER CHEMICAL SUBSTANCES, UNLESS AUTHORIZED BY
A PHYSICIAN;

1 (f) TO BE FREE TO CONTACT THOSE PERSONS WORKING ON HIS OR
2 HER BEHALF, INCLUDING BUT NOT LIMITED TO, CASE WORKERS,
3 ATTORNEYS, FOSTER YOUTH ADVOCATES AND SUPPORTERS,
4 COURT-APPOINTED SPECIAL ADVOCATES, AND PROBATION OFFICERS;

5 (g) TO BE FREE TO CONTACT THE CHILD PROTECTION OMBUDSMAN,
6 COUNTY DEPARTMENT OF SOCIAL SERVICES, OR THE DEPARTMENT OF
7 HUMAN SERVICES REGARDING ANY QUESTIONS, CONCERNS, OR VIOLATIONS
8 OF THE RIGHTS SET FORTH IN THIS ARTICLE, TO SPEAK TO
9 REPRESENTATIVES OF THOSE OFFICES PRIVATELY, AND TO BE FREE FROM
10 THREATS OR PUNISHMENT FOR MAKING COMPLAINTS;

11 (h) AS APPROPRIATE, TO MAKE AND RECEIVE CONFIDENTIAL
12 TELEPHONE CALLS AND TO SEND AND RECEIVE UNOPENED MAIL IN
13 ACCORDANCE WITH HIS OR HER PERMANENCY GOALS;

14 (i) TO BE FREE TO ATTEND RELIGIOUS SERVICES AND ACTIVITIES OF
15 HIS OR HER CHOICE;

16 (j) TO BE ALLOWED TO MAINTAIN AN EMANCIPATION BANK
17 ACCOUNT AND MANAGE PERSONAL INCOME, CONSISTENT WITH THE
18 YOUTH'S AGE AND DEVELOPMENTAL LEVEL, UNLESS PROHIBITED BY HIS OR
19 HER CASE PLAN;

20 (k) TO NOT BE LOCKED IN ANY ROOM, BUILDING, OR FACILITY
21 PREMISES, UNLESS THE COURT MAKES SPECIFIC ORDERS REGARDING
22 PLACEMENT IN A LOCKED FACILITY OR THE CHILD IS IN A LOCKED FACILITY
23 TO MEET HIS OR HER MENTAL HEALTH NEEDS;

24 (l) TO ATTEND SCHOOL, HAVE ACCESS TO TRANSPORTATION, AND
25 PARTICIPATE IN EXTRACURRICULAR, CULTURAL, AND PERSONAL
26 ENRICHMENT ACTIVITIES CONSISTENT WITH THE YOUTH'S AGE AND
27 DEVELOPMENTAL LEVEL;

1 (m) AS APPROPRIATE, TO BE FREE TO WORK AND DEVELOP JOB
2 SKILLS IF IT IS IN HIS OR HER BEST INTERESTS AND IS IN ACCORDANCE WITH
3 HIS OR HER PERMANENCY GOALS;

4 (n) AS APPROPRIATE, TO BE FREE TO HAVE SOCIAL CONTACTS WITH
5 PEOPLE OUTSIDE THE FOSTER CARE SYSTEM, SUCH AS TEACHERS, CHURCH
6 MEMBERS, MENTORS, AND FRIENDS IN ACCORDANCE WITH HIS OR HER
7 PERMANENCY GOALS;

8 (o) TO BE FREE TO ATTEND INDEPENDENT LIVING CLASSES IF HE OR
9 SHE MEETS PROGRAM AND AGE REQUIREMENTS;

10 (p) TO CONSULT WITH THE COURT CONDUCTING THE YOUTH'S
11 PERMANENCY HEARING, IN AN AGE-APPROPRIATE MANNER, REGARDING
12 THE YOUTH'S PERMANENCY PLAN, PURSUANT TO SECTION 19-3-702 (3.7);

13 (q) TO HAVE A SAFE PLACE TO STORE PERSONAL BELONGINGS;

14 (r) AS APPROPRIATE TO HIS OR HER AGE AND DEVELOPMENTAL
15 LEVEL, TO BE ALLOWED TO PARTICIPATE IN AND REVIEW HIS OR HER OWN
16 CASE PLAN, IF HE OR SHE IS TWELVE YEARS OF AGE OR OLDER, AND TO
17 RECEIVE INFORMATION ABOUT HIS OR HER OUT-OF-HOME PLACEMENT AND
18 CASE PLAN, INCLUDING BEING INFORMED OF ANY CHANGES TO THE CASE
19 PLAN;

20 (s) TO CONFIDENTIALITY OF ALL JUVENILE COURT RECORDS,
21 CONSISTENT WITH EXISTING LAW;

22 (t) TO HAVE FAIR AND EQUAL ACCESS TO AVAILABLE SERVICES,
23 PLACEMENT, CARE, TREATMENT BASED ON HIS OR HER TREATMENT PLAN,
24 AND BENEFITS, AND TO NOT BE SUBJECTED TO DISCRIMINATION OR
25 HARASSMENT ON THE BASIS OF ACTUAL OR PERCEIVED RACE, ETHNIC
26 GROUP, NATIONAL ORIGIN, RELIGION, SEX, SEXUAL ORIENTATION, GENDER
27 IDENTITY, MENTAL OR PHYSICAL DISABILITY, OR HIV STATUS;

1 (u) AT SIXTEEN YEARS OF AGE OR OLDER, TO HAVE ACCESS TO
2 EXISTING INFORMATION REGARDING THE EDUCATIONAL OPTIONS
3 AVAILABLE TO HIM OR HER, INCLUDING, BUT NOT LIMITED TO, THE COURSE
4 WORK NECESSARY FOR VOCATIONAL AND POSTSECONDARY EDUCATIONAL
5 PROGRAMS, AND INFORMATION REGARDING FINANCIAL AID AVAILABLE FOR
6 POSTSECONDARY EDUCATION;

7 (v) TO HAVE SCHOOL STABILITY THAT PRESUMES THE YOUTH WILL
8 REMAIN IN THE SCHOOL IN WHICH HE OR SHE IS ENROLLED AT THE TIME OF
9 PLACEMENT, UNLESS REMAINING IN THAT SCHOOL IS NOT IN HIS OR HER
10 BEST INTERESTS;

11 (w) TO REMAIN IN THE CUSTODY OF HIS OR HER PARENT OR LEGAL
12 GUARDIAN UNLESS HIS OR HER WELFARE AND SAFETY OR THE PROTECTION
13 OF THE PUBLIC WOULD BE OTHERWISE ENDANGERED, AND THE RIGHT THAT
14 THE COURT PROCEED WITH ALL POSSIBLE SPEED TO A LEGAL
15 DETERMINATION THAT WILL SERVE HIS OR HER BEST INTERESTS PURSUANT
16 TO SECTION 19-1-102;

17 (x) TO BE PLACED IN A HOME WHERE THE FOSTER CAREGIVER IS
18 AWARE OF AND UNDERSTANDS THE YOUTH'S UNIQUE HISTORY AS IT
19 RELATES TO HIS OR HER CARE;

20 (y) TO RECEIVE EFFECTIVE CASE MANAGEMENT AND PLANNING
21 THAT WILL PRIORITIZE THE SAFE RETURN OF THE YOUTH TO HIS OR HER
22 FAMILY OR MOVE THE YOUTH ON TO OTHER FORMS OF PERMANENT
23 PLACEMENT;

24 (z) TO PLACEMENT IN THE LEAST RESTRICTIVE SETTING
25 APPROPRIATE TO THE YOUTH'S NEEDS;

26 (aa) TO HAVE A GUARDIAN AD LITEM APPOINTED TO REPRESENT
27 THE YOUTH'S BEST INTERESTS; AND

1 (bb) TO PLACEMENT IN CLOSE PROXIMITY TO FAMILY, WHEN
2 APPROPRIATE.

3 **19-7-102. Protection against identity theft.** (1) THE COURT
4 SHALL ENSURE THAT EACH YOUTH IN FOSTER CARE, EXCLUDING YOUTH IN
5 THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A STATE
6 MENTAL HOSPITAL, WHO IS SIXTEEN THROUGH EIGHTEEN YEARS OF AGE
7 OBTAINS A FREE CREDIT REPORT. IF THE CREDIT REPORT SHOWS EVIDENCE
8 OF POSSIBLE IDENTITY THEFT, THE PERSON ASSISTING THE YOUTH SHALL
9 REFER THE MATTER TO A GOVERNMENTAL OR NONPROFIT ENTITY ON THE
10 REFERRAL LIST DEVELOPED PURSUANT TO SUBSECTION (2) OF THIS SECTION
11 FOR REMEDIAL ACTION.

12 (2) (a) ON OR BEFORE JULY 31, 2012, THE DEPARTMENT OF HUMAN
13 SERVICES SHALL DEVELOP, IN CONSULTATION WITH COUNTY
14 DEPARTMENTS OF SOCIAL SERVICES, A REFERRAL LIST OF GOVERNMENTAL
15 AND NONPROFIT ENTITIES THAT ARE AUTHORIZED TO ASSIST A YOUTH IN
16 FOSTER CARE, EXCLUDING A YOUTH IN THE CUSTODY OF THE DIVISION OF
17 YOUTH CORRECTIONS OR A STATE MENTAL HOSPITAL, WHO HAS FOUND
18 EVIDENCE OF POSSIBLE IDENTITY THEFT ON HIS OR HER CREDIT REPORT.
19 AN ENTITY ON THE REFERRAL LIST DEVELOPED PURSUANT TO THIS
20 SUBSECTION (2) IS AUTHORIZED TO TAKE ANY NECESSARY REMEDIAL
21 ACTIONS TO CLEAR THE YOUTH'S CREDIT RECORD AND SHALL REPORT THE
22 RESULTS OF ITS ACTIONS TO THE COUNTY DEPARTMENT OF SOCIAL
23 SERVICES FOR THE COUNTY IN WHICH THE YOUTH RESIDES.

24 (b) IN COMPILING THE REFERRAL LIST PURSUANT TO PARAGRAPH
25 (a) OF THIS SUBSECTION (2), THE DEPARTMENT OF HUMAN SERVICES, AND
26 ANY COUNTY DEPARTMENTS OF SOCIAL SERVICES CONSULTED THEREIN,
27 SHALL BE IMMUNE FROM LIABILITY, CIVIL OR CRIMINAL, THAT MIGHT

1 OTHERWISE BE INCURRED OR IMPOSED, SO LONG AS THE DEPARTMENT OF
2 HUMAN SERVICES AND ANY COUNTY DEPARTMENTS OF SOCIAL SERVICES
3 CONSULTED ACTED IN GOOD FAITH.

4 **19-7-103. Access to extracurricular activities - legislative**
5 **declaration - rules.** (1) (a) THE GENERAL ASSEMBLY FINDS AND
6 DECLARES THAT IT IS IMPORTANT FOR YOUTH IN FOSTER CARE, EXCLUDING
7 THOSE IN THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A
8 STATE MENTAL HOSPITAL, TO HAVE INCREASED ACCESS TO NORMATIVE,
9 DEVELOPMENTALLY APPROPRIATE EXTRACURRICULAR ACTIVITIES TO HELP
10 PREPARE THEM FOR INDEPENDENCE. FOSTER PARENTS AND GROUP HOME
11 ADMINISTRATORS SHALL MAKE EVERY EFFORT TO ALLOW A YOUTH IN
12 THEIR CUSTODY TO PARTICIPATE IN EXTRACURRICULAR, CULTURAL,
13 EDUCATIONAL, WORK-RELATED, AND PERSONAL ENRICHMENT ACTIVITIES.
14 ON OR BEFORE JULY 31, 2012, THE DEPARTMENT OF HUMAN SERVICES
15 SHALL PROMULGATE RULES FOR THE IMPLEMENTATION OF THIS SECTION.
16 THE RULES SHALL ADDRESS POLICIES, INCLUDING BUT NOT LIMITED TO
17 WAIVER OF ANY FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECKS
18 AND GUIDELINES FOR DETERMINING IN WHAT SITUATIONS IT IS
19 APPROPRIATE TO WAIVE FINGERPRINT-BASED CRIMINAL HISTORY RECORDS
20 CHECKS, TO ALLOW YOUTH IN FOSTER CARE, EXCLUDING THOSE IN THE
21 CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A STATE MENTAL
22 HOSPITAL, WHO ARE TWELVE YEARS OF AGE AND OLDER TO PARTICIPATE
23 IN AGE-APPROPRIATE EXTRACURRICULAR ENRICHMENT, SOCIAL
24 ACTIVITIES, AND ACTIVITIES DESIGNED TO ASSIST THOSE YOUTH TO MAKE
25 THE TRANSITION TO INDEPENDENCE, BUILD LIFE SKILLS, AND ENHANCE
26 OPPORTUNITIES TO MAKE POSITIVE CONNECTIONS.

27 (b) IF THE DEPARTMENT OF HUMAN SERVICES OR A COUNTY

1 DEPARTMENT OF SOCIAL SERVICES WAIVES A FINGERPRINT-BASED
2 CRIMINAL HISTORY RECORDS CHECK PURSUANT TO PARAGRAPH (a) OF THIS
3 SUBSECTION (1), THE DEPARTMENT OF HUMAN SERVICES OR COUNTY
4 DEPARTMENT OF SOCIAL SERVICES SHALL BE IMMUNE FROM LIABILITY,
5 CIVIL OR CRIMINAL, THAT MIGHT OTHERWISE BE INCURRED OR IMPOSED,
6 SO LONG AS THE DEPARTMENT OF HUMAN SERVICES OR COUNTY
7 DEPARTMENT OF SOCIAL SERVICES ACTED IN GOOD FAITH WHEN MAKING
8 THE DETERMINATION TO WAIVE THE FINGERPRINT-BASED CRIMINAL
9 HISTORY RECORDS CHECK.

10 **SECTION 2. Act subject to petition - effective date.** This act
11 shall take effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part shall not take effect
17 unless approved by the people at the general election to be held in
18 November 2012 and shall take effect on the date of the official
19 declaration of the vote thereon by the governor.