

**First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 15-0179.01 Jane Ritter x4342

**SENATE BILL 15-070**

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**SENATE SPONSORSHIP**

**Lundberg,** Lambert, Neville T., Woods

**HOUSE SPONSORSHIP**

**Joshi,**

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Health & Human Services

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**A BILL FOR AN ACT**

101 **CONCERNING LIMITING STATE CHILD CARE REGULATIONS TO CHILD**  
102 **CARE FACILITIES THAT CARE FOR TEN OR MORE CHILDREN.**

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**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/bills/summaries>.)*

Current law limits state licensing, registration, and other regulation requirements to only those child care facilities (facilities) that care for 5 or more children. The bill increases that limit to 10 or more children. The requirement for facilities with 9 or fewer children to apply to the state department of human services (state department) for an exemption to licensing requirements is removed. Decisions by the state department

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.*

related to licensing of facilities may be appealed to the state department and subsequently to an administrative law judge. The bill makes conforming amendments.

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

2           **SECTION 1.** In Colorado Revised Statutes, 26-6-102, **amend**  
3 (1.5), (2.2) (a), (2.5) (a) (I) introductory portion, (8), and (9); and **repeal**  
4 (3.7) as follows:

5           **26-6-102. Definitions.** As used in this article, unless the context  
6 otherwise requires:

7           (1.5) "Child care center" means a facility, by whatever name  
8 known, that is maintained for the whole or part of a day for the care of  
9 ~~five~~ TEN or more children who are eighteen years of age or younger and  
10 who are not related to the owner, operator, or manager thereof, whether  
11 the facility is operated with or without compensation for such care and  
12 with or without stated educational purposes. The term includes, but is not  
13 limited to, facilities commonly known as day care centers, school-age  
14 child care centers, before and after school programs, nursery schools,  
15 kindergartens, preschools, day camps, summer camps, and centers for  
16 ~~developmentally disabled~~ children WITH DEVELOPMENTAL DISABILITIES  
17 and those facilities that give twenty-four-hour care for children. ~~and~~ THE  
18 TERM ALSO includes those facilities for children under the age of six years  
19 with stated educational purposes operated in conjunction with a public,  
20 private, or parochial college or a private or parochial school. ~~except that~~  
21 The term ~~staff~~ DOES not apply to any kindergarten maintained in  
22 connection with a public, private, or parochial elementary school system  
23 of at least six grades or operated as a component of a school district's  
24 preschool program operated pursuant to article 28 of title 22, C.R.S. The

1 term ~~shall~~ DOES not include any facility licensed as a family child care  
2 home, a foster care home, or a specialized group facility ~~that is licensed~~  
3 ~~to provide care for three or more children pursuant to~~ AS DEFINED IN  
4 subsection (10) of this section, but that is providing care for three or  
5 fewer children who are determined to have a developmental disability by  
6 a community centered board or who are diagnosed with a serious  
7 emotional disturbance.

8 (2.2) (a) "Children's resident camp" means a facility operating for  
9 three or more consecutive twenty-four-hour days during one or more  
10 seasons of the year for the care of ~~five~~ TEN or more children. ~~The facility~~  
11 ~~shall~~ A CHILDREN'S RESIDENT CAMP MUST have as its purpose a group  
12 living experience offering education and recreational activities in an  
13 outdoor environment. The recreational experiences may occur at the  
14 permanent camp premises or on trips off the premises.

15 (2.5) (a) "Day treatment center" means a facility that:

16 (I) Provides less than twenty-four-hour care for groups of ~~five~~ TEN  
17 or more children who are:

18 (3.7) ~~"Exempt family child care home provider" means a family~~  
19 ~~child care home provider who is exempt from certain provisions of this~~  
20 ~~part 1 pursuant to section 26-6-103 (1) (g).~~

21 (8) "Residential child care facility" means a facility licensed by  
22 the state department pursuant to this part 1 to provide twenty-four-hour  
23 group care and treatment for ~~five~~ TEN or more children operated under  
24 private, public, or nonprofit sponsorship. ~~"Residential child care facility"~~  
25 THE TERM includes community-based residential child care facilities,  
26 shelter facilities, and therapeutic residential child care facilities as defined  
27 in rule by the state board, and psychiatric residential treatment facilities

1 as defined in section 25.5-4-103 (19.5), C.R.S. A residential child care  
2 facility may be eligible for designation by the executive director of the  
3 state department pursuant to article 65 of title 27, C.R.S.

4 (9) "Secure residential treatment center" means a facility operated  
5 under private ownership that is licensed by the department pursuant to  
6 this part 1 to provide twenty-four-hour group care and treatment in a  
7 secure setting for ~~five~~ TEN or more children or persons up to the age of  
8 twenty-one years over whom the juvenile court retains jurisdiction  
9 pursuant to section 19-2-104 (6), C.R.S., who are committed by a court  
10 pursuant to an adjudication of delinquency or pursuant to a determination  
11 of guilt of a delinquent act or having been convicted as an adult and  
12 sentenced for an act that would be a crime if committed in Colorado, or  
13 in the committing jurisdiction, to be placed in a secure facility.

14 **SECTION 2.** In Colorado Revised Statutes, 26-6-103, **amend** (1)  
15 introductory portion and (1) (h); **repeal** (1) (g); and **add** (1) (i) and (5) as  
16 follows:

17 **26-6-103. Application of part - definitions - appeals.** (1) This  
18 part 1 ~~shall~~ DOES not apply to:

19 (g) ~~A family child care home receiving one child for less than~~  
20 ~~twenty-four-hour care or receiving two or more children who are related~~  
21 ~~to each other as brother or sister from the same family household for less~~  
22 ~~than twenty-four-hour care or such additional number of children as may~~  
23 ~~be specified by rules promulgated by the state board of human services.~~  
24 ~~The department shall conduct a study on whether rules should be~~  
25 ~~modified to allow an additional number of children to be cared for in a~~  
26 ~~family home that is exempt from licensing and shall present options and~~  
27 ~~recommendations to the state board on or before October 1, 1996. The~~

1 department shall consult with individuals and organizations who express  
2 to the department an interest in participating in the development of such  
3 recommendations, and the department shall notify such individuals and  
4 organizations of the date and location of the board hearing. The  
5 department shall examine the relationship between the licensing  
6 regulations governing larger family care homes and child care centers and  
7 shall present options and recommendations to the state board on or before  
8 October 1, 1996. In making such recommendations, the department shall  
9 consult with individuals and organizations who express to the department  
10 an interest in participating in the development of such recommendations,  
11 and the department shall notify such individuals and organizations of the  
12 date and location of the board hearing. Notwithstanding any provision of  
13 this paragraph (g) to the contrary, an exempt family child care home  
14 provider shall comply with the provisions of section 26-6-120 if he or she  
15 provides care for a child whose care is funded in whole or in part with  
16 moneys received on the child's behalf pursuant to the Colorado child care  
17 assistance program created in part 8 of article 2 of this title.

18 (h) Nursing homes which have children as residents; AND

19 (i) ANY CHILD CARE FACILITY THAT CARES FOR NINE CHILDREN OR  
20 FEWER, INCLUDING BUT NOT LIMITED TO CHILD CARE CENTERS, CHILDREN'S  
21 RESIDENT CAMPS, DAY TREATMENT CENTERS, RESIDENTIAL CHILD CARE  
22 FACILITIES, SECURE RESIDENTIAL TREATMENT CENTERS, AND SPECIALIZED  
23 GROUP FACILITIES.

24 (5) ANY DECISION BY THE STATE DEPARTMENT RELATED TO THIS  
25 PART 1 MAY BE APPEALED DIRECTLY TO THE STATE DEPARTMENT, AND  
26 ANY SUCH DECISION ON AN APPEAL TO THE STATE DEPARTMENT MAY BE  
27 SUBMITTED AS AN ADMINISTRATIVE APPEAL TO AN ADMINISTRATIVE LAW

1 JUDGE.

2 **SECTION 3.** In Colorado Revised Statutes, 19-1-307, **amend** (2)  
3 introductory portion and (2) (j.5) as follows:

4 **19-1-307. Dependency and neglect records and information -**  
5 **access - fee - rules - records and reports fund - misuse of information**  
6 **- penalty. (2) Records and reports - access to certain persons -**  
7 **agencies.** Except as otherwise provided in section 19-1-303, only the  
8 following persons or agencies ~~shall be given~~ MAY HAVE access to child  
9 abuse or neglect records and reports:

10 (j.5) The state department of human services or a county or district  
11 department of HUMAN OR social services investigating an ~~exempt~~ family  
12 child care home provider pursuant to section 26-6-120, C.R.S., as a  
13 prerequisite to issuance or renewal of a contract or any payment  
14 agreement to receive moneys for the care of a child from publicly funded  
15 state child care assistance programs. Access to the records and reports of  
16 child abuse or neglect granted to the named department or agencies ~~shall~~  
17 MUST serve only as the basis for further investigation.

18 **SECTION 4.** In Colorado Revised Statutes, 26-6-108.5, **amend**  
19 (3) as follows:

20 **26-6-108.5. Notice of negative licensing action - filing of**  
21 **complaints.** (3) The department shall track and record complaints made  
22 to the department that are brought against family child care homes and  
23 shall identify which complaints were brought against licensed family  
24 child care homes, as defined in section 26-6-102 (4), OR unlicensed  
25 family child care homes. ~~or legally exempt family child care homes, as~~  
26 ~~defined in 26-6-103 (1) (g).~~

27 **SECTION 5.** In Colorado Revised Statutes, **repeal** 26-2-805.5.

1           **SECTION 6.** In Colorado Revised Statutes, 26-6-120, **amend** (1)

2 (a) (I) and (3) (b) as follows:

3           **26-6-120. Family child care home providers -**  
4 **fingerprint-based criminal history record check - child care**  
5 **assistance program moneys - temporary care - definitions.**

6 (1) (a) (I) ~~An exempt~~ A family child care home provider who provides  
7 care for a child and an individual who provides care for a child who is  
8 related to the individual, referred to collectively in this section as a  
9 "qualified provider", shall be subject to a fingerprint-based criminal  
10 history record check, referred to in this section as an "FCC", as provided  
11 in this section and the rules authorized in section 26-6-107 (1) (a) (I) and  
12 (1) (a) (I.5), if the child's care is funded in whole or in part with moneys  
13 received on the child's behalf from the publicly funded Colorado child  
14 care assistance program. The provisions of this section shall apply to  
15 ~~exempt~~ family child care home providers or individuals who provide care  
16 to a related child who receive moneys from the publicly funded Colorado  
17 child care assistance program pursuant to contracts or other payment  
18 agreements entered into or renewed on or after May 25, 2006.

19           (3) A contract to provide moneys under the Colorado child care  
20 assistance program pursuant to part 8 of article 2 of this title shall not be  
21 issued or renewed by the state department or a county department to a  
22 qualified provider if the qualified provider or a qualified adult:

23           (b) Has been determined to be insane or mentally incompetent by  
24 a court of competent jurisdiction and a court has entered, pursuant to part  
25 3 or 4 of article 14 of title 15, C.R.S., or section 27-65-109 (4) or  
26 27-65-127, C.R.S., an order specifically finding that the mental  
27 incompetency or insanity is of such a degree that the qualified provider

1 cannot safely operate a child care home. The record of such determination  
2 and entry of such order shall be conclusive evidence thereof. A qualified  
3 provider shall sign an attestation affirming the lack of such a finding prior  
4 to entering into or renewing a contract for moneys under the Colorado  
5 child care assistance program. ~~pursuant to section 26-2-805.5 (2).~~

6 **SECTION 7. Act subject to petition - effective date.** This act  
7 takes effect at 12:01 a.m. on the day following the expiration of the  
8 ninety-day period after final adjournment of the general assembly (August  
9 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a  
10 referendum petition is filed pursuant to section 1 (3) of article V of the  
11 state constitution against this act or an item, section, or part of this act  
12 within such period, then the act, item, section, or part will not take effect  
13 unless approved by the people at the general election to be held in  
14 November 2016 and, in such case, will take effect on the date of the  
15 official declaration of the vote thereon by the governor.