

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

PREAMENDED

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

LLS NO. 01-0524.01 Jeff Conway

SENATE BILL 01-032

SENATE SPONSORSHIP

Linkhart

HOUSE SPONSORSHIP

Alexander

Senate Committees

Judiciary

Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING CRIMINAL BACKGROUND CHECKS.**

Bill Summary

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

Encourages the state judicial department ("department") to:

- Continue working with other law enforcement entities to complete the integrated criminal justice information system in a timely manner; and
- Pursue the integration of municipal records, including county court records of the city and county of Denver, into the department's integrated court on-line network ("ICON").

Encourages various law enforcement entities to complete work on the integrated criminal justice information system.

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.

Directs the Colorado bureau of investigation ("CBI") to require uniform identifiers in state-wide arrest information sent to CBI. Requires the transmittal of such information to the CBI within 72 hours after receipt by the law enforcement entity. Requires the CBI, upon the request of the department of human services ("DHS"), to forward background check information to the department's ICON system.

Requires counties to ensure that criminal background checks are conducted on child care providers that are legally exempt from licensure by the state as a condition of receiving child care assistance program moneys.

Requires the use of both CBI records and the ICON system in conducting criminal background checks on child care providers licensed pursuant to state law. Repeals the pilot program used to study the effectiveness of such a dual check.

Permits DHS to request the CBI to forward criminal background check information to the department for comparison to ICON records. Based on such information, directs DHS to investigate whether a person should be prohibited from providing child care pursuant to state law.

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

2 **SECTION 1.** Article 1 of title 16, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **16-1-107. Integrated court on-line network - municipal court**
5 **records - legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY
6 FINDS AND DECLARES THAT:

7 (a) THE REPORT ON THE PILOT PROJECT ON CRIMINAL BACKGROUND
8 CHECKS FOR CHILD CARE PROVIDERS, PREPARED FOR THE STATE
9 DEPARTMENT OF HUMAN SERVICES, WAS PRESENTED TO THE GENERAL
10 ASSEMBLY IN AUGUST OF 2000;

11 (b) SAID REPORT CONTAINED SEVERAL RECOMMENDATIONS FOR
12 THE IMPROVEMENT OF THE PROCESS OF OBTAINING ACCURATE AND
13 COMPLETE CRIMINAL HISTORY RECORDS FOR CHILD CARE WORKERS AND
14 VOLUNTEERS;

15 (c) SOME OF THOSE RECOMMENDATIONS INVOLVED THE RECORDS

1 CONTAINED IN THE INTEGRATED COURT ON-LINE NETWORK (ICON) OF THE
2 STATE JUDICIAL DEPARTMENT AND THE ABILITY TO IDENTIFY CASE
3 DISPOSITIONS;

4 (d) OTHER RECOMMENDATIONS INVOLVED THE WORK OF THE
5 COURTS AND THE STATE JUDICIAL DEPARTMENT IN ASSISTING IN THE
6 COMPLETION AND IMPLEMENTATION OF THE INTEGRATED CRIMINAL JUSTICE
7 INFORMATION SYSTEM ESTABLISHED BY ARTICLE 20.5 OF THIS TITLE.

8 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT,
9 IN ORDER TO ASSURE THAT CRIMINAL BACKGROUND CHECKS FOR CHILD
10 CARE WORKERS ARE ACCURATE AND COMPLETE, IT IS CRITICAL THAT THE
11 STATE JUDICIAL DEPARTMENT CONTINUE TO WORK WITH OTHER LAW
12 ENFORCEMENT ENTITIES TO COMPLETE AND IMPLEMENT THE INTEGRATED
13 CRIMINAL JUSTICE INFORMATION SYSTEM IN A TIMELY MANNER AND
14 CONSIDER THE INTEGRATION OF MUNICIPAL RECORDS, INCLUDING THE
15 COUNTY COURT RECORDS OF THE CITY AND COUNTY OF DENVER, INTO
16 SUCH SYSTEM.

17 **SECTION 2.** 16-20.5-101.5, Colorado Revised Statutes, is
18 amended BY THE ADDITION OF A NEW SUBSECTION to read:

19 **16-20.5-101.5. Legislative declaration.** (5) THE GENERAL
20 ASSEMBLY HEREBY FINDS AND DECLARES THAT THE COMPLETION AND
21 IMPLEMENTATION OF THE INTEGRATED CRIMINAL JUSTICE INFORMATION
22 SYSTEM ESTABLISHED BY THIS ARTICLE 20.5 IS CRITICAL TO THE ACCURATE,
23 COMPLETE, AND TIMELY PERFORMANCE OF CRIMINAL BACKGROUND
24 CHECKS AND TO THE EFFECTIVE COMMUNICATIONS BETWEEN AND AMONG
25 LAW ENFORCEMENT, THE STATE JUDICIAL DEPARTMENT, AND EXECUTIVE
26 AGENCIES AND POLITICAL SUBDIVISIONS OF THE STATE. THE GENERAL
27 ASSEMBLY FURTHER FINDS AND DECLARES THAT IT IS IN THE BEST

1 INTERESTS OF THE CITIZENS OF THE STATE AND FOR THE ENHANCEMENT OF
2 PUBLIC SAFETY THAT SUCH SYSTEM BE FINALIZED AND IMPLEMENTED AND
3 THAT THE VARIOUS DATABASES BE INTEGRATED AS SOON AS POSSIBLE.

4 **SECTION 3.** 24-33.5-102, Colorado Revised Statutes, is amended
5 BY THE ADDITION OF A NEW SUBSECTION to read:

6 **24-33.5-102. Definitions.** As used in this article, unless the
7 context otherwise requires:

8 (3) "ICON" MEANS THE COMPUTERIZED DATABASE OF COURT
9 RECORDS KNOWN AS THE INTEGRATED COURT ON-LINE NETWORK USED BY
10 THE STATE JUDICIAL DEPARTMENT.

11 **SECTION 4.** 24-33.5-412 (3), Colorado Revised Statutes, is
12 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13 **24-33.5-412. Functions of bureau - legislative review.**

14 (3) (c) FOR PURPOSES OF IMPROVING THE PERFORMANCE OF CRIMINAL
15 BACKGROUND CHECKS AND THE IMPLEMENTATION OF THE INTEGRATED
16 CRIMINAL JUSTICE INFORMATION SYSTEM ESTABLISHED IN ARTICLE 20.5 OF
17 TITLE 16, C.R.S.:

18 (I) THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE, BY RULE,
19 SHALL REQUIRE THE USE OF UNIFORM IDENTIFIERS EXISTING ON OR AFTER
20 THE EFFECTIVE DATE OF THIS ACT IN THE INFORMATION REQUIRED BY THIS
21 SUBSECTION (3) IN ORDER TO FACILITATE THE MATCHING OF CRIMINAL
22 RECORDS IN THE BUREAU'S DATABASES AND IN THE ICON SYSTEM AT THE
23 STATE JUDICIAL DEPARTMENT; AND

24 (II) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (3),
25 EVERY LAW ENFORCEMENT, CORRECTIONAL, AND JUDICIAL ENTITY,
26 AGENCY, OR FACILITY IN THIS STATE SHALL FORWARD TO THE BUREAU THE
27 INFORMATION REQUIRED BY THIS SUBSECTION (3) WITHIN SEVENTY-TWO

1 HOURS AFTER RECEIVING SUCH INFORMATION; EXCEPT THAT THE TIME
2 PERIOD SHALL NOT INCLUDE SATURDAYS, SUNDAYS, OR LEGAL HOLIDAYS.
3 THE INFORMATION FORWARDED TO THE BUREAU SHALL INCLUDE, BUT NEED
4 NOT BE LIMITED TO, THE FINGERPRINTS OF SAID ARRESTED PERSONS.

5

SECTION 5. 26-2-805, Colorado Revised Statutes, is amended
6 BY THE ADDITION OF A NEW SUBSECTION to read:

8 **26-2-805. Services - assistance provided.** (2.5) A COUNTY
9 DEPARTMENT SHALL ENSURE THAT NO CHILD CARE PROVIDER THAT IS
10 LEGALLY EXEMPT FROM THE LICENSURE REQUIREMENTS SET FORTH IN PART
11 1 OF ARTICLE 6 OF THIS TITLE SHALL RECEIVE ANY MONEYS PURSUANT TO
12 THIS PART 8 UNLESS THE COUNTY DEPARTMENT AND THE PROVIDER HAVE
13 COMPLIED WITH THE CRIMINAL BACKGROUND CHECK REQUIRED BY
14 SECTION 26-6-118.

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

17 **26-6-102. Definitions.** As used in this article, unless the context
18 otherwise requires:

19 (5.2) "ICON" MEANS THE COMPUTERIZED DATABASE OF COURT
20 RECORDS KNOWN AS THE INTEGRATED COURT ON-LINE NETWORK USED BY
21 THE STATE JUDICIAL DEPARTMENT.

22 **SECTION 7.** The introductory portion to 26-6-103 (1), Colorado
23 Revised Statutes, is amended, and the said 26-6-103 is further amended
24 BY THE ADDITION OF A NEW SUBSECTION, to read:

25 **26-6-103. Application of part - study.** (1) EXCEPT AS
26 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, this part 1 shall
27 not apply to:

1 (2) THE FACILITIES DESCRIBED IN SUBSECTION (1) OF THIS SECTION
2 RECEIVING MONEYS EITHER DIRECTLY OR INDIRECTLY THROUGH THE
3 COLORADO CHILD CARE ASSISTANCE PROGRAM PURSUANT TO PART 8 OF
4 ARTICLE 2 OF THIS TITLE SHALL BE SUBJECT TO CRIMINAL BACKGROUND
5 CHECKS AS SET FORTH IN SECTION 26-6-118.

6 **SECTION 8. Repeal.** 26-6-115, Colorado Revised Statutes, is
7 repealed.

8 **SECTION 9.** 26-6-104 (7) (b), Colorado Revised Statutes, is
9 amended to read:

10 **26-6-104. Licenses - out-of-state notices and consent.**

11 (7) (b) The convictions identified in paragraph (a) of this subsection (7)
12 shall be determined according to the records of the Colorado bureau of
13 investigation, THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT, or
14 any other source, AS SET FORTH IN SECTION 26-6-107 (1) (a) (I.5). A
15 certified copy of the judgment of a court of competent jurisdiction of such
16 conviction, deferred judgment and sentence agreement, deferred
17 prosecution agreement, or deferred adjudication agreement shall be prima
18 facie evidence of such conviction or agreement. No license or certificate
19 to operate a family child care home, a foster care home, a child care
20 center, a residential child care facility, a secure residential child care
21 facility, or a child placement agency shall be issued if the department has
22 a certified court order from another state indicating that the person
23 applying for such a license or certificate has been convicted of felony
24 child abuse or any unlawful sexual offense against a child under a law of
25 any other state or the United States or the department has a certified court
26 order from another state that the person applying for the license or
27 certificate has entered into a deferred judgment or deferred prosecution

1 agreement in another state as to felony child abuse or any sexual offense
2 against a child.

3 **SECTION 10.** 26-6-107 (1) (a) (I), Colorado Revised Statutes, is
4 amended, and the said 26-6-107 (1) (a) is further amended BY THE
5 ADDITION OF A NEW SUBPARAGRAPH, to read:

6 **26-6-107. Investigations and inspections - local authority -**
7 **reports - rules.** (1) (a) (I) (A) The STATE department shall investigate
8 and pass on each original application for a license, and each application
9 for a permanent license following the issuance of a probationary or
10 provisional license, to operate a facility or an agency prior to granting
11 such license. As part of such investigation, the STATE department shall
12 require each applicant, owner, employee, newly hired employee, licensee,
13 and any adult who resides in the licensed facility to obtain a criminal
14 ~~record~~ BACKGROUND check by reviewing any record that shall be used to
15 assist the STATE department in ascertaining whether the person being
16 investigated has been convicted of any of the criminal offenses specified
17 in section 26-6-104 (7) or any other felony. The state board of ~~human~~
18 ~~services~~ shall promulgate rules that define and identify what the criminal
19 background check shall entail.

20 (B) ~~Such~~ Rules PROMULGATED BY THE STATE BOARD PURSUANT TO
21 THIS SUBPARAGRAPH (I) shall allow an exemption from the criminal
22 background investigation and the state central registry of child protection
23 investigation for those out-of-state employees working in Colorado at a
24 children's resident camp in a temporary capacity for fewer than ninety
25 days. Each person so exempted from fingerprinting and the state central
26 registry of child protection investigation shall sign a statement that
27 affirmatively states that he or she has not been convicted of any charge of

1 child abuse, unlawful sexual offense, or any felony. Prospective
2 employers of such exempted persons shall conduct reference checks of the
3 prospective employees in order to verify previous work history and shall
4 conduct personal interviews with each such prospective employee.

5 (C) ~~The~~ Rules PROMULGATED BY THE STATE BOARD PURSUANT TO
6 THIS SUBPARAGRAPH (I) shall require the criminal background check in all
7 ~~other~~ circumstances OTHER THAN THOSE IDENTIFIED IN
8 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I) to include a
9 fingerprint check through the Colorado bureau of investigation. As part
10 of said investigation, the state central registry of child protection shall be
11 accessed to determine whether the owner, applicant, employee, newly
12 hired employee, licensee, or individual who resides in the licensed facility
13 being investigated is the subject of a report of known or suspected child
14 abuse. Pursuant to section 19-1-307 (2) (j), C.R.S., information shall be
15 made available if a person's name is on the central registry of child
16 protection, or has been designated as "status pending" pursuant to section
17 19-3-313, C.R.S. Any change in ownership of a licensed facility or the
18 addition of a new resident adult or newly hired employee to the licensed
19 facility shall require a new investigation as provided for in this section.

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

22 (I.5) RULES PROMULGATED BY THE STATE BOARD PURSUANT TO
23 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL PROVIDE THAT CRIMINAL
24 BACKGROUND CHECKS CONDUCTED BY THE STATE DEPARTMENT PURSUANT
25 TO THIS SECTION SHALL INCLUDE:

26 (A) CONTINUED FINGERPRINT CHECK REQUIREMENTS THROUGH THE
27 COLORADO BUREAU OF INVESTIGATION (CBI) AS SPECIFIED IN THIS PART 1;

1 (B) A COMPARISON SEARCH ON THE ICON SYSTEM AT THE STATE
2 JUDICIAL DEPARTMENT WITH THE NAME AND DATE OF BIRTH INFORMATION
3 AND ANY OTHER AVAILABLE SOURCE OF CRIMINAL HISTORY INFORMATION
4 THAT THE STATE DEPARTMENT DETERMINES IS APPROPRIATE FOR EACH
5 CIRCUMSTANCE IN WHICH THE CBI FINGERPRINT CHECK EITHER DOES NOT
6 CONFIRM A CRIMINAL HISTORY OR CONFIRMS A CRIMINAL HISTORY, IN
7 ORDER TO DETERMINE THE CRIME OR CRIMES FOR WHICH THE PERSON WAS
8 ARRESTED OR CONVICTED AND THE DISPOSITION THEREOF; AND

9 (C) ANY OTHER RECOGNIZED DATABASE, IF ANY, THAT IS
10 ACCESSIBLE ON A STATE-WIDE BASIS AS SET FORTH BY RULES
11 PROMULGATED BY THE STATE BOARD.

12 **SECTION 11.** 26-6-108, Colorado Revised Statutes, is amended
13 BY THE ADDITION OF A NEW SUBSECTION to read:

14 **26-6-108. Denial of original license - suspension - revocation -**
15 **probation - refusal to renew license - fines.** (2.9) THE CONVICTIONS
16 IDENTIFIED IN THIS SECTION SHALL BE DETERMINED ACCORDING TO THE
17 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION, THE ICON
18 SYSTEM AT THE STATE JUDICIAL DEPARTMENT, OR ANY OTHER SOURCE, AS
19 SET FORTH IN SECTION 26-6-107 (1) (a) (I.5).

20 **SECTION 12.** Part 1 of article 6 of title 26, Colorado Revised
21 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
22 SECTIONS to read:

23 **26-6-117. Criminal background check - comparison of records**
24 **- investigation.** THE STATE DEPARTMENT MAY REQUEST THAT THE
25 COLORADO BUREAU OF INVESTIGATION FORWARD INFORMATION
26 INVOLVING ANY CRIMINAL BACKGROUND CHECK REQUIRED UNDER THIS
27 PART 1 TO THE STATE JUDICIAL DEPARTMENT FOR COMPARISON WITH

1 INFORMATION IN THAT DEPARTMENT'S ICON SYSTEM. THE BUREAU SHALL
2 FORWARD SUCH INFORMATION TO THE STATE DEPARTMENT PURSUANT TO
3 SECTION 24-33.5-412 (3) (d), C.R.S., AND THE STATE DEPARTMENT SHALL
4 COMPARE THE RECORDS, ATTEMPT TO IDENTIFY DISPOSITIONAL
5 INFORMATION, AND CONDUCT A FURTHER INVESTIGATION TO DETERMINE
6 IF THE PERSON WHO IS THE SUBJECT OF THE CRIMINAL BACKGROUND CHECK
7 SHOULD BE PROHIBITED FROM PROVIDING CHILD CARE PURSUANT TO STATE
8 LAW.

9 **26-6-118. County department duty - criminal background**
10 **check - legally-exempt providers - child care assistance program. (1)**

11 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 6 TO THE
12 CONTRARY, AND IN ADDITION TO THOSE HOMES AND FACILITIES LICENSED
13 PURSUANT TO THIS PART 1, A COUNTY DEPARTMENT SHALL CONDUCT A
14 CRIMINAL BACKGROUND CHECK ON A PERSON PROVIDING CHILD CARE
15 SERVICES IN A HOME OR FACILITY, AND ON ANY RESIDENT ADULT OF THE
16 HOME OR FACILITY, IF SUCH HOME OR FACILITY IS A LEGALLY-EXEMPT
17 CHILD CARE FACILITY DESCRIBED IN SECTION 26-6-103, AND RECEIVING
18 MONEYS EITHER DIRECTLY OR INDIRECTLY THROUGH THE COLORADO
19 CHILD CARE ASSISTANCE PROGRAM PURSUANT TO PART 8 OF ARTICLE 2 OF
20 THIS TITLE. NO HOME OR FACILITY DESCRIBED BY THIS SECTION SHALL
21 RECEIVE SUCH MONEYS IF SUCH CRIMINAL BACKGROUND CHECK INDICATES
22 THAT THE PERSON HAS BEEN CONVICTED OF ANY OF THE OFFENSES LISTED
23 IN SECTION 26-6-104 (7) OR 26-6-108.

24 (2) THE CRIMINAL BACKGROUND CHECK DESCRIBED IN SUBSECTION
25 (1) OF THIS SECTION NEED NOT INCLUDE A FINGERPRINT CHECK, BUT SHALL
26 INCLUDE A COMPARISON SEARCH ON THE ICON SYSTEM AT THE STATE
27 JUDICIAL DEPARTMENT.

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