

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

PREAMENDED

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

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.

SENATE
Amended 3rd Reading
March 1, 2011

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) FOR CHILDREN AND YOUTH THAT ARE PLACED IN A FAMILY
21 FOSTER HOME, TO NOT BE ISOLATED 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 IF IT IS IN HIS OR HER BEST INTERESTS AND IS IN ACCORDANCE WITH

1 HIS OR HER PERMANENCY GOALS;

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

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

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

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

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

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

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

26 (u) AT SIXTEEN YEARS OF AGE OR OLDER, TO HAVE ACCESS TO
27 EXISTING INFORMATION REGARDING THE EDUCATIONAL OPTIONS

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

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

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

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

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

22 (z) TO BE INVOLVED IN MEETINGS AT WHICH DECISIONS ABOUT HIS
23 OR HER FUTURE ARE BEING MADE, AND TO HAVE THE CHILD WELFARE
24 AGENCY BRING TOGETHER, AS APPROPRIATE, THE YOUTH'S FAMILY GROUP
25 AND OTHER SUPPORTERS TO DECISION-MAKING MEETINGS AT WHICH THE
26 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 **19-7-102. Protection against identity theft.** (1) THE COURT
6 SHALL ENSURE THAT EACH YOUTH IN FOSTER CARE, EXCLUDING YOUTH IN
7 THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A STATE
8 MENTAL HOSPITAL, WHO IS SIXTEEN THROUGH EIGHTEEN YEARS OF AGE
9 OBTAINS A FREE CREDIT REPORT. IF THE CREDIT REPORT SHOWS EVIDENCE
10 OF POSSIBLE IDENTITY THEFT, THE PERSON ASSISTING THE YOUTH SHALL
11 INFORM THE COURT AND REFER THE MATTER TO A GOVERNMENTAL OR
12 NONPROFIT ENTITY ON THE REFERRAL LIST DEVELOPED PURSUANT TO
13 SUBSECTION (2) OF THIS SECTION FOR REMEDIAL ACTION. THE CHILD'S
14 GUARDIAN AD LITEM SHALL ADVISE THE YOUTH OF POSSIBLE
15 CONSEQUENCES OF AND OPTIONS TO ADDRESS THE POSSIBLE IDENTITY
16 THEFT, INCLUDING THE RIGHT TO REPORT THE MATTER TO LAW
17 ENFORCEMENT AND SEEK POSSIBLE PROSECUTION OF THE OFFENDER.

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

1 RESULTS OF ITS ACTIONS TO THE COUNTY DEPARTMENT OF SOCIAL
2 SERVICES WITH LEGAL CUSTODY OF THE YOUTH.

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

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

1 IN AGE-APPROPRIATE EXTRACURRICULAR ENRICHMENT, SOCIAL
2 ACTIVITIES, AND ACTIVITIES DESIGNED TO ASSIST THOSE YOUTH TO MAKE
3 THE TRANSITION TO INDEPENDENCE, BUILD LIFE SKILLS, AND ENHANCE
4 OPPORTUNITIES TO MAKE POSITIVE CONNECTIONS.

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

11 _____

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