

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

ENGROSSED

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

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.

SENATE
Amended 2nd Reading
February 25, 2011

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.

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

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

4 **ARTICLE 7**

5 **Protections for Youth in Foster Care**

6 **19-7-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY
7 HEREBY FINDS AND DECLARES THAT YOUTH IN FOSTER CARE, EXCLUDING
8 THOSE IN THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A
9 STATE MENTAL HOSPITAL, SHOULD ENJOY THE FOLLOWING:

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

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

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

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

18 (e) TO BE FREE OF THE ADMINISTRATION OF PRESCRIPTION
19 MEDICATION OR OTHER CHEMICAL SUBSTANCES, UNLESS AUTHORIZED BY
20 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 HIS OR HER PHYSICAL SAFETY OR EMOTIONAL
22 WELL-BEING IS AT RISK, OR IF PLACED BY A FURTHER COURT ORDER;

23 (l) TO RECEIVE AN APPROPRIATE EDUCATION, HAVE ACCESS TO
24 TRANSPORTATION, AND PARTICIPATE IN EXTRACURRICULAR, CULTURAL,
25 AND PERSONAL ENRICHMENT ACTIVITIES CONSISTENT WITH THE YOUTH'S
26 AGE AND DEVELOPMENTAL LEVEL;

27 (m) AS APPROPRIATE, TO BE FREE TO WORK AND DEVELOP JOB

1 SKILLS IF IT IS IN HIS OR HER BEST INTERESTS AND IS IN ACCORDANCE WITH
2 HIS OR HER PERMANENCY GOALS;

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

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

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

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

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

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

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

27 (u) AT SIXTEEN YEARS OF AGE OR OLDER, TO HAVE ACCESS TO

1 EXISTING INFORMATION REGARDING THE EDUCATIONAL OPTIONS
2 AVAILABLE TO HIM OR HER, INCLUDING, BUT NOT LIMITED TO, THE COURSE
3 WORK NECESSARY FOR VOCATIONAL AND POSTSECONDARY EDUCATIONAL
4 PROGRAMS, AND INFORMATION REGARDING FINANCIAL AID AVAILABLE FOR
5 POSTSECONDARY EDUCATION;

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

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

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

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

23 (z) TO BE INVOLVED IN MEETINGS AT WHICH DECISIONS ABOUT HIS
24 OR HER FUTURE ARE BEING MADE, AND TO HAVE THE CHILD WELFARE
25 AGENCY BRING TOGETHER THE YOUTH'S FAMILY GROUP AND OTHER
26 SUPPORTERS TO DECISION-MAKING MEETINGS AT WHICH THE GROUP
27 CREATES A PLAN FOR THE YOUTH'S FUTURE;

1 (aa) TO PLACEMENT IN THE LEAST RESTRICTIVE SETTING
2 APPROPRIATE TO THE YOUTH'S NEEDS;

3 (bb) TO HAVE A GUARDIAN AD LITEM APPOINTED TO REPRESENT
4 THE YOUTH'S BEST INTERESTS; AND

5 (cc) TO LIVE WITH OR BE VISITED BY HIS OR HER SIBLINGS AND TO
6 BE PLACED IN CLOSE PROXIMITY TO FAMILY, WHEN AVAILABLE AND
7 APPROPRIATE.

8 **19-7-102. Protection against identity theft.** (1) THE COURT
9 SHALL ENSURE THAT EACH YOUTH IN FOSTER CARE, EXCLUDING YOUTH IN
10 THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A STATE
11 MENTAL HOSPITAL, WHO IS SIXTEEN THROUGH EIGHTEEN YEARS OF AGE
12 OBTAINS A FREE CREDIT REPORT. IF THE CREDIT REPORT SHOWS EVIDENCE
13 OF POSSIBLE IDENTITY THEFT, THE PERSON ASSISTING THE YOUTH SHALL
14 INFORM THE COURT AND REFER THE MATTER TO A GOVERNMENTAL OR
15 NONPROFIT ENTITY ON THE REFERRAL LIST DEVELOPED PURSUANT TO
16 SUBSECTION (2) OF THIS SECTION FOR REMEDIAL ACTION. THE CHILD'S
17 GUARDIAN AD LITEM SHALL ADVISE THE YOUTH OF POSSIBLE
18 CONSEQUENCES OF AND OPTIONS TO ADDRESS THE POSSIBLE IDENTITY
19 THEFT, INCLUDING THE RIGHT TO REPORT THE MATTER TO LAW
20 ENFORCEMENT AND SEEK POSSIBLE PROSECUTION OF THE OFFENDER.

21 (2) (a) ON OR BEFORE JULY 31, 2012, THE DEPARTMENT OF HUMAN
22 SERVICES SHALL DEVELOP, IN CONSULTATION WITH COUNTY
23 DEPARTMENTS OF SOCIAL SERVICES, A REFERRAL LIST OF GOVERNMENTAL
24 AND NONPROFIT ENTITIES THAT ARE AUTHORIZED TO ASSIST A YOUTH IN
25 FOSTER CARE, EXCLUDING A YOUTH IN THE CUSTODY OF THE DIVISION OF
26 YOUTH CORRECTIONS OR A STATE MENTAL HOSPITAL, WHO HAS FOUND
27 EVIDENCE OF POSSIBLE IDENTITY THEFT ON HIS OR HER CREDIT REPORT.

1 AN ENTITY ON THE REFERRAL LIST DEVELOPED PURSUANT TO THIS
2 SUBSECTION (2) IS AUTHORIZED TO TAKE ANY NECESSARY REMEDIAL
3 ACTIONS TO CLEAR THE YOUTH'S CREDIT RECORD AND SHALL REPORT THE
4 RESULTS OF ITS ACTIONS TO THE COUNTY DEPARTMENT OF SOCIAL
5 SERVICES FOR THE COUNTY IN WHICH THE YOUTH RESIDES.

6 (b) IN COMPILING THE REFERRAL LIST PURSUANT TO PARAGRAPH
7 (a) OF THIS SUBSECTION (2), THE DEPARTMENT OF HUMAN SERVICES, AND
8 ANY COUNTY DEPARTMENTS OF SOCIAL SERVICES CONSULTED THEREIN,
9 SHALL NOT BE SUBJECT TO LIABILITY PURSUANT TO THE EXTENT PROVIDED
10 BY ARTICLE 10 OF TITLE 24, C.R.S. _____

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

1 YOUTH IN FOSTER CARE, EXCLUDING THOSE IN THE CUSTODY OF THE
2 DIVISION OF YOUTH CORRECTIONS OR A STATE MENTAL HOSPITAL, WHO
3 ARE TWELVE YEARS OF AGE AND OLDER TO PARTICIPATE IN
4 AGE-APPROPRIATE EXTRACURRICULAR ENRICHMENT, SOCIAL ACTIVITIES,
5 AND ACTIVITIES DESIGNED TO ASSIST THOSE YOUTH TO MAKE THE
6 TRANSITION TO INDEPENDENCE, BUILD LIFE SKILLS, AND ENHANCE
7 OPPORTUNITIES TO MAKE POSITIVE CONNECTIONS.

8 (b) IF THE DEPARTMENT OF HUMAN SERVICES OR A COUNTY
9 DEPARTMENT OF SOCIAL SERVICES WAIVES A FINGERPRINT-BASED
10 CRIMINAL HISTORY RECORDS CHECK PURSUANT TO PARAGRAPH (a) OF THIS
11 SUBSECTION (1), THE DEPARTMENT OF HUMAN SERVICES OR COUNTY
12 DEPARTMENT OF SOCIAL SERVICES SHALL NOT BE SUBJECT TO LIABILITY
13 PURSUANT TO THE EXTENT PROVIDED BY ARTICLE 10 OF TITLE 24, C.R.S.

14

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