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2001



SENATE BILL 01-012

BY SENATOR(S) Linkhart, and Epps;
also REPRESENTATIVE(S) Chavez, Alexander, Johnson, Tochtrop,
Borodkin, Boyd, Groff, Hefley, Larson, Mace, Madden, Plant, Romanoff,
Scott, Stafford, Veiga, and Vigil.

CONCERNING THE PROVISION OF PUBLICLY FUNDED SERVICES FOR CHILDREN
IN OUT-OF-HOME PLACEMENTS.

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

SECTION 1. Part 1 of article 1 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

19-1-125. Family stabilization services. (1) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ASSIST IN THE PROVISION OF APPROPRIATE AND NECESSARY SHORT-TERM SERVICES TO HELP STABILIZE FAMILIES THAT ARE AT RISK OF HAVING THEIR CHILDREN PLACED IN OUT-OF-HOME PLACEMENT WHEN THOSE FAMILIES VOLUNTARILY REQUEST SUCH SERVICES.

(2) THE MONEYS IDENTIFIED IN SECTION 13-32-101 (1) (a), C.R.S., SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE FAMILY STABILIZATION SERVICES FUND, WHICH FUND IS HEREBY CREATED. THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL

Capital letters indicate new material added to existing statute; dashes through the words indicate deletions from existing statutes and such material not part of act.

APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT FOR ALLOCATION TO COUNTY DEPARTMENTS FOR THE PURPOSES DESCRIBED IN SUBSECTION (3) OF THIS SECTION. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND SHALL REMAIN THEREIN AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(3) COUNTY DEPARTMENTS SHALL USE ANY MONEYS ALLOCATED PURSUANT TO THIS SECTION TO PROVIDE FOR FAMILY STABILIZATION SERVICES, DEFINED BY RULE OF THE STATE BOARD, THAT MAY INCLUDE BUT NOT BE LIMITED TO:

(a) LESS THAN TWENTY-FOUR-HOUR RESPITE CARE FOR PARENTS AND CHILDREN;

(b) IN-HOME SERVICES THAT MAY INCLUDE KINSHIP CARE AND COUNSELING; OR

(c) SERVICES THAT ASSIST THE FAMILY TO REINTEGRATE FOLLOWING A SEPARATION OR OUT-OF-HOME PLACEMENT.

SECTION 2. 26-5-104 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-5-104. Funding of child welfare services. (3) **Allocation formula.** (e) A COUNTY'S COST SAVINGS SHALL NOT BE THE BASIS OF AN ADJUSTMENT TO THE FORMULA FOR DEVELOPING SUCH COUNTY'S CAPPED OR TARGETED ALLOCATION UNDER THE PROVISIONS OF THIS ARTICLE.

SECTION 3. 26-6-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

(11) "THERAPEUTIC SERVICES" MEANS A PROGRAM OF FOSTER CARE THAT INCORPORATES TREATMENT FOR THE SPECIAL PHYSICAL, PSYCHOLOGICAL, OR EMOTIONAL NEEDS OF A CHILD PLACED WITH SPECIALLY

TRAINED FOSTER PARENTS.

SECTION 4. 26-6-106 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

26-6-106. Standards for facilities and agencies. (2) Standards prescribed by such rules shall be restricted to:

(q) (I) STANDARDS FOR THE TRAINING OF FOSTER CARE PARENTS, WHICH SHALL INCLUDE, AT A MINIMUM:

(A) TWENTY-SEVEN HOURS OF INITIAL TRAINING, CONSISTING OF AT LEAST TWELVE HOURS OF TRAINING PRIOR TO THE PLACEMENT OF A CHILD AND COMPLETION OF THE REMAINING TRAINING WITHIN THREE MONTHS AFTER SUCH PLACEMENT;

(B) TWENTY HOURS PER YEAR OF CONTINUING TRAINING FOR FOSTER CARE PARENTS;

(C) IN ADDITION TO THE HOURS DESCRIBED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I), TWELVE HOURS PER YEAR FOR FOSTER CARE PARENTS PROVIDING THERAPEUTIC SERVICES.

(II) THE TRAINING DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (q) MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, IN-HOME TRAINING.

(III) THE DEPARTMENT SHALL CONSULT WITH COUNTY DEPARTMENTS AND CHILD PLACEMENT AGENCIES IN PRESCRIBING SUCH STANDARDS IN ORDER TO INSURE A MORE UNIFORM APPLICATION THROUGHOUT THE STATE.

(IV) THE HOURS OF TRAINING PRIOR TO THE PLACEMENT OF A CHILD THAT IS DESCRIBED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (q) MAY BE COMPLETED WITHIN FOUR MONTHS AFTER SUCH PLACEMENT IF SUCH PLACEMENT WAS AN EMERGENCY PLACEMENT, AS SUCH TERM SHALL BE DEFINED BY RULE OF THE STATE BOARD.

(r) INITIAL AND ONGOING TRAINING OF PROVIDERS OF FOSTER CARE SERVICES IN FACILITIES LICENSED AND CERTIFIED PURSUANT TO THIS PART 1, INCLUDING ORIENTATION AND PRELICENSING TRAINING FOR CHILD

PLACEMENT AGENCY STAFF.

SECTION 5. 26-6-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-6-108. Denial of original license - suspension - revocation - probation - refusal to renew license - fines. (5) ONLY UPON THE REQUEST OF A COUNTY DEPARTMENT, A CHILD PLACEMENT AGENCY LICENSED PURSUANT TO THIS PART 1 THAT PLACES OR ARRANGES FOR PLACEMENT OF A CHILD IN FOSTER CARE MAY CERTIFY THE HOME OF A RELATIVE OF THE CHILD PLACED THEREIN AS A FOSTER CARE HOME.

SECTION 6. 13-32-101 (1) (a), Colorado Revised Statutes, is amended to read:

13-32-101. Docket fees in civil actions - support registry fund created - repeal. (1) At the time of first appearance in all civil actions and special proceedings in all courts of record, except in the supreme court and the court of appeals, and except in the probate proceedings in the district court or probate court of the city and county of Denver, and except as provided in subsection (2) of this section and in sections 13-32-103 and 13-32-104, there shall be paid in advance the total docket fees, as follows:

(a) By the petitioner in a proceeding for dissolution of marriage, legal separation, or declaration of invalidity of marriage and by the petitioner in an action for a declaratory judgment concerning the status of marriage, a fee of ninety dollars; fifteen dollars of such fee shall be transmitted to the state treasurer for deposit in the Colorado children's trust fund, created in section 19-3.5-106, C.R.S., AND, ON AND AFTER JULY 1, 2002, THE REMAINDER SHALL BE TRANSMITTED TO THE STATE TREASURER FOR DEPOSIT IN THE FAMILY STABILIZATION SERVICES FUND, CREATED IN SECTION 19-1-125, C.R.S.;

SECTION 7. 26-1-111 (2) (d), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

26-1-111. Activities of the state department under the supervision of the executive director. (2) The state department, under the supervision of the executive director, shall:

(d) (III) (A) PERMIT ANY COUNTY, AT ITS OWN EXPENSE, TO REVIEW ITS CHILD WELFARE CASELOAD AND SEEK RETROACTIVE REIMBURSEMENT FOR CLAIMS PURSUANT TO FEDERAL LAW. ALL SUCH CLAIMS SHALL BE SUBMITTED TO THE STATE DEPARTMENT BY JUNE 30, 2002. SUCH CLAIMS SHALL BE LIMITED TO FOSTER CARE MAINTENANCE PAYMENTS, AS THAT TERM IS DEFINED IN 42 U.S.C. SEC. 675 (4), AS AMENDED. ANY SUCH CLAIMS MADE UNDER THIS SECTION SHALL BE SUBJECT TO THE RULES AUTHORIZED UNDER THIS PARAGRAPH (d).

(B) ANY FEDERAL MONEYS RECEIVED BY THE STATE AS A RESULT OF A CLAIM DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III) SHALL BE ALLOCATED EQUALLY BETWEEN THE COUNTY MAKING THE RETROACTIVE CLAIM AND THE STATE DEPARTMENT. THE AMOUNT ALLOCATED TO THE STATE DEPARTMENT SHALL BE DISTRIBUTED IN THE SAME MANNER AS THAT DESCRIBED IN SUB-SUBPARAGRAPH (C) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (d).

SECTION 8. 26-2-102.5, Colorado Revised Statutes, is amended to read:

26-2-102.5. Foster care - Title IV-E of the Social Security Act.

(1) Eligibility of a child for Title IV-E foster care shall be based on the AFDC rules in effect on ~~June 1, 1995~~ JULY 16, 1996.

(2) Such child shall meet all of the following conditions:

(a) The placement and care of such child are the responsibility of the state department of human services or a county department of social services;

(b) Such child has been placed in a foster home or child care institution as a result of a judicial determination or voluntary placement agreement;

~~(c) Court proceedings leading to the judicial determination were initiated in a month in which such child would have been eligible to receive AFDC under the rules in effect on June 1, 1995, or would have been eligible except that such child was not living with a caretaker relative. If such child lived with a caretaker relative within six months prior to the month in which court proceedings were initiated, such child shall be eligible.~~ SUCH CHILD:

(I) WOULD HAVE RECEIVED AID IN OR FOR THE MONTH IN WHICH SUCH AGREEMENT OR COURT PROCEEDINGS RESULTING IN SUCH JUDICIAL DETERMINATION WERE INITIATED;

(II) WOULD HAVE RECEIVED THE AID DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) IF APPLICATION HAD BEEN MADE THEREFOR; OR

(III) HAD BEEN LIVING WITH A RELATIVE WITHIN THE SIX MONTHS PRIOR TO THE MONTH IN WHICH SUCH AGREEMENT OR COURT PROCEEDINGS RESULTING IN SUCH JUDICIAL DETERMINATION WERE INITIATED, AND SUCH CHILD WOULD HAVE RECEIVED THE AID DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) IF IN SUCH MONTH HE OR SHE HAD BEEN LIVING WITH SUCH RELATIVE AND APPLICATION THEREFOR HAD BEEN MADE.

SECTION 9. 26-5-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-5-104. Funding of child welfare services. (6.5) THE STATE DEPARTMENT SHALL ANALYZE AND EVALUATE EXPENDITURES AS REPORTED BY CHILD PLACEMENT AGENCIES EACH YEAR AND COMPARE SUCH EXPENDITURES TO COUNTY EXPENDITURES FOR THE PROVISION OF FOSTER CARE SERVICES. THE STATE DEPARTMENT SHALL PROVIDE, AT LEAST ON AN ANNUAL BASIS, SUCH ANALYSES AND COMPARISONS TO COUNTY DEPARTMENTS.

SECTION 10. 26-6-102 (1), (2), (3), and (8), Colorado Revised Statutes, are amended to read:

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

(1) "Affiliate of a licensee" means:

(a) Any person or entity that owns more than five percent of the ownership interest in the business operated by the licensee or the applicant for a license; or

(b) Any person who is directly responsible for the care and welfare of children served; OR

(c) ANY EXECUTIVE, OFFICER, MEMBER OF THE GOVERNING BOARD, OR EMPLOYEE OF A LICENSEE; OR

(d) A RELATIVE OF A LICENSEE, WHICH RELATIVE PROVIDES CARE TO CHILDREN AT THE LICENSEE'S FACILITY OR IS OTHERWISE INVOLVED IN THE MANAGEMENT OR OPERATIONS OF THE LICENSEE'S FACILITY.

(2) "Child placement agency" means any corporation, partnership, association, firm, agency, institution, or person, ~~whatsoever~~ UNRELATED TO THE CHILD BEING PLACED, who places or who arranges for placement for care of any child under the age of eighteen years with any family, person, or institution. ~~other than persons related to said child.~~ A child placement agency may place or arrange for the placement of a child for the purpose of adoption, TREATMENT, or foster care. The natural parents or guardian of any child who places said child for care with any facility licensed as a "family child care home" or "child care center" as defined by this section shall not be deemed a child placement agency.

(3) "Department" OR "STATE DEPARTMENT" means the STATE department of human services.

(8) "Residential child care facility" means a facility licensed by the STATE department pursuant to this part 1 to provide twenty-four-hour group care and treatment for five or more children operated under private, public, or nonprofit sponsorship. A residential child care facility may be eligible for designation by the executive director of the STATE department ~~of human services~~ pursuant to article 10 of title 27, C.R.S.

SECTION 11. 26-6-104 (1) and (7), Colorado Revised Statutes, are amended, and the said 26-6-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

26-6-104. Licenses - out-of-state notices and consent. (1) (a) No person shall operate any agency or facility defined in this part 1 without first being licensed to operate or maintain such agency or facility by the STATE department and paying the fee prescribed therefor. EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (1) AND PARAGRAPH (c) OF THIS SUBSECTION (1), ANY such license issued by the STATE department shall be permanent unless otherwise revoked or suspended pursuant to section 26-6-108. ~~except that the state board of human services shall promulgate rules requiring the recertification~~

~~of foster care homes every three years and setting forth the procedural requirements associated with such recertification.~~

(b) (I) A person operating a foster care home shall not obtain a license if such person holds a certificate to operate such home from any county department or a child placement agency licensed under the provisions of this part 1. ALL SUCH CERTIFICATES SHALL BE CONSIDERED LICENSES FOR THE PURPOSE OF THIS PART 1, INCLUDING BUT NOT LIMITED TO THE INVESTIGATION AND CRIMINAL HISTORY BACKGROUND CHECKS REQUIRED UNDER SECTION 26-6-107. ~~Said~~ EACH certificate shall be in such form as prescribed and provided by the STATE department, shall certify that such person ~~is a suitable person~~ AND ANY OTHER ADULTS RESIDING IN THE HOME WHO ARE ACTING AS CARE GIVERS ARE SUITABLE PERSONS to operate a FOSTER CARE home OR PROVIDE CARE FOR A CHILD, and shall contain such information as the STATE department requires. A CHILD placement agency issuing or renewing any such certificate shall transmit a copy or report thereof to the STATE department.

(II) ON AND AFTER JULY 1, 2002, AND CONTINGENT UPON THE TIME LINES FOR IMPLEMENTATION OF THE COMPUTER "TRAILS" ENHANCEMENTS, THE STATE BOARD SHALL PROMULGATE RULES REQUIRING THE ANNUAL RECERTIFICATION OF FOSTER CARE HOMES AND SETTING FORTH THE PROCEDURAL REQUIREMENTS ASSOCIATED WITH RECERTIFICATION. SUCH RULES SHALL INCLUDE REQUIREMENTS THAT THE CERTIFYING ENTITY SHALL PERFORM ON-SITE VISITS TO EACH FOSTER CARE HOME APPLYING FOR CERTIFICATION OR RECERTIFICATION AND SHALL REQUIRE INSPECTIONS OF THE ENTIRE PREMISES OF THE FOSTER CARE HOME, INCLUDING SLEEPING AREAS, AS WELL AS OTHER ASSESSMENTS OF THE FOSTER CARE HOME. No foster care home shall be certified by more than one CHILD placement agency or county department.

(III) A foster care home, when certified by a CHILD placement agency or county department, may receive for care a child from sources other than the certifying CHILD PLACEMENT agency or county department upon the written consent and approval of the CHILD PLACEMENT agency or county department as to each such child. ~~All such certificates shall be considered licenses for the purpose of this part 1, including but not limited to the investigation and criminal background checks required under section 26-6-107.~~

(c) (I) ON AND AFTER JULY 1, 2002, AND CONTINGENT UPON THE

TIME LINES FOR IMPLEMENTATION OF THE COMPUTER "TRAILS" ENHANCEMENTS, CHILD PLACEMENT AGENCIES THAT CERTIFY FOSTER CARE HOMES SHALL BE LICENSED ANNUALLY UNTIL THE IMPLEMENTATION OF ANY RISK-BASED SCHEDULE FOR THE RENEWAL OF CHILD PLACEMENT AGENCY LICENSES PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (c). THE STATE BOARD SHALL PROMULGATE RULES SPECIFYING THE PROCEDURAL REQUIREMENTS ASSOCIATED WITH THE RENEWAL OF SUCH CHILD PLACEMENT AGENCY LICENSES. SUCH RULES SHALL INCLUDE REQUIREMENTS THAT THE STATE DEPARTMENT CONDUCT ASSESSMENTS OF THE CHILD PLACEMENT AGENCY.

(II) (A) ON AND AFTER JANUARY 1, 2004, AND UPON THE FUNCTIONALITY OF THE COMPUTER "TRAILS" ENHANCEMENTS, THE STATE DEPARTMENT MAY IMPLEMENT A SCHEDULE FOR RELICENSING OF CHILD PLACEMENT AGENCIES THAT CERTIFY FOSTER CARE HOMES THAT IS BASED ON RISK FACTORS SUCH THAT CHILD PLACEMENT AGENCIES WITH LOW RISK FACTORS SHALL RENEW THEIR LICENSES LESS FREQUENTLY THAN CHILD PLACEMENT AGENCIES WITH HIGHER RISK FACTORS.

(B) PRIOR TO JANUARY 1, 2004, AND CONTINGENT UPON THE TIME LINES FOR IMPLEMENTATION OF THE COMPUTER "TRAILS" ENHANCEMENTS, THE STATE DEPARTMENT SHALL CREATE CLASSIFICATIONS OF CHILD PLACEMENT AGENCY LICENSES THAT CERTIFY FOSTER CARE HOMES THAT ARE BASED ON RISK FACTORS AS THOSE FACTORS ARE ESTABLISHED BY RULE OF THE STATE BOARD.

(7) (a) (I) No license or certificate to operate a family child care home, a foster care home, a child care center, a residential child care facility, a secure residential child care facility, or a child placement agency shall be issued by the STATE department, a county department or a child placement agency licensed under the provisions of this part 1 if the person applying for such a license or certificate has been convicted of:

(A) Felony child abuse, as specified in section 18-6-401, C.R.S.;

(B) A crime of violence, as defined in section 16-11-309, C.R.S.;

(C) Any felony offenses involving unlawful sexual behavior, as defined in section 18-3-412.5, C.R.S.;

(D) Any felony, the underlying factual basis of which has been

found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(D.5) ANY FELONY INVOLVING PHYSICAL ASSAULT, BATTERY, OR A DRUG-RELATED OFFENSE WITHIN THE FIVE YEARS PRECEDING THE DATE OF APPLICATION FOR A LICENSE OR CERTIFICATE; OR

(E) Any felony offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in sub-subparagraphs (A) to ~~(D)~~ (D.5) of this subparagraph (I).

(II) For purposes of this paragraph (a), "convicted" means a conviction by a jury or by a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere.

(b) The convictions identified in paragraph (a) of this subsection (7) shall be determined according to the records of the Colorado bureau of investigation or any other source. A certified copy of the judgment of a court of competent jurisdiction of such conviction, deferred judgment and sentence agreement, deferred prosecution agreement, or deferred adjudication agreement shall be prima facie evidence of such conviction or agreement. No license or certificate to operate a family child care home, a foster care home, a child care center, a residential child care facility, a secure residential child care facility, or a child placement agency shall be issued if the STATE department has a certified court order from another state indicating that the person applying for such a license or certificate has been convicted of felony child abuse or any unlawful sexual offense against a child under a law of any other state or the United States or the STATE department has a certified court order from another state that the person applying for the license or certificate has entered into a deferred judgment or deferred prosecution agreement in another state as to felony child abuse or any sexual offense against a child.

(8) NO LICENSE OR CERTIFICATE TO OPERATE ANY AGENCY OR FACILITY DEFINED IN THIS PART 1 SHALL BE ISSUED BY THE STATE DEPARTMENT, A COUNTY DEPARTMENT, OR A CHILD PLACEMENT AGENCY LICENSED UNDER THE PROVISIONS OF THIS PART 1 IF THE PERSON APPLYING FOR SUCH LICENSE OR CERTIFICATE OR AN AFFILIATE OF THE APPLICANT, A PERSON EMPLOYED BY THE APPLICANT, OR A PERSON WHO RESIDES WITH THE

APPLICANT AT THE FACILITY:

(a) HAS BEEN DETERMINED TO BE INSANE OR MENTALLY INCOMPETENT BY A COURT OF COMPETENT JURISDICTION AND, SHOULD A COURT ENTER, PURSUANT TO PART 3 OR PART 4 OF ARTICLE 14 OF TITLE 15, C.R.S., OR SECTION 27-10-109 (4) OR 27-10-125, C.R.S., AN ORDER SPECIFICALLY FINDING THAT THE MENTAL INCOMPETENCY OR INSANITY IS OF SUCH A DEGREE THAT THE APPLICANT IS INCAPABLE OF OPERATING A FAMILY CHILD CARE HOME, FOSTER CARE HOME, CHILD CARE CENTER, OR CHILD PLACEMENT AGENCY, THE RECORD OF SUCH DETERMINATION AND ENTRY OF SUCH ORDER BEING CONCLUSIVE EVIDENCE THEREOF; OR

(b) HAS A PATTERN OF MISDEMEANOR CONVICTIONS WITHIN THE TEN YEARS IMMEDIATELY PRECEDING SUBMISSION OF THE APPLICATION. SUCH PATTERN OF MISDEMEANOR CONVICTIONS SHALL BE DEFINED BY RULE OF THE STATE BOARD.

SECTION 12. The introductory portion to 26-6-105 (1) (a) and 26-6-105 (2) (a) and (2) (b) (II), Colorado Revised Statutes, are amended to read:

26-6-105. Fees - when original applications, reapplications, and renewals for licensure are required - creation of child care licensing cash fund. (1) (a) The STATE department is hereby authorized to establish, pursuant to rules ~~and regulations~~ promulgated by the state board, ~~of human services~~, full and provisional license fees and fees for continuation OR RENEWAL, WHICHEVER IS APPLICABLE, of a full license for the following types of child care arrangements:

(2) (a) The fees specified in subsection (1) of this section shall be paid when application is made for any license OR WHEN RENEWAL OF A CHILD PLACEMENT AGENCY LICENSE IS SOUGHT and shall not be subject to refund. Applications for licenses shall be required in the situations ~~which~~ THAT are set forth in paragraph (b) of this subsection (2) and shall be made on forms prescribed by the STATE department. Each completed application shall set forth such information as required by the STATE department. All full licenses shall continue in force until revoked, ~~or~~ surrendered, OR EXPIRED.

(b) (II) A reapplication and fee shall be required and received by the

STATE department in the manner specified in rules ~~and regulations~~ promulgated by the state board. ~~of human services~~. AN INDIVIDUAL, PARTNERSHIP, CORPORATION, OR ASSOCIATION SEEKING TO RENEW A CHILD PLACEMENT AGENCY LICENSE SHALL SUBMIT A REAPPLICATION AND FEE TO THE STATE DEPARTMENT AS SPECIFIED IN RULES PROMULGATED BY THE STATE BOARD.

SECTION 13. 26-6-105.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-6-105.5. Application forms - criminal sanctions for perjury.

(3) EVERY APPLICATION FOR CERTIFICATION OR LICENSURE AS A FOSTER CARE HOME SHALL PROVIDE NOTICE TO THE APPLICANT THAT THE APPLICANT MAY BE SUBJECT TO IMMEDIATE REVOCATION OF CERTIFICATION OR LICENSURE OR OTHER NEGATIVE LICENSING ACTION AS SET FORTH IN THIS SECTION, SECTION 26-6-107.7, AND AS DESCRIBED BY RULE OF THE STATE BOARD.

SECTION 14. 26-6-107 (1) (a) (I), (1) (a.5), (1) (b), and (2), Colorado Revised Statutes, are amended to read:

26-6-107. Investigations and inspections - local authority - reports - rules. (1) (a) (I) (A) The STATE department shall investigate and pass on each original application for a license, ~~and~~ each application for a permanent license following the issuance of a probationary or provisional license, AND ON AND AFTER JULY 1, 2002, EACH APPLICATION FOR RENEWAL, to operate a facility or an agency prior to granting such license OR RENEWAL. As part of such investigation, the STATE department shall require each applicant, owner, employee, newly hired employee, licensee, and any adult who resides in the licensed facility to obtain a FINGERPRINT-BASED criminal ~~record~~ HISTORY BACKGROUND check by reviewing any record that shall be used to assist the STATE department in ascertaining whether the person being investigated has been convicted of any of the criminal offenses specified in section 26-6-104 (7) or any other felony. The state board ~~of human services~~ shall promulgate rules that define and identify what the criminal HISTORY background check shall entail.

(B) ~~Such~~ Rules PROMULGATED BY THE STATE BOARD PURSUANT TO THIS SUBPARAGRAPH (I) shall allow an exemption from the criminal background investigation and the state central registry of child protection

investigation for those out-of-state employees working in Colorado at a children's resident camp in a temporary capacity for fewer than ninety days. Each person so exempted from fingerprinting and the state central registry of child protection investigation shall sign a statement that affirmatively states that he or she has not been convicted of any charge of child abuse, unlawful sexual offense, or any felony. Prospective employers of such exempted persons shall conduct reference checks of the prospective employees in order to verify previous work history and shall conduct personal interviews with each such prospective employee.

(C) ~~The Rules~~ PROMULGATED BY THE STATE BOARD PURSUANT TO THIS SUBPARAGRAPH (I) shall require the FINGERPRINT-BASED criminal HISTORY background check in all ~~other~~ circumstances, OTHER THAN THOSE IDENTIFIED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I), to include a ~~fingerprint~~ FINGERPRINT-BASED CRIMINAL HISTORY BACKGROUND check through the Colorado bureau of investigation, EXCEPT FOR PERSONS RESIDING IN THIS STATE LESS THAN TWO YEARS WHO SHALL BE REQUIRED TO HAVE A FEDERAL BUREAU OF INVESTIGATION FINGERPRINT-BASED CRIMINAL HISTORY BACKGROUND CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION. As part of said investigation, the state central registry of child protection shall be accessed to determine whether the owner, applicant, employee, newly hired employee, licensee, or individual who resides in the licensed facility being investigated is the subject of a report of known or suspected child abuse. Pursuant to section 19-1-307 (2) (j), C.R.S., information shall be made available if a person's name is on the central registry of child protection, or has been designated as "status pending" pursuant to section 19-3-313, C.R.S. Any change in ownership of a licensed facility or the addition of a new resident adult or newly hired employee to the licensed facility shall require a new investigation as provided for in this section.

(D) The state board of ~~human services~~ shall promulgate rules to implement this subparagraph (I).

(a.5) An applicant for certification as a foster care home shall provide the child placement agency or the COUNTY department of ~~social services~~ from whom the certification is sought with a list of all the prior child placement agencies and county departments of ~~social services~~ that had ~~previously certified~~ TO WHICH the applicant HAD PREVIOUSLY APPLIED, AND A RELEASE OF INFORMATION FROM SUCH CHILD PLACEMENT AGENCIES AND COUNTY DEPARTMENTS TO WHICH THE APPLICANT HAD PREVIOUSLY APPLIED,

TO OBTAIN INFORMATION ABOUT THE APPLICATION AND ANY CERTIFICATION GIVEN BY SUCH CHILD PLACEMENT AGENCIES AND COUNTY DEPARTMENTS. A child placement agency or county department ~~of social services~~ from whom the certification is sought shall conduct a reference check of the applicant AND ANY ADULT RESIDENT OF THE FOSTER CARE HOME WHO IS ACTING AS A CARE GIVER by contacting all of the child placement agencies and county departments ~~of social services~~ identified by the applicant before issuing the certification for that foster care home. CHILD PLACEMENT AGENCIES AND COUNTY DEPARTMENTS SHALL BE HELD HARMLESS FOR INFORMATION RELEASED, IN GOOD FAITH, TO OTHER CHILD PLACEMENT AGENCIES OR COUNTY DEPARTMENTS.

(b) (I) When the STATE department, county department, or child placement agency is satisfied that the applicant or licensee is competent and will operate adequate facilities to care for children under the requirements of this part 1 and that standards are being met and will be complied with, it shall issue the license for which applied. The STATE department shall inspect or cause to be inspected the facilities to be operated by an applicant for an original license before the license is granted and shall thereafter inspect or cause to be inspected the facilities of all licensees that, during the period of licensure, have been found to be the subject of complaints or to be out of compliance with the standards set forth in section 26-6-106 and the rules of the STATE department or that otherwise appear to be placing children at risk. The STATE department may make such other inspections as it deems necessary to ensure that the requirements of this article are being met and that the health, safety, and welfare of the children being placed are protected. ~~The state board shall adopt rules concerning the on-site public availability of the most recent inspection report results of child care center facilities and family child care home facilities, when requested. The state board shall also adopt rules concerning a requirement that child care center facilities and family child care home facilities post their licenses and information regarding the procedures for filing a complaint under this part 1 directly with the department, which rules shall require that each such facility display its license and complaint procedures in a prominent and conspicuous location at all times during operational hours of the facility.~~ IF, AS A RESULT OF AN INSPECTION OF A CERTIFIED FOSTER CARE HOME, THE STATE DEPARTMENT DETERMINES THAT ANY CHILD RESIDING IN SUCH FOSTER CARE HOME IS SUBJECT TO AN IMMEDIATE AND DIRECT THREAT TO HIS OR HER SAFETY AND WELFARE AS DEFINED BY RULES PROMULGATED BY THE STATE BOARD OR THAT A SUBSTANTIAL VIOLATION OF A FUNDAMENTAL STANDARD OF CARE WARRANTS IMMEDIATE ACTION, THE

STATE DEPARTMENT MAY REQUIRE A COUNTY DEPARTMENT TO IMMEDIATELY REMOVE SUCH CHILD FROM THE FOSTER CARE HOME.

(II) THE STATE BOARD SHALL ADOPT RULES CONCERNING THE ON-SITE PUBLIC AVAILABILITY OF THE MOST RECENT INSPECTION REPORT RESULTS OF CHILD CARE CENTER FACILITIES AND FAMILY CHILD CARE HOME FACILITIES, WHEN REQUESTED. THE STATE BOARD SHALL ALSO ADOPT RULES CONCERNING A REQUIREMENT THAT ALL FACILITIES LICENSED UNDER THIS PART 1, EXCEPT FOR FOSTER CARE HOMES, POST THEIR LICENSES AND INFORMATION REGARDING THE PROCEDURES FOR FILING A COMPLAINT UNDER THIS PART 1 DIRECTLY WITH THE STATE DEPARTMENT, WHICH RULES SHALL REQUIRE THAT EACH SUCH FACILITY DISPLAY ITS LICENSE AND COMPLAINT PROCEDURES IN A PROMINENT AND CONSPICUOUS LOCATION AT ALL TIMES DURING OPERATIONAL HOURS OF THE FACILITY.

(H) (III) If, as a result of an inspection of a licensed child care center facility or family child care home facility, the STATE department determines that there were no serious violations of any of the standards prescribed and published by the STATE department or any of the provisions of this part 1, within twenty days after completing the inspection the STATE department shall send a written notice to such facility indicating such fact. Within ten days after receipt of such written notice, the licensee shall provide a copy of the written notice to the parents and legal guardians of the children cared for at the child care center facility or family child care home facility.

(2) The STATE department may authorize or contract with any county department, ~~of social services~~, the county department of health, or any other publicly or privately operated organization that has a declared interest in children and experience working with children or on behalf of children to investigate and inspect the facilities applying for an original OR RENEWAL license or applying for a permanent license following the issuance of a ~~probation~~ PROBATIONARY or provisional license under this part 1 and may accept reports on such investigations and inspections from such agencies or organizations as a basis for such licensing. When contracting for investigations and inspections, the STATE department shall assure that the contractor is qualified by training and experience and has no conflict of interest with RESPECT TO the facilities to be inspected. A city, county, or city and county may impose and enforce higher standards and requirements for facilities licensed under this part 1 than the standards and requirements specified under this part 1.

SECTION 15. Part 1 of article 6 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-6-107.7. Revocation of certification of foster care home - emergency procedures - due process. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A COUNTY DEPARTMENT MAY ACT IMMEDIATELY TO REVOKE THE CERTIFICATION OF A COUNTY-CERTIFIED FOSTER CARE HOME WHEN THE COUNTY DEPARTMENT HAS REASON TO BELIEVE THAT A CHILD RESIDING IN SUCH FOSTER CARE HOME IS SUBJECT TO AN IMMEDIATE AND DIRECT THREAT TO HIS OR HER SAFETY AND WELFARE OR WHEN A SUBSTANTIAL VIOLATION OF A FUNDAMENTAL STANDARD OF CARE WARRANTS IMMEDIATE ACTION. IF THE COUNTY DEPARTMENT ACTS PURSUANT TO THIS SECTION, A DUE PROCESS HEARING SHALL BE HELD WITHIN FIVE DAYS AFTER SUCH ACTION AND CONDUCTED AS SUCH HEARING WOULD NORMALLY BE CONDUCTED PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.

SECTION 16. 26-6-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-6-108. Denial of original license - suspension - revocation - probation - refusal to renew license - fines. (2.4) THE STATE DEPARTMENT MAY DENY AN APPLICATION FOR A CHILD PLACEMENT AGENCY LICENSE PURSUANT TO THIS PART 1 IF SUCH APPLICANT IS A RELATIVE AFFILIATE OF A LICENSEE, AS DESCRIBED IN SECTION 26-6-102 (1) (d), OF A CHILD PLACEMENT AGENCY LICENSED PURSUANT TO THIS PART 1, WHICH LICENSEE IS THE SUBJECT OF A PREVIOUS NEGATIVE LICENSING ACTION OR IS THE SUBJECT OF A PENDING INVESTIGATION BY THE STATE DEPARTMENT THAT MAY RESULT IN A NEGATIVE LICENSING ACTION.

SECTION 17. The introductory portion to 26-6-108 (2.5) (a), Colorado Revised Statutes, is amended, and the said 26-6-108 (2.5) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

26-6-108. Denial of original license - suspension - revocation - probation - refusal to renew license - fines. (2.5) (a) The STATE department shall deny a license under the circumstances described in section 26-6-104 (7). The STATE department shall revoke a license previously issued if:

(II.5) THE LICENSEE, AN AFFILIATE OF THE LICENSEE, A PERSON EMPLOYED BY THE LICENSEE, OR A PERSON WHO RESIDES WITH THE LICENSEE AT THE FACILITY HAS BEEN DETERMINED TO BE INSANE OR MENTALLY INCOMPETENT BY A COURT OF COMPETENT JURISDICTION AND, SHOULD A COURT ENTER, PURSUANT TO PART 3 OR PART 4 OF ARTICLE 14 OF TITLE 15, C.R.S., OR SECTION 27-10-109 (4) OR 27-10-125, C.R.S., AN ORDER SPECIFICALLY FINDING THAT THE MENTAL INCOMPETENCY OR INSANITY IS OF SUCH A DEGREE THAT THE LICENSEE IS INCAPABLE OF OPERATING A FAMILY CHILD CARE HOME, FOSTER CARE HOME, OR CHILD CARE CENTER, THE RECORD OF SUCH DETERMINATION AND ENTRY OF SUCH ORDER BEING CONCLUSIVE EVIDENCE THEREOF.

SECTION 18. Part 1 of article 6 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-6-117. Child placement agencies - information sharing - investigations by state department. (1) IF A COUNTY DEPARTMENT HAS SUBSTANTIATED EVIDENCE THAT A CHILD PLACEMENT AGENCY WITH WHICH THE COUNTY HAS CONTRACTED TO PROVIDE FOSTER CARE SERVICES HAS VIOLATED THE PROVISIONS OF THIS PART 1 OR ANY RULE OF THE STATE BOARD, IT SHALL COMMUNICATE SUCH INFORMATION TO THE STATE DEPARTMENT. A COUNTY DEPARTMENT SHALL ALSO IDENTIFY WHETHER IT IS REQUESTING THE STATE DEPARTMENT TO INVESTIGATE A COMPLAINT AGAINST A CHILD PLACEMENT AGENCY FOR POSSIBLE NEGATIVE LICENSING ACTION AGAINST THE CHILD PLACEMENT AGENCY.

(2) UPON RECEIPT OF A REQUEST FOR INVESTIGATION OF A CHILD PLACEMENT AGENCY FROM A COUNTY DEPARTMENT, THE STATE DEPARTMENT SHALL COMMENCE AN INVESTIGATION AND, UPON CONCLUSION, REPORT ITS FINDINGS TO THE REQUESTING COUNTY DEPARTMENT.

(3) THE STATE DEPARTMENT SHALL PROVIDE TO COUNTY DEPARTMENTS AND AFFECTED CHILD PLACEMENT AGENCIES DIRECT ACCESS TO INFORMATION CONCERNING THE RESULTS OF ANY INVESTIGATION OR NEGATIVE LICENSING ACTION TAKEN AGAINST THE AFFECTED CHILD PLACEMENT AGENCY LICENSED TO PROVIDE FOSTER CARE SERVICES IN COLORADO.

SECTION 19. No appropriation. The general assembly has determined that sections 3 and 4 this act can be implemented within existing

appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 20. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Stan Matsunaka
PRESIDENT OF
THE SENATE

Doug Dean
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO