

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

REVISED

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

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

Health and Environment

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.

HOUSE
Am ended 2nd Reading
March 22, 2011

SENATE
Am ended 3rd Reading
March 1, 2011

SENATE
Am ended 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.

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:

(a) TO RECEIVE APPROPRIATE AND REASONABLE ADULT GUIDANCE, SUPPORT, AND SUPERVISION 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

1 A PHYSICIAN;

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

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

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

15 (i) TO BE FREE TO ATTEND RELIGIOUS SERVICES AND ACTIVITIES;

16

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

21 (k) TO BE FREE FROM BEING ABANDONED OR LOCKED IN A ROOM;

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

26 (m) AS APPROPRIATE, TO BE FREE TO WORK AND DEVELOP JOB
27 SKILLS THAT ARE IN ACCORDANCE WITH HIS OR HER PERMANENCY GOALS;

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

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

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

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

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

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

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

25 (u) AT SIXTEEN YEARS OF AGE OR OLDER, TO HAVE ACCESS TO
26 EXISTING INFORMATION REGARDING THE EDUCATIONAL OPTIONS
27 AVAILABLE TO HIM OR HER, INCLUDING, BUT NOT LIMITED TO, THE COURSE

1 WORK NECESSARY FOR VOCATIONAL AND POSTSECONDARY EDUCATIONAL
2 PROGRAMS, AND INFORMATION REGARDING FINANCIAL AID AVAILABLE FOR
3 POSTSECONDARY EDUCATION;

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

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

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

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

21 (z) AS APPROPRIATE TO THE YOUTH'S DEVELOPMENTAL LEVEL AND
22 IF HE OR SHE IS TWELVE YEARS OF AGE OR OLDER, TO BE INVOLVED IN
23 MEETINGS AT WHICH DECISIONS ARE MADE ABOUT HIS OR HER FUTURE,
24 AND TO HAVE THE CHILD WELFARE AGENCY BRING TOGETHER HIS OR HER
25 FAMILY GROUP AND OTHER SUPPORTERS TO DECISION-MAKING MEETINGS
26 AT WHICH THE GROUP CREATES A PLAN FOR THE YOUTH'S FUTURE;

27 (aa) TO PLACEMENT IN THE LEAST RESTRICTIVE SETTING

1 APPROPRIATE TO THE YOUTH'S NEEDS;

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

4 (cc) TO LIVE WITH OR BE VISITED BY HIS OR HER SIBLINGS.

5 (2) THE GENERAL ASSEMBLY FURTHER DECLARES THAT
6 SUBSECTION (1) OF THIS SECTION REPRESENTS GUIDELINES TO PROMOTE
7 THE PHYSICAL, MENTAL, SOCIAL, AND EMOTIONAL DEVELOPMENT OF
8 YOUTH IN FOSTER CARE AND TO PREPARE THEM FOR A SUCCESSFUL
9 TRANSITION BACK INTO THEIR FAMILIES OR THE COMMUNITY. THE
10 APPLICATION OF THESE GUIDELINES MAY BE LIMITED TO REASONABLE
11 PERIODS DURING THE DAY OR RESTRICTED ACCORDING TO THE ROUTINE OF
12 FAMILY FOSTER CARE HOMES TO ENSURE THE PROTECTION OF CHILDREN
13 AND FOSTER FAMILIES.

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

27 (2) (a) ON OR BEFORE JULY 31, 2012, THE DEPARTMENT OF HUMAN

1 SERVICES SHALL DEVELOP, IN CONSULTATION WITH COUNTY
2 DEPARTMENTS OF SOCIAL SERVICES, A REFERRAL LIST OF GOVERNMENTAL
3 AND NONPROFIT ENTITIES THAT ARE AUTHORIZED TO ASSIST A YOUTH IN
4 FOSTER CARE, EXCLUDING A YOUTH IN THE CUSTODY OF THE DIVISION OF
5 YOUTH CORRECTIONS OR A STATE MENTAL HOSPITAL, WHO HAS FOUND
6 EVIDENCE OF POSSIBLE IDENTITY THEFT ON HIS OR HER CREDIT REPORT.
7 AN ENTITY ON THE REFERRAL LIST DEVELOPED PURSUANT TO THIS
8 SUBSECTION (2) IS AUTHORIZED TO TAKE ANY NECESSARY REMEDIAL
9 ACTIONS TO CLEAR THE YOUTH'S CREDIT RECORD AND SHALL REPORT THE
10 RESULTS OF ITS ACTIONS TO THE COUNTY DEPARTMENT OF SOCIAL
11 SERVICES WITH LEGAL CUSTODY OF THE YOUTH.

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

17 **19-7-103. Access to extracurricular activities - legislative**
18 **declaration - rules.** (1) (a) THE GENERAL ASSEMBLY FINDS AND
19 DECLARES THAT IT IS IMPORTANT FOR YOUTH IN FOSTER CARE, EXCLUDING
20 THOSE IN THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A
21 STATE MENTAL HOSPITAL, TO HAVE INCREASED ACCESS TO NORMATIVE,
22 DEVELOPMENTALLY APPROPRIATE EXTRACURRICULAR ACTIVITIES TO HELP
23 PREPARE THEM FOR INDEPENDENCE. FOSTER PARENTS AND GROUP HOME
24 PARENTS OR GROUP CENTER ADMINISTRATORS SHALL MAKE A
25 REASONABLE EFFORT TO ALLOW A YOUTH IN THEIR CARE TO PARTICIPATE
26 IN EXTRACURRICULAR, CULTURAL, EDUCATIONAL, WORK-RELATED, AND
27 PERSONAL ENRICHMENT ACTIVITIES. ON OR BEFORE JULY 31, 2012, THE

1 DEPARTMENT OF HUMAN SERVICES SHALL PROMULGATE RULES FOR THE
2 IMPLEMENTATION OF THIS SECTION. THE RULES SHALL ADDRESS POLICIES,
3 INCLUDING BUT NOT LIMITED TO WAIVER OF ANY FINGERPRINT-BASED
4 CRIMINAL HISTORY RECORDS CHECKS FOR COMMUNITY ENTITIES,
5 EXCLUDING ALL INDIVIDUALS REQUIRED TO OBTAIN A FINGERPRINT-BASED
6 CRIMINAL HISTORY RECORDS CHECK PURSUANT TO SECTION 26-6-107,
7 C.R.S., PROVIDING EXTRACURRICULAR ACTIVITIES AND GUIDELINES FOR
8 DETERMINING IN WHAT SITUATIONS IT IS APPROPRIATE TO WAIVE
9 FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECKS, TO ALLOW
10 YOUTH IN FOSTER CARE, EXCLUDING THOSE IN THE CUSTODY OF THE
11 DIVISION OF YOUTH CORRECTIONS OR A STATE MENTAL HOSPITAL, WHO
12 ARE TWELVE YEARS OF AGE AND OLDER TO PARTICIPATE IN
13 AGE-APPROPRIATE EXTRACURRICULAR ENRICHMENT, SOCIAL ACTIVITIES,
14 AND ACTIVITIES DESIGNED TO ASSIST THOSE YOUTH TO MAKE THE
15 TRANSITION TO INDEPENDENCE, BUILD LIFE SKILLS, AND ENHANCE
16 OPPORTUNITIES TO MAKE POSITIVE CONNECTIONS.

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

23

24 **SECTION 2. Act subject to petition - effective date.** This act
25 shall take effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly (August
27 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part shall not take effect
4 unless approved by the people at the general election to be held in
5 November 2012 and shall take effect on the date of the official
6 declaration of the vote thereon by the governor.