

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

**PREAMENDED**

LLS NO. 01-0052.02 Jeff Conway

**HOUSE BILL 01-1029**

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**HOUSE SPONSORSHIP**

**Alexander**, Johnson, and Tochtrop

**SENATE SPONSORSHIP**

**Epps**, Evans, and Linkhart

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**House Committees**

Health, Environment, Welfare, & Institutions  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE PROVISION OF FOSTER CARE SERVICES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

**Interim Committee on Foster Care.** Clarifies the definition of "affiliate" by including executives, officers, board members, and employees of a licensee.

States that requirements for foster care home certificates are to be at least as stringent for those homes certified by a child placement agency ("CPA") as are the requirements for homes certified by county departments of social services ("county departments"). Adds resident adults to those individuals who are required to meet criminal background check requirements of those operating foster care homes or other child

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.*

care facilities.

Requires the state board of human services ("state board") to promulgate rules for the annual recertification of foster care homes. Allows a foster care home to seek recertification from its own CPA, another CPA, or a county department without penalty or restriction.

Changes licenses issued to CPAs that certify foster care homes from permanent licenses against which negative licensing action may be taken to annual licenses that must be renewed each year. Specifies that licenses previously issued as permanent licenses shall expire on July 1, 2002.

Adds felonies committed within the last 10 years to the list of offenses, the conviction for which shall result in the denial of a license or certificate to operate a child care agency or facility.

Directs that no license or certificate to operate a child care agency or facility shall be issued to any person:

- Who has been determined to be insane or mentally incompetent; or
- Who has a pattern of committing misdemeanors in the previous 10 years, as defined by rule of the state board.

Requires the state department of human services ("state department") to deny or revoke a license sought by or previously issued to a CPA that places children in foster care if any officer, executive, or employee of the CPA is related to or serves as any member of the board of directors of the CPA.

Clarifies provisions relating to fees for relicensing.

Authorizes the state board to promulgate rules setting forth training requirements for providers of foster care services, including orientation and prelicensing training for child placement agencies.

Permits the state department to act immediately to remove a child from a foster care home, and to deny reimbursement of public funds for placement of other children in such home, if the state department finds that:

- The child is subject to an immediate and direct threat to his or her safety and welfare; or
- A substantial violation of a fundamental standard of care warrants immediate action.

Requires the state department to monitor and track complaints involving CPAs and to investigate meritorious complaints. Directs county departments to report complaints involving CPAs to the state department. Requires county departments to consult with the state department prior to referring a child to a CPA to determine whether the CPA is the subject of a pending investigation. Requires the county department to suspend the referral while an investigation is pending. Mandates that a CPA must first obtain approval for the placement of a child from the county department when a background check indicates that an adult residing in a proposed

foster care home has been charged or convicted of any felony or misdemeanor.

Permits any county department to act immediately to revoke the certification of a foster care home under certain circumstances. Requires a due process hearing within 5 days after the revocation of certification and requires the application to include notice information.

Changes the standard applied by the state department in:

- Denying, suspending, revoking, or making probationary the license of a CPA; or
- Assessing fines against a CPA or its employee for violating licensing laws.

Specifies that the state department may deny, suspend, revoke, or make probationary the license of any applicant or affiliate that is the subject of a pending investigation by the state department that may result in a negative licensing action.

Specifies the circumstances under which a foster care home license or certificate may be denied, suspended, revoked, or made probationary. Makes insanity and mental illness reasons for automatic denial or revocation of license or certificate.

Authorizes the state department to make probationary a license of a foster care facility by an informal and expedited hearing process. States that the licensee is not entitled to a right to cure any of the charges.

Requires the state department to immediately suspend or revoke a CPA license when violations of standards are deemed excessive by the state department, as determined by rule of the state board.

Requires the state department to create a risk-based classification system for CPAs that certify foster care homes. Permits the state department, on and after January 1, 2003, to implement a schedule of CPA relicensing based on risk factors.

Directs a county department with substantiated evidence that a CPA has violated licensing laws or rules to communicate such information to all other county departments and to the state department electronically. Requires the county department to identify whether it is requesting an investigation by the state department and directs the state department to conduct such an investigation of a CPA upon request and to report its findings. Requires the state department to make available to county departments the results of any such investigation of a CPA or of any negative licensing action.

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

2 **SECTION 1.** 26-2-102.5, Colorado Revised Statutes, is amended

3 to read:

1           **26-2-102.5. Foster care - Title IV-E of the Social Security Act.**

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

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

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

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

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

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

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

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

1 WITH SUCH RELATIVE AND APPLICATION THEREFOR HAD BEEN MADE.

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

4 **26-5-104. Funding of child welfare services.** (6.5) THE STATE  
5 DEPARTMENT SHALL ANALYZE AND EVALUATE EXPENDITURES AS REPORTED  
6 BY CHILD PLACEMENT AGENCIES EACH YEAR AND COMPARE SUCH  
7 EXPENDITURES TO COUNTY EXPENDITURES FOR THE PROVISION OF FOSTER  
8 CARE SERVICES. THE STATE DEPARTMENT SHALL PROVIDE, AT LEAST ON AN  
9 ANNUAL BASIS, SUCH ANALYSES AND COMPARISONS TO COUNTY  
10 DEPARTMENTS.

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

13 **26-6-102. Definitions.** As used in this article, unless the context  
14 otherwise requires:

15 (1) "Affiliate of a licensee" means:

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

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

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

23 (2) "Child placement agency" means any corporation, partnership,  
24 association, firm, agency, institution, or person, ~~whatsoever~~ UNRELATED  
25 TO THE CHILD BEING PLACED, who places or who arranges for placement  
26 for care of any child under the age of eighteen years with any family,  
27 person, or institution. ~~other than persons related to said child.~~ A child

1 placement agency may place or arrange for the placement of a child for  
2 the purpose of adoption, TREATMENT, or foster care. The natural parents  
3 or guardian of any child who places said child for care with any facility  
4 licensed as a "family child care home" or "child care center" as defined by  
5 this section shall not be deemed a child placement agency.

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

8 **SECTION 4.** 26-6-104 (1) and (7), Colorado Revised Statutes, are  
9 amended, and the said 26-6-104 is further amended BY THE ADDITION  
10 OF A NEW SUBSECTION, to read:

11 **26-6-104. Licenses - out-of-state notices and consent.**

12 (1) (a) No person shall operate any agency or facility defined in this part  
13 1 without first being licensed to operate or maintain such agency or  
14 facility by the STATE department and paying the fee prescribed therefor.  
15 Such license issued by the STATE department shall be permanent unless  
16 otherwise revoked or suspended pursuant to section 26-6-108. ~~except that~~  
17 ~~the state board of human services shall promulgate rules requiring the~~  
18 ~~recertification of foster care homes every three years and setting forth the~~  
19 ~~procedural requirements associated with such recertification.~~

20 (b) (I) A person operating a foster care home shall not obtain a  
21 license if such person holds a certificate to operate such home from any  
22 county department or a child placement agency licensed under the  
23 provisions of this part 1. ALL SUCH CERTIFICATES SHALL BE CONSIDERED  
24 LICENSES FOR THE PURPOSE OF THIS PART 1, INCLUDING BUT NOT LIMITED  
25 TO THE INVESTIGATION AND CRIMINAL BACKGROUND CHECKS REQUIRED  
26 UNDER SECTION 26-6-107. ~~Said~~ EACH certificate shall be in such form as  
27 prescribed and provided by the STATE department, shall certify that such

1 person ~~is a suitable person~~ AND ANY OTHER ADULTS RESIDING IN THE HOME  
2 ARE SUITABLE PERSONS to operate a FOSTER CARE home OR PROVIDE CARE  
3 FOR A CHILD, and shall contain such information as the STATE department  
4 requires. A CHILD placement agency issuing or renewing any such  
5 certificate shall transmit a copy or report thereof to the STATE department.

6 (II) THE STATE BOARD SHALL PROMULGATE RULES REQUIRING THE  
7 ANNUAL RECERTIFICATION OF FOSTER CARE HOMES AND SETTING FORTH  
8 THE PROCEDURAL REQUIREMENTS ASSOCIATED WITH RECERTIFICATION.  
9 SUCH RULES SHALL INCLUDE REQUIREMENTS THAT THE CERTIFYING ENTITY  
10 SHALL PERFORM ON-SITE VISITS TO EACH FOSTER CARE HOME APPLYING  
11 FOR CERTIFICATION OR RECERTIFICATION AND SHALL REQUIRE INSPECTIONS  
12 OF THE ENTIRE PREMISES OF THE FOSTER CARE HOME, INCLUDING SLEEPING  
13 AREAS, AS WELL AS OTHER QUALITATIVE ASSESSMENTS OF THE FOSTER  
14 CARE HOME. No foster care home shall be certified by more than one  
15 CHILD placement agency or county department.

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

24 (IV) AT THE CONCLUSION OF THE CERTIFICATION PERIOD, A FOSTER  
25 CARE HOME THAT IS CERTIFIED BY A CHILD PLACEMENT AGENCY MAY SEEK  
26 RECERTIFICATION FROM THE SAME CHILD PLACEMENT AGENCY, ANOTHER  
27 CHILD PLACEMENT AGENCY, OR A COUNTY DEPARTMENT WITHOUT PENALTY

1 OR RESTRICTION.

2 (c) (I) CHILD PLACEMENT AGENCIES THAT CERTIFY FOSTER CARE  
3 HOMES SHALL BE LICENSED ANNUALLY. THE STATE BOARD SHALL  
4 PROMULGATE RULES SPECIFYING THE PROCEDURAL REQUIREMENTS  
5 ASSOCIATED WITH THE RENEWAL OF SUCH CHILD PLACEMENT AGENCY  
6 LICENSES. SUCH RULES SHALL INCLUDE REQUIREMENTS THAT THE STATE  
7 DEPARTMENT CONDUCT QUALITATIVE ASSESSMENTS OF THE CHILD  
8 PLACEMENT AGENCY.

9 (II) ANY PERMANENT LICENSES ISSUED TO A CHILD PLACEMENT  
10 AGENCY PRIOR TO JULY 1, 2001, SHALL EXPIRE AUTOMATICALLY ON JULY  
11 1, 2002. SUCH LICENSES MAY BE RENEWED PURSUANT TO THE RULES OF  
12 THE STATE BOARD.

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

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

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

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

23 (D) Any felony, the underlying factual basis of which has been  
24 found by the court on the record to include an act of domestic violence,  
25 as defined in section 18-6-800.3, C.R.S.;

26 (D.5) ANY FELONY WITHIN THE TEN YEARS IMMEDIATELY  
27 PRECEDING THE SUBMISSION OF THE APPLICATION FOR A LICENSE OR



1 CERTIFICATE OR RENEWAL; OR

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

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

11 (III) NO CERTIFICATE TO OPERATE A FOSTER CARE HOME SHALL BE  
12 ISSUED BY A COUNTY DEPARTMENT OR A CHILD PLACEMENT AGENCY  
13 LICENSED UNDER THE PROVISIONS OF THIS PART 1 IF ANY ADULT RESIDENT  
14 OF THE HOME HAS BEEN CONVICTED OF ANY ONE OF THE OFFENSES  
15 DESCRIBED IN SUB-SUBPARAGRAPHS (A) TO (E) OF SUBPARAGRAPH (I) OF  
16 THIS PARAGRAPH (a).


17 (b) The convictions identified in paragraph (a) of this subsection  
18 (7) shall be determined according to the records of the Colorado bureau  
19 of investigation or any other source. A certified copy of the judgment of  
20 a court of competent jurisdiction of such conviction, deferred judgment  
21 and sentence agreement, deferred prosecution agreement, or deferred  
22 adjudication agreement shall be prima facie evidence of such conviction  
23 or agreement. No license or certificate to operate a family child care  
24 home, a foster care home, a child care center, a residential child care  
25 facility, a secure residential child care facility, or a child placement  
26 agency shall be issued if the STATE department has a certified court order  
27 from another state indicating that the person applying for such a license

1 or certificate OR, IN THE CASE OF A FOSTER CARE HOME, ANY ADULT  
2 RESIDENT OF THE HOME has been convicted of felony child abuse or any  
3 unlawful sexual offense against a child under a law of any other state or  
4 the United States or the STATE department has a certified court order from  
5 another state that the person applying for the license or certificate OR, IN  
6 THE CASE OF A FOSTER CARE HOME, ANY ADULT RESIDENT OF THE HOME has  
7 entered into a deferred judgment or deferred prosecution agreement in  
8 another state as to felony child abuse or any sexual offense against a child.

9 (8) NO LICENSE OR CERTIFICATE TO OPERATE ANY AGENCY OR  
10 FACILITY DEFINED IN THIS PART 1 SHALL BE ISSUED BY THE STATE  
11 DEPARTMENT, A COUNTY DEPARTMENT, OR A CHILD PLACEMENT AGENCY  
12 IF THE PERSON APPLYING FOR SUCH A LICENSE OR CERTIFICATE:

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

22 (b) HAS A PATTERN OF COMMITTING MISDEMEANORS WITHIN THE  
23 TEN YEARS IMMEDIATELY PRECEDING SUBMISSION OF THE APPLICATION.  
24 SUCH PATTERN OF COMMITTING MISDEMEANORS SHALL BE DEFINED BY  
25 RULE OF THE STATE BOARD.

26   
27 **SECTION 5.** The introductory portion to 26-6-105 (1) (a) and

1 26-6-105 (2) (a) and (2) (b) (II), Colorado Revised Statutes, are amended  
2 to read:

3 **26-6-105. Fees - when original applications, reapplications, and**  
4 **renewals for licensure are required - creation of child care licensing**  
5 **cash fund.** (1) (a) The STATE department is hereby authorized to  
6 establish, pursuant to rules ~~and regulations~~ promulgated by the state  
7 board, ~~of human services~~, full and provisional license fees and fees for  
8 continuation OR RENEWAL of a full license for the following types of child  
9 care arrangements:

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

20 (b) (II) A reapplication and fee shall be required and received by  
21 the STATE department in the manner specified in rules ~~and regulations~~  
22 promulgated by the state board. ~~of human services~~. AN INDIVIDUAL,  
23 PARTNERSHIP, CORPORATION, OR ASSOCIATION SEEKING TO RENEW AN  
24 ANNUAL CHILD PLACEMENT AGENCY LICENSE SHALL SUBMIT A  
25 REAPPLICATION AND FEE TO THE STATE DEPARTMENT AS SPECIFIED IN RULES  
26 PROMULGATED BY THE STATE BOARD.

27 **SECTION 6.** 26-6-105.5, Colorado Revised Statutes, is amended

1 BY THE ADDITION OF A NEW SUBSECTION to read:

2 **26-6-105.5. Application forms - criminal sanctions for**  
3 **perjury.** (3) EVERY APPLICATION FOR CERTIFICATION OR LICENSURE AS  
4 A FOSTER CARE HOME SHALL PROVIDE NOTICE TO THE APPLICANT THAT THE  
5 APPLICANT MAY BE SUBJECT TO IMMEDIATE REVOCATION OF CERTIFICATION  
6 OR OTHER NEGATIVE LICENSING ACTION AS SET FORTH IN THIS SECTION,  
7 SECTION 26-6-107.7, AND AS DESCRIBED BY RULE OF THE STATE BOARD.

8 **SECTION 7.** 26-6-106 (2), Colorado Revised Statutes, is  
9 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10 **26-6-106. Standards for facilities and agencies.** (2) Standards  
11 prescribed by such rules shall be restricted to:

12 (q) INITIAL AND ONGOING TRAINING OF PROVIDERS OF FOSTER CARE  
13 SERVICES IN FACILITIES LICENSED AND CERTIFIED PURSUANT TO THIS PART  
14 1, INCLUDING ORIENTATION AND PRELICENSING TRAINING FOR CHILD  
15 PLACEMENT AGENCY STAFF.

16 **SECTION 8.** 26-6-107 (1) (a) (I), (1) (a.5), (1) (b), and (2),  
17 Colorado Revised Statutes, are amended to read:

18 **26-6-107. Investigations and inspections - local authority -**  
19 **reports - rules.** (1) (a) (I) (A) The STATE department shall investigate  
20 and pass on each original application for a license, EACH APPLICATION FOR  
21 RENEWAL, and each application for a permanent license following the  
22 issuance of a probationary or provisional license, to operate a facility or  
23 an agency prior to granting such license. As part of such investigation, the  
24 STATE department shall require each applicant, owner, employee, newly  
25 hired employee, licensee, and any adult who resides in the licensed  
26 facility to obtain a criminal ~~record~~ BACKGROUND check by reviewing any  
27 record that shall be used to assist the STATE department in ascertaining

1 whether the person being investigated has been convicted of any of the  
2 criminal offenses specified in section 26-6-104 (7) or any other felony.  
3 The state board of ~~human services~~ shall promulgate rules that define and  
4 identify what the criminal background check shall entail.

5 (B) ~~Such~~ Rules PROMULGATED BY THE STATE BOARD PURSUANT TO  
6 THIS SUBPARAGRAPH (I) shall allow an exemption from the criminal  
7 background investigation and the state central registry of child protection  
8 investigation for those out-of-state employees working in Colorado at a  
9 children's resident camp in a temporary capacity for fewer than ninety  
10 days. Each person so exempted from fingerprinting and the state central  
11 registry of child protection investigation shall sign a statement that  
12 affirmatively states that he or she has not been convicted of any charge of  
13 child abuse, unlawful sexual offense, or any felony. Prospective  
14 employers of such exempted persons shall conduct reference checks of the  
15 prospective employees in order to verify previous work history and shall  
16 conduct personal interviews with each such prospective employee.

17 (C) ~~The~~ Rules PROMULGATED BY THE STATE BOARD PURSUANT TO  
18 THIS SUBPARAGRAPH (I) shall require the criminal background check in all  
19 ~~other~~ circumstances OTHER THAN THOSE IDENTIFIED IN  
20 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I) to include a  
21 fingerprint check through the Colorado bureau of investigation. As part  
22 of said investigation, the state central registry of child protection shall be  
23 accessed to determine whether the owner, applicant, employee, newly  
24 hired employee, licensee, or individual who resides in the licensed facility  
25 being investigated is the subject of a report of known or suspected child  
26 abuse. Pursuant to section 19-1-307 (2) (j), C.R.S., information shall be  
27 made available if a person's name is on the central registry of child

1 protection, or has been designated as "status pending" pursuant to section  
2 19-3-313, C.R.S. Any change in ownership of a licensed facility or the  
3 addition of a new resident adult or newly hired employee to the licensed  
4 facility shall require a new investigation as provided for in this section.

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

7 (a.5) An applicant for certification as a foster care home shall  
8 provide the child placement agency or the COUNTY department of ~~social~~  
9 ~~services~~ from whom the certification is sought with a list of all the prior  
10 child placement agencies and county departments of ~~social services~~ that  
11 had previously certified the applicant, AND A RELEASE OF INFORMATION  
12 FOR SUCH CHILD PLACEMENT AGENCIES AND COUNTY DEPARTMENTS THAT  
13 HAD PREVIOUSLY CERTIFIED SUCH APPLICANT TO OBTAIN INFORMATION  
14 ABOUT SUCH CERTIFICATION. A child placement agency or county  
15 department of ~~social services~~ from whom the certification is sought shall  
16 conduct a reference check of the applicant AND ANY ADULT RESIDENT OF  
17 THE FOSTER CARE HOME by contacting all of the child placement agencies  
18 and county departments of ~~social services~~ identified by the applicant  
19 before issuing the certification for that foster care home.

20 (b) (I) When the STATE department, county department, or child  
21 placement agency is satisfied that the applicant or licensee is competent  
22 and will operate adequate facilities to care for children under the  
23 requirements of this part 1 and that standards are being met and will be  
24 complied with, it shall issue the license for which applied. EXCEPT AS  
25 OTHERWISE PROVIDED IN SECTION 26-6-108 (5) (b), the STATE department  
26 shall inspect or cause to be inspected the facilities to be operated by an  
27 applicant for an original license before the license is granted and shall

1 thereafter inspect or cause to be inspected the facilities of all licensees  
2 that, during the period of licensure, have been found to be the subject of  
3 complaints or to be out of compliance with the standards set forth in  
4 section 26-6-106 and the rules of the STATE department or that otherwise  
5 appear to be placing children at risk. The STATE department may make  
6 such other inspections as it deems necessary to ensure that the  
7 requirements of this article are being met and that the health, safety, and  
8 welfare of the children being placed are protected. ~~The state board shall~~  
9 ~~adopt rules concerning the on-site public availability of the most recent~~  
10 ~~inspection report results of child care center facilities and family child~~  
11 ~~care home facilities, when requested. The state board shall also adopt~~  
12 ~~rules concerning a requirement that child care center facilities and family~~  
13 ~~child care home facilities post their licenses and information regarding the~~  
14 ~~procedures for filing a complaint under this part 1 directly with the~~  
15 ~~department, which rules shall require that each such facility display its~~  
16 ~~license and complaint procedures in a prominent and conspicuous location~~  
17 ~~at all times during operational hours of the facility.~~ IF, AS A RESULT OF AN  
18 INSPECTION OF A CERTIFIED FOSTER CARE HOME, THE STATE DEPARTMENT  
19 DETERMINES THAT ANY CHILD RESIDING IN SUCH FOSTER CARE HOME IS  
20 SUBJECT TO AN IMMEDIATE AND DIRECT THREAT TO HIS OR HER SAFETY AND  
21 WELFARE OR A SUBSTANTIAL VIOLATION OF A FUNDAMENTAL STANDARD OF  
22 CARE WARRANTS IMMEDIATE ACTION, THE STATE DEPARTMENT MAY  
23 REQUIRE A COUNTY DEPARTMENT TO IMMEDIATELY REMOVE SUCH CHILD  
24 FROM THE FOSTER CARE HOME AND THE STATE DEPARTMENT MAY DENY  
25 THE REIMBURSEMENT OF PUBLIC FUNDS FOR THE PLACEMENT OF ANY  
26 OTHER CHILDREN IN SUCH FOSTER CARE HOME, PENDING A HEARING ON THE  
27 MATTER WITHIN FIVE DAYS AFTER REMOVAL OF THE CHILD, WHICH

1 HEARING SHALL BE CONDUCTED PURSUANT TO ARTICLE 4 OF TITLE 24,  
2 C.R.S.

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

14 (III) (A) THE STATE DEPARTMENT SHALL MONITOR AND TRACK  
15 COMPLAINTS INVOLVING CHILD PLACEMENT AGENCIES AND SHALL  
16 INVESTIGATE SUCH COMPLAINTS THAT, IN THE DETERMINATION OF THE  
17 STATE DEPARTMENT, ARE MERITORIOUS. COUNTY DEPARTMENTS SHALL  
18 REPORT ALL KNOWN COMPLAINTS INVOLVING CHILD PLACEMENT AGENCIES  
19 DIRECTLY TO THE STATE DEPARTMENT.

20  
21 COUNTY DEPARTMENTS SHALL CONSULT WITH THE STATE DEPARTMENT  
22 PRIOR TO REFERRING A CHILD TO A CHILD PLACEMENT AGENCY FOR  
23 PLACEMENT IN ORDER TO ASCERTAIN WHETHER THE CHILD PLACEMENT  
24 AGENCY ITSELF IS THE SUBJECT OF A PENDING INVESTIGATION BY THE  
25 STATE DEPARTMENT DUE TO COMPLAINTS BROUGHT BY OTHER COUNTIES OR  
26 ANY OTHER PERSON. THE COUNTY DEPARTMENT SHALL SUSPEND THE  
27 REFERRAL OF SUCH CHILD WHILE SUCH INVESTIGATION IS PENDING. THE



1 COUNTY DEPARTMENT SHALL ALSO SUSPEND THE REFERRAL OF A CHILD TO  
2 A FOSTER HOME WHICH IS UNDER INVESTIGATION FOR CHILD ABUSE OR  
3 DOMESTIC VIOLENCE WHILE SUCH INVESTIGATION IS PENDING.

4 (B) A CHILD PLACEMENT AGENCY, PRIOR TO PLACING OR  
5 ARRANGING THE PLACEMENT OF A CHILD IN A FOSTER CARE HOME, SHALL  
6 OBTAIN THE APPROVAL OF THE COUNTY DEPARTMENT OF THE COUNTY IN  
7 WHICH SUCH FOSTER CARE HOME IS LOCATED WHEN THE BACKGROUND  
8 CHECK CONDUCTED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a)  
9 OF THIS SUBSECTION (1) INDICATES THAT ANY ADULT RESIDING IN THE  
10 FOSTER CARE HOME HAS BEEN CHARGED OR CONVICTED OF ANY FELONY OR  
11 MISDEMEANOR UNDER THE LAWS OF THIS OR ANY OTHER JURISDICTION.

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

22 (2) The STATE department may authorize or contract with any  
23 county department, ~~of social services~~, the county department of health, or  
24 any other publicly or privately operated organization that has a declared  
25 interest in children and experience working with children or on behalf of  
26 children to investigate and inspect the facilities applying for an original  
27 OR RENEWAL license or applying for a permanent license following the

1 issuance of a ~~probation~~ PROBATIONARY or provisional license under this  
2 part 1 and may accept reports on such investigations and inspections from  
3 such agencies or organizations as a basis for such licensing. When  
4 contracting for investigations and inspections, the STATE department shall  
5 assure that the contractor is qualified by training and experience and has  
6 no conflict of interest with the facilities to be inspected. A city, county,  
7 or city and county may impose and enforce higher standards and  
8 requirements for facilities licensed under this part 1 than the standards and  
9 requirements specified under this part 1.

10 **SECTION 9.** Part 1 of article 6 of title 26, Colorado Revised  
11 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

12 **26-6-107.7. Revocation of certification of foster care home -**  
13 **emergency procedures - due process.** NOTWITHSTANDING ANY OTHER  
14 PROVISION OF LAW TO THE CONTRARY, A COUNTY DEPARTMENT MAY ACT  
15 IMMEDIATELY TO REVOKE THE CERTIFICATION OF A COUNTY-CERTIFIED  
16 FOSTER CARE HOME WHEN THE COUNTY DEPARTMENT HAS REASON TO  
17 BELIEVE THAT A CHILD RESIDING IN SUCH FOSTER CARE HOME IS SUBJECT  
18 TO AN IMMEDIATE AND DIRECT THREAT TO HIS OR HER SAFETY AND  
19 WELFARE OR WHEN A SUBSTANTIAL VIOLATION OF A FUNDAMENTAL  
20 STANDARD OF CARE WARRANTS IMMEDIATE ACTION. IF THE COUNTY  
21 DEPARTMENT ACTS PURSUANT TO THIS SECTION, A DUE PROCESS HEARING  
22 SHALL BE HELD WITHIN FIVE DAYS AFTER SUCH ACTION AND CONDUCTED  
23 AS SUCH HEARING WOULD NORMALLY BE CONDUCTED PURSUANT TO  
24 ARTICLE 4 OF TITLE 24, C.R.S.

25 **SECTION 10.** 26-6-108 (1), the introductory portion to 26-6-108  
26 (2), 26-6-108 (2) (b), (2) (i), and (2) (m), the introductory portion to  
27 26-6-108 (2.5) (a), 26-6-108 (2.7), (3), and (4), Colorado Revised

1 Statutes, are amended, and the said 26-6-108 is further amended BY THE  
2 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

3 **26-6-108. Denial of original license - suspension - revocation -**  
4 **probation - refusal to renew license - fines.** (1) When an application for  
5 an original OR RENEWAL license has been denied by the STATE department,  
6 the STATE department shall notify the applicant in writing of such denial  
7 by mailing a notice to ~~him~~ THE APPLICANT at the address shown on ~~his~~ THE  
8 application. Any applicant believing himself OR HERSELF TO BE aggrieved  
9 by such denial may pursue the remedy for review as provided in  
10 subsection (3) of this section if he OR SHE, within thirty days after  
11 receiving such notice, petitions the STATE department to set a date and  
12 place for hearing, affording ~~him~~ THE APPLICANT an opportunity to be heard  
13 in person or by counsel. All hearings on the denial of original OR  
14 RENEWAL licenses shall be conducted in conformity with the provisions  
15 and procedures specified in article 4 of title 24, C.R.S., as in the case of  
16 the suspension and revocation of licenses.

17 (2) The STATE department may deny, suspend, revoke, or make  
18 probationary the license of any facility regulated and licensed under this  
19 part 1, OTHER THAN A FOSTER CARE HOME LICENSE OR CERTIFICATE, or  
20 assess a fine against the licensee pursuant to section 26-6-114 should the  
21 licensee, an affiliate of the licensee, a person employed by the licensee,  
22 or a person who resides with the licensee at the facility:

23 (b) ~~Be determined to be insane or mentally incompetent by a court~~  
24 ~~of competent jurisdiction and, should a court enter, pursuant to part 3 or~~  
25 ~~part 4 of article 14 of title 15, C.R.S., or section 27-10-109 (4) or~~  
26 ~~27-10-125, C.R.S., an order specifically finding that the mental~~  
27 ~~incompetency or insanity is of such a degree that the licensee is incapable~~

1 ~~of operating a family child care home, foster care home, or child care~~  
2 ~~center, the record of such determination and entry of such order being~~  
3 ~~conclusive evidence thereof; or~~

4 (i) Willfully or deliberately violate any of the provisions of this  
5 part 1; EXCEPT THAT A KNOWING VIOLATION OF THE PROVISIONS OF THIS  
6 PART 1 SHALL BE SUFFICIENT FOR THE STATE DEPARTMENT TO TAKE ACTION  
7 AGAINST A CHILD PLACEMENT AGENCY; or

8 (m) Be the subject of a PREVIOUS negative licensing action OR BE  
9 THE SUBJECT OF A PENDING INVESTIGATION BY THE STATE DEPARTMENT  
10 THAT MAY RESULT IN A NEGATIVE LICENSING ACTION.

11 (2.5) (a) The STATE department shall deny a license, OTHER THAN  
12 A FOSTER CARE HOME LICENSE OR CERTIFICATE, under the circumstances  
13 described in section 26-6-104 (7). The STATE department shall revoke a  
14 license previously issued if:

15 (2.6) (a) THE STATE DEPARTMENT MAY DENY, SUSPEND, REVOKE,  
16 OR MAKE PROBATIONARY THE LICENSE OR CERTIFICATE OF ANY FOSTER  
17 CARE HOME FACILITY REGULATED AND LICENSED OR CERTIFIED UNDER THIS  
18 PART 1 OR ASSESS A FINE AGAINST THE LICENSEE OR CERTIFIED FOSTER  
19 CARE PROVIDER PURSUANT TO SECTION 26-6-114, AND THE COUNTY  
20 DEPARTMENT OR A CHILD PLACEMENT AGENCY MAY DENY CERTIFICATION,  
21 SHOULD THE CERTIFIED FOSTER CARE PROVIDER, AN AFFILIATE OF THE  
22 PROVIDER, A PERSON EMPLOYED BY THE PROVIDER, OR A PERSON WHO  
23 RESIDES WITH THE PROVIDER AT THE FACILITY:

24 (I) BE CONVICTED OF ANY FELONY, OTHER THAN THOSE OFFENSES  
25 SPECIFIED IN SECTION 26-6-104 (7), OR CHILD ABUSE, AS SPECIFIED IN  
26 SECTION 18-6-401, C.R.S., THE RECORD OF CONVICTION BEING  
27 CONCLUSIVE EVIDENCE THEREOF, NOTWITHSTANDING SECTION 24-5-101,

1 C.R.S., OR HAVE ENTERED INTO A DEFERRED JUDGMENT AGREEMENT OR A  
2 DEFERRED PROSECUTION AGREEMENT TO ANY FELONY, OTHER THAN THOSE  
3 OFFENSES SPECIFIED IN SECTION 26-6-104 (7), CHILD ABUSE, AS SPECIFIED  
4 IN SECTION 18-6-401, C.R.S., OR SHOULD THE STATE DEPARTMENT HAVE  
5 A CERTIFIED COURT ORDER FROM ANOTHER STATE INDICATING THAT THE  
6 APPLICANT, LICENSEE, CERTIFIED FOSTER CARE PROVIDER, PERSON  
7 EMPLOYED BY THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, OR  
8 ANY PERSON RESIDING WITH THE LICENSEE OR CERTIFIED FOSTER CARE  
9 PROVIDER HAS BEEN CONVICTED OF A FELONY, OTHER THAN THOSE  
10 OFFENSES SPECIFIED IN SECTION 26-6-104 (7), UNDER A LAW OF ANY OTHER  
11 STATE OR THE UNITED STATES OR HAS ENTERED INTO A DEFERRED  
12 JUDGMENT AGREEMENT OR A DEFERRED PROSECUTION AGREEMENT IN  
13 ANOTHER STATE AS TO A FELONY, OTHER THAN THOSE OFFENSES SPECIFIED  
14 IN SECTION 26-6-104 (7); OR

15 (II) BE CONVICTED OF THIRD DEGREE ASSAULT, AS DESCRIBED IN  
16 SECTION 18-3-204, C.R.S., ANY MISDEMEANOR, THE UNDERLYING FACTUAL  
17 BASIS OF WHICH HAS BEEN FOUND BY THE COURT ON THE RECORD TO  
18 INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION  
19 18-6-800.3, C.R.S., THE VIOLATION OF A RESTRAINING ORDER, AS  
20 DESCRIBED IN SECTION 18-6-803.5, C.R.S., ANY MISDEMEANOR OFFENSE  
21 OF CHILD ABUSE AS DEFINED IN SECTION 18-6-401, C.R.S., OR ANY  
22 MISDEMEANOR OFFENSE IN ANY OTHER STATE, THE ELEMENTS OF WHICH  
23 ARE SUBSTANTIALLY SIMILAR TO THE ELEMENTS OF ANY ONE OF THE  
24 OFFENSES DESCRIBED IN THIS PARAGRAPH (a); OR

25 (III) USE ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION  
26 12-22-303 (7), C.R.S., OR CONSUME ANY ALCOHOLIC BEVERAGE DURING  
27 THE OPERATING HOURS OF THE FACILITY OR BE UNDER THE INFLUENCE OF

1 A CONTROLLED SUBSTANCE OR ALCOHOLIC BEVERAGE DURING THE  
2 OPERATING HOURS OF THE FACILITY, TO THE EXTENT SUCH USE OR  
3 CONSUMPTION IMPAIRS THE LICENSEE'S OR CERTIFIED FOSTER CARE  
4 PROVIDER'S ABILITY TO PROPERLY CARE FOR CHILDREN; OR

5 (IV) BE CONVICTED OF UNLAWFUL USE OF A CONTROLLED  
6 SUBSTANCE AS SPECIFIED IN SECTION 18-18-404, C.R.S., UNLAWFUL  
7 DISTRIBUTION, MANUFACTURING, DISPENSING, SALE, OR POSSESSION OF A  
8 CONTROLLED SUBSTANCE AS SPECIFIED IN SECTION 18-18-405, C.R.S., OR  
9 UNLAWFUL OFFENSES RELATING TO MARIHUANA OR MARIHUANA  
10 CONCENTRATE AS SPECIFIED IN SECTION 18-18-406, C.R.S.; OR

11 (V) CONSISTENTLY FAIL TO MAINTAIN STANDARDS PRESCRIBED  
12 AND PUBLISHED BY THE STATE DEPARTMENT; OR

13 (VI) FURNISH OR MAKE ANY MISLEADING OR ANY FALSE  
14 STATEMENT OR REPORT TO THE STATE DEPARTMENT, COUNTY  
15 DEPARTMENT, OR CHILD PLACEMENT AGENCY; OR

16 (VII) REFUSE TO SUBMIT TO THE STATE DEPARTMENT ANY REPORTS  
17 OR REFUSE TO MAKE AVAILABLE TO THE STATE DEPARTMENT ANY RECORDS  
18 REQUIRED BY IT IN MAKING AN INVESTIGATION OF THE FACILITY FOR  
19 LICENSING OR CERTIFICATION PURPOSES; OR

20 (VIII) FAIL OR REFUSE TO SUBMIT TO AN INVESTIGATION OR  
21 INSPECTION BY THE STATE DEPARTMENT OR TO ADMIT AUTHORIZED  
22 REPRESENTATIVES OF THE STATE DEPARTMENT AT ANY REASONABLE TIME  
23 FOR THE PURPOSE OF INVESTIGATION OR INSPECTION; OR

24 (IX) FAIL TO PROVIDE, MAINTAIN, EQUIP, AND KEEP IN SAFE AND  
25 SANITARY CONDITION PREMISES ESTABLISHED OR USED FOR CHILD CARE  
26 PURSUANT TO STANDARDS PRESCRIBED BY THE DEPARTMENT OF PUBLIC  
27 HEALTH AND ENVIRONMENT AND THE STATE DEPARTMENT OR BY

1 ORDINANCES OR REGULATIONS APPLICABLE TO THE LOCATION OF SUCH  
2 FACILITY; OR

3 (X) WILLFULLY OR DELIBERATELY VIOLATE ANY OF THE  
4 PROVISIONS OF THIS PART 1; OR

5 (XI) FAIL TO MAINTAIN FINANCIAL RESOURCES ADEQUATE FOR THE  
6 SATISFACTORY CARE OF CHILDREN SERVED IN REGARD TO UPKEEP OF  
7 PREMISES AND PROVISION FOR PERSONAL CARE, MEDICAL SERVICES,  
8 CLOTHING, AND OTHER ESSENTIALS IN THE PROPER CARE OF CHILDREN; OR

9 (XII) BE CHARGED WITH THE COMMISSION OF AN ACT OF CHILD  
10 ABUSE OR AN UNLAWFUL SEXUAL OFFENSE, AS SPECIFIED IN SECTION  
11 18-3-411 (1), C.R.S., IF:

12 (A) SUCH INDIVIDUAL HAS ADMITTED COMMITTING THE ACT OR  
13 OFFENSE AND THE ADMISSION IS DOCUMENTED OR UNCONTROVERTED; OR

14 (B) THE ADMINISTRATIVE LAW JUDGE FINDS THAT SUCH CHARGE IS  
15 SUPPORTED BY SUBSTANTIAL EVIDENCE; OR

16 (XIII) ADMIT TO AN ACT OF CHILD ABUSE OR IF SUBSTANTIAL  
17 EVIDENCE IS FOUND THAT THE LICENSEE OR CERTIFIED FOSTER CARE  
18 PROVIDER, PERSON EMPLOYED BY THE LICENSEE OR CERTIFIED FOSTER  
19 CARE PROVIDER, OR PERSON WHO RESIDES WITH THE LICENSEE OR  
20 CERTIFIED FOSTER CARE PROVIDER IN THE LICENSED OR CERTIFIED FACILITY  
21 HAS COMMITTED AN ACT OF CHILD ABUSE. FOR THE PURPOSES OF THIS  
22 SUBPARAGRAPH (XIII), "CHILD ABUSE" HAS THE SAME MEANING AS THAT  
23 ASCRIBED TO THE TERM "ABUSE" OR "CHILD ABUSE OR NEGLECT" IN  
24 SECTION 19-1-103 (1), C.R.S.; OR

25 (XIV) BE THE SUBJECT OF A NEGATIVE LICENSING ACTION.

26 (b) (I) THE STATE DEPARTMENT, COUNTY DEPARTMENT, OR A CHILD  
27 PLACEMENT AGENCY SHALL DENY A FOSTER CARE HOME LICENSE OR

1 CERTIFICATION IF THE APPLICANT, A PERSON EMPLOYED BY THE APPLICANT,  
2 OR A PERSON WHO RESIDES WITH THE APPLICANT AT THE FACILITY IS:

3 (A) DETERMINED TO BE INSANE OR MENTALLY INCOMPETENT BY A  
4 COURT OF COMPETENT JURISDICTION AND, SHOULD A COURT ENTER,  
5 PURSUANT TO PART 3 OR PART 4 OF ARTICLE 14 OF TITLE 15, C.R.S., OR  
6 SECTION 27-10-109 (4) OR 27-10-125, C.R.S., AN ORDER SPECIFICALLY  
7 FINDING THAT THE MENTAL INCOMPETENCY OR INSANITY IS OF SUCH A  
8 DEGREE THAT THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER IS  
9 INCAPABLE OF OPERATING A FOSTER CARE HOME, THE RECORD OF SUCH  
10 DETERMINATION AND ENTRY OF SUCH ORDER BEING CONCLUSIVE EVIDENCE  
11 THEREOF; OR

12 (B) CONVICTED OF ANY OFFENSE DESCRIBED IN SECTION  
13 26-6-104 (7).

14 (II) THE STATE DEPARTMENT SHALL REVOKE A LICENSE OR  
15 CERTIFICATE PREVIOUSLY ISSUED TO A FOSTER CARE HOME IF:

16 (A) THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, PERSON  
17 EMPLOYED BY THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, OR  
18 PERSON RESIDING WITH THE LICENSEE OR CERTIFIED FOSTER CARE  
19 PROVIDER IS DETERMINED TO BE INSANE OR MENTALLY INCOMPETENT BY  
20 A COURT OF COMPETENT JURISDICTION AND, SHOULD A COURT ENTER,  
21 PURSUANT TO PART 3 OR PART 4 OF ARTICLE 14 OF TITLE 15, C.R.S., OR  
22 SECTION 27-10-109 (4) OR 27-10-125, C.R.S., AN ORDER SPECIFICALLY  
23 FINDING THAT THE MENTAL INCOMPETENCY OR INSANITY IS OF SUCH A  
24 DEGREE THAT THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER IS  
25 INCAPABLE OF OPERATING A FOSTER CARE HOME, THE RECORD OF SUCH  
26 DETERMINATION AND ENTRY OF SUCH ORDER BEING CONCLUSIVE EVIDENCE  
27 THEREOF; OR



1 (B) THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, PERSON  
2 EMPLOYED BY THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, OR  
3 PERSON RESIDING WITH THE LICENSEE OR CERTIFIED FOSTER CARE  
4 PROVIDER IS THEREAFTER CONVICTED OR IF IT IS LATER DISCOVERED THAT  
5 THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, PERSON EMPLOYED  
6 BY THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, OR PERSON  
7 RESIDING WITH THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER HAD  
8 PREVIOUSLY BEEN CONVICTED OF ANY OF THE CRIMINAL OFFENSES SET  
9 FORTH IN SECTION 26-6-104 (7); OR

10 (C) THE STATE DEPARTMENT HAS A CERTIFIED COURT ORDER FROM  
11 ANOTHER STATE INDICATING THAT THE LICENSEE OR CERTIFIED FOSTER  
12 CARE PROVIDER, PERSON EMPLOYED BY THE LICENSEE OR CERTIFIED  
13 FOSTER CARE PROVIDER, OR PERSON RESIDING WITH THE LICENSEE OR  
14 CERTIFIED FOSTER CARE PROVIDER IS THEREAFTER CONVICTED OF, OR IF IT  
15 IS LATER DISCOVERED THAT THE LICENSEE OR CERTIFIED FOSTER CARE  
16 PROVIDER, PERSON EMPLOYED BY THE LICENSEE OR CERTIFIED FOSTER  
17 CARE PROVIDER, OR PERSON RESIDING WITH THE LICENSEE OR CERTIFIED  
18 FOSTER CARE PROVIDER HAD PREVIOUSLY BEEN CONVICTED OF A CRIMINAL  
19 OFFENSE UNDER A LAW OF ANY OTHER STATE OR OF THE UNITED STATES  
20 THAT IS SIMILAR TO ANY OF THE CRIMINAL OFFENSES SET FORTH IN SECTION  
21 26-6-104 (7).

22 (c) A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF  
23 COMPETENT JURISDICTION OF SUCH CONVICTION OR DEFERRED JUDGMENT  
24 AND SENTENCE AGREEMENT, DEFERRED PROSECUTION AGREEMENT,  
25 DEFERRED ADJUDICATION AGREEMENT, OR A CERTIFIED COURT ORDER  
26 FROM ANOTHER STATE INDICATING SUCH AN AGREEMENT FROM ANOTHER  
27 STATE SHALL BE PRIMA FACIE EVIDENCE OF SUCH CONVICTION OR

1 AGREEMENT.

2 (d) FOR PURPOSES OF THIS SUBSECTION (2.6), "CONVICTED" MEANS  
3 A CONVICTION BY A JURY OR BY A COURT AND SHALL ALSO INCLUDE A  
4 DEFERRED JUDGMENT AND SENTENCE AGREEMENT, A DEFERRED  
5 PROSECUTION AGREEMENT, A DEFERRED ADJUDICATION AGREEMENT, AN  
6 ADJUDICATION, AND A PLEA OF GUILTY OR NOLO CONTENDERE.

7 (2.7) The STATE department may assess fines, pursuant to the  
8 provisions of section 26-6-114, against a licensee or a person employed  
9 by the licensee who willfully and deliberately or consistently violates the  
10 standards prescribed and published by the STATE department or the  
11 provisions of this part 1. THE STATE DEPARTMENT MAY ASSESS FINES,  
12 PURSUANT TO THE PROVISIONS OF SECTION 26-6-114, AGAINST A CHILD  
13 PLACEMENT AGENCY OR A PERSON EMPLOYED BY THE CHILD PLACEMENT  
14 AGENCY WHO KNOWINGLY OR CONSISTENTLY VIOLATES THE STANDARDS  
15 PRESCRIBED AND PUBLISHED BY THE STATE DEPARTMENT OR THE  
16 PROVISIONS OF THIS PART 1.

17 (3) (a) The STATE department shall suspend or revoke a license  
18 only in conformity with the provisions and procedures specified in article  
19 4 of title 24, C.R.S., and after a hearing thereon as provided in said article  
20 4; except that all hearings under this part 1 shall be conducted by an  
21 administrative law judge of the STATE department who shall render his or  
22 her recommendation to the executive director of the STATE department of  
23 ~~human services~~ who shall render the final decision of the STATE  
24 department, and no licensee shall be entitled to a right to cure any of the  
25 charges described in ~~paragraph (a), (b)~~, PARAGRAPH (a), (c), or (k) (I) of  
26 subsection (2) of this section. No such hearing shall prevent or delay any  
27 injunctive proceedings instituted under the provisions of section 26-6-111.

1 (b) (I) THE STATE DEPARTMENT MAY MAKE PROBATIONARY THE  
2 LICENSE OF ANY FOSTER CARE HOME, RESIDENTIAL CHILD CARE FACILITY,  
3 SECURE RESIDENTIAL CHILD CARE FACILITY, OR CHILD PLACEMENT AGENCY  
4 IN CONFORMITY WITH INFORMAL PROVISIONS AND EXPEDITED HEARING  
5 PROCESS. THE STATE BOARD SHALL SPECIFY BY RULE SUCH PROVISIONS  
6 AND HEARING PROCESS, WHICH RULES SHALL PROVIDE:

7 (A) THAT THE HEARING OFFICER FOR SUCH HEARING SHALL NOT BE  
8 DIRECTLY INVOLVED IN CHILD CARE LICENSING; AND

9 (B) THAT SUCH HEARING OFFICER SHALL RENDER HIS OR HER  
10 RECOMMENDATION TO THE EXECUTIVE DIRECTOR OF THE STATE  
11 DEPARTMENT WHO SHALL RENDER THE FINAL DECISION OF THE STATE  
12 DEPARTMENT.

13 (II) NO SUCH HEARING SHALL PREVENT OR DELAY ANY INJUNCTIVE  
14 PROCEEDINGS INSTITUTED UNDER THE PROVISIONS OF SECTION 26-6-111.

15 ~~(4) The provisions of paragraph (c) of subsection (2) of this~~  
16 ~~section shall not apply to foster care homes, unless such use or~~  
17 ~~consumption impairs the licensee's ability to properly care for children.~~

18 (5) (a) THE STATE DEPARTMENT SHALL IMMEDIATELY SUSPEND OR  
19 REVOKE THE LICENSE OF A CHILD PLACEMENT AGENCY WHEN ONE OR MORE  
20 VIOLATIONS OF STANDARDS PRESCRIBED AND PUBLISHED BY THE STATE  
21 DEPARTMENT OR ONE OR MORE VIOLATIONS OF THE PROVISIONS OF THIS  
22 PART 1 COMMITTED BY THE CHILD PLACEMENT AGENCY ARE DEEMED  
23 EXCESSIVE BY THE STATE DEPARTMENT. THE STATE BOARD SHALL  
24 PROMULGATE RULES THAT SET FORTH THE NUMBER AND NATURE OF  
25 VIOLATIONS THAT WARRANT IMMEDIATE SUSPENSION OR REVOCATION OF  
26 A CHILD PLACEMENT AGENCY LICENSE. IN ADOPTING SAID RULES, THE  
27 STATE BOARD SHALL ENSURE THAT THE NUMBER AND NATURE OF

1 VIOLATIONS ARE COMPARABLE TO THE NUMBER AND NATURE OF  
2 VIOLATIONS THAT WARRANT IMMEDIATE LICENSE SUSPENSION OR  
3 REVOCATION IN A MAJORITY OF JURISDICTIONS.

4 (b) (I) PRIOR TO JANUARY 1, 2003, THE STATE DEPARTMENT SHALL  
5 CREATE CLASSIFICATIONS OF CHILD PLACEMENT AGENCY LICENSES THAT  
6 CERTIFY FOSTER CARE HOMES THAT ARE BASED ON RISK FACTORS AS THOSE  
7 FACTORS ARE ESTABLISHED BY RULE OF THE STATE BOARD.

8 (II) ON AND AFTER JANUARY 1, 2003, THE STATE DEPARTMENT MAY  
9 IMPLEMENT A SCHEDULE FOR RELICENSING OF CHILD PLACEMENT AGENCIES  
10 THAT CERTIFY FOSTER CARE HOMES THAT IS BASED ON RISK FACTORS SUCH  
11 THAT CHILD PLACEMENT AGENCIES WITH LOW RISK FACTORS SHALL RENEW  
12 THEIR LICENSES LESS FREQUENTLY THAN CHILD PLACEMENT AGENCIES  
13 WITH HIGHER RISK FACTORS.

14 (6) THE STATE BOARD SHALL PROMULGATE ALL REASONABLE AND  
15 NECESSARY RULES SETTING FORTH PROCEDURES AND PRIORITIES  
16 REGARDING PLACEMENT OF A CHILD IN FOSTER CARE IN THE HOME OF A  
17 RELATIVE. [REDACTED]

18 [REDACTED]

19 **SECTION 11.** The introductory portion to 26-6-108 (2.5) (a),  
20 Colorado Revised Statutes, is amended, and the said 26-6-108 (2.5) (a) is  
21 further amended BY THE ADDITION OF A NEW SUBPARAGRAPH,  
22 to read:

23 **26-6-108. Denial of original license - suspension - revocation**  
24 **- probation - refusal to renew license - fines.** (2.5) (a) The STATE  
25 department shall deny a license under the circumstances described in  
26 section 26-6-104 (7). The STATE department shall revoke a license  
27 previously issued if:

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

12 **SECTION 12.** Part 1 of article 6 of title 26, Colorado Revised  
13 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

14 **26-6-117. Child placement agencies - information sharing -**  
15 **investigations by state department.** (1) IF A COUNTY DEPARTMENT HAS  
16 SUBSTANTIATED EVIDENCE THAT A CHILD PLACEMENT AGENCY WITH WHICH  
17 THE COUNTY HAS CONTRACTED TO PROVIDE FOSTER CARE SERVICES HAS  
18 VIOLATED THE PROVISIONS OF THIS PART 1 OR ANY RULE OF THE STATE  
19 BOARD, IT SHALL COMMUNICATE SUCH INFORMATION [REDACTED]  
20 TO THE STATE DEPARTMENT ELECTRONICALLY THROUGH THE INTERNET OR  
21 THROUGH SUCH OTHER ELECTRONIC AND IMMEDIATE MEANS OF  
22 COMMUNICATION THAT MAY BE AVAILABLE TO THE COUNTY DEPARTMENT.  
23 A COUNTY DEPARTMENT SHALL ALSO IDENTIFY WHETHER IT IS REQUESTING  
24 THE STATE DEPARTMENT TO INVESTIGATE A COMPLAINT AGAINST A CHILD  
25 PLACEMENT AGENCY FOR POSSIBLE NEGATIVE LICENSING ACTION AGAINST  
26 THE CHILD PLACEMENT AGENCY.

27 (2) UPON RECEIPT OF A REQUEST FOR INVESTIGATION OF A CHILD

1 PLACEMENT AGENCY FROM A COUNTY DEPARTMENT, THE STATE  
2 DEPARTMENT SHALL COMMENCE AN INVESTIGATION AND, UPON  
3 CONCLUSION, REPORT ITS FINDINGS TO THE REQUESTING COUNTY  
4 DEPARTMENT. THE STATE DEPARTMENT SHALL DESIGNATE WHETHER THE  
5 REPRESENTATIVE OF THE DIVISION OF CHILD WELFARE OR THE  
6 REPRESENTATIVE OF THE DIVISION OF CHILD CARE IN THE STATE  
7 DEPARTMENT SHALL SERVE AS THE LEAD DIVISION OF THE MONITORING  
8 TEAM PRIOR TO COMMENCING SUCH INVESTIGATION.

9 (3) THE STATE DEPARTMENT SHALL PROVIDE DIRECT ACCESS TO  
10 INFORMATION CONCERNING THE RESULTS OF ANY INVESTIGATION OR  
11 NEGATIVE LICENSING ACTION TAKEN AGAINST A CHILD PLACEMENT AGENCY  
12 LICENSED TO PROVIDE FOSTER CARE SERVICES IN COLORADO. SUCH  
13 INFORMATION SHALL BE AVAILABLE TO COUNTY DEPARTMENTS ON THE  
14 STATE DEPARTMENT'S WEBSITE ON THE INTERNET AND BY MEANS OF A  
15 HARD COPY AVAILABLE UPON THE REQUEST OF A COUNTY DEPARTMENT.

16 **SECTION 13. Safety clause.** The general assembly hereby finds,  
17 determines, and declares that this act is necessary for the immediate  
18 preservation of the public peace, health, and safety.