

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

INTRODUCED

LLS NO. 01-0524.01 Jeff Conway

SENATE BILL 01-032

SENATE SPONSORSHIP

Linkhart

HOUSE SPONSORSHIP

Alexander

Senate Committees

House Committees

Judiciary

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:

11 (a) THE STATE JUDICIAL DEPARTMENT CONTINUE TO WORK WITH
12 OTHER LAW ENFORCEMENT ENTITIES TO COMPLETE AND IMPLEMENT THE
13 INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM IN A TIMELY
14 MANNER; AND

15 (b) THE STATE JUDICIAL DEPARTMENT PURSUE THE INTEGRATION OF
16 MUNICIPAL RECORDS, INCLUDING THE COUNTY COURT RECORDS OF THE
17 CITY AND COUNTY OF DENVER, INTO THE STATE JUDICIAL DEPARTMENT'S
18 INTEGRATED COURT ON-LINE NETWORK (ICON).

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

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

1 AGENCIES AND POLITICAL SUBDIVISIONS OF THE STATE. THE GENERAL
2 ASSEMBLY FURTHER FINDS AND DECLARES THAT IT IS IN THE BEST
3 INTERESTS OF THE CITIZENS OF THE STATE AND FOR THE ENHANCEMENT OF
4 PUBLIC SAFETY THAT SUCH SYSTEM BE FINALIZED AND IMPLEMENTED AND
5 THAT THE VARIOUS DATABASES BE INTEGRATED AS SOON AS POSSIBLE.

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

8 **24-33.5-102. Definitions.** As used in this article, unless the
9 context otherwise requires:

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

13 **SECTION 4.** 24-33.5-412 (3), Colorado Revised Statutes, is
14 amended BY THE ADDITION OF THE FOLLOWING NEW
15 PARAGRAPHS to read:

16 **24-33.5-412. Functions of bureau - legislative review.**

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

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

26 (II) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (3),
27 EVERY LAW ENFORCEMENT, CORRECTIONAL, AND JUDICIAL ENTITY,

1 AGENCY, OR FACILITY IN THIS STATE SHALL FORWARD TO THE BUREAU THE
2 INFORMATION REQUIRED BY THIS SUBSECTION (3) WITHIN SEVENTY-TWO
3 HOURS AFTER RECEIVING SUCH INFORMATION; EXCEPT THAT THE TIME
4 PERIOD SHALL NOT INCLUDE SATURDAYS, SUNDAYS, OR LEGAL HOLIDAYS.
5 THE INFORMATION FORWARDED TO THE BUREAU SHALL INCLUDE, BUT NEED
6 NOT BE LIMITED TO, THE FINGERPRINTS OF SAID ARRESTED PERSONS.

7 (d) UPON THE REQUEST OF THE STATE DEPARTMENT OF HUMAN
8 SERVICES, THE BUREAU SHALL FORWARD ANY INFORMATION REQUIRED BY
9 THIS SUBSECTION (3) THAT INVOLVES CHILD CARE PROVIDERS REGULATED
10 UNDER ARTICLE 6 OF TITLE 26, C.R.S., TO THE ICON SYSTEM AT THE STATE
11 JUDICIAL DEPARTMENT.

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

14 **26-2-805. Services - assistance provided.** (2.5) A COUNTY
15 DEPARTMENT SHALL ENSURE THAT NO CHILD CARE PROVIDER THAT IS
16 LEGALLY EXEMPT FROM THE LICENSURE REQUIREMENTS SET FORTH IN PART
17 1 OF ARTICLE 6 OF THIS TITLE SHALL RECEIVE ANY MONEYS PURSUANT TO
18 THIS PART 8 UNLESS THE COUNTY DEPARTMENT AND THE PROVIDER HAVE
19 COMPLIED WITH THE CRIMINAL BACKGROUND CHECK REQUIRED BY
20 SECTION 26-6-118.

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

23 **26-6-102. Definitions.** As used in this article, unless the context
24 otherwise requires:

25 (5.2) "ICON" MEANS THE COMPUTERIZED DATABASE OF COURT
26 RECORDS KNOWN AS THE INTEGRATED COURT ON-LINE NETWORK USED BY
27 THE STATE JUDICIAL DEPARTMENT.

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

4 **26-6-103. Application of part - study.** (1) EXCEPT AS
5 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, this part 1 shall
6 not apply to:

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

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

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

16 **26-6-104. Licenses - out-of-state notices and consent.**

17 (7) (b) The convictions identified in paragraph (a) of this subsection (7)
18 shall be determined according to the records of the Colorado bureau of
19 investigation, THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT, or
20 any other source, AS SET FORTH IN SECTION 26-6-107 (1) (a) (I.5). A
21 certified copy of the judgment of a court of competent jurisdiction of such
22 conviction, deferred judgment and sentence agreement, deferred
23 prosecution agreement, or deferred adjudication agreement shall be prima
24 facie evidence of such conviction or agreement. No license or certificate
25 to operate a family child care home, a foster care home, a child care
26 center, a residential child care facility, a secure residential child care
27 facility, or a child placement agency shall be issued if the department has

1 a certified court order from another state indicating that the person
2 applying for such a license or certificate has been convicted of felony
3 child abuse or any unlawful sexual offense against a child under a law of
4 any other state or the United States or the department has a certified court
5 order from another state that the person applying for the license or
6 certificate has entered into a deferred judgment or deferred prosecution
7 agreement in another state as to felony child abuse or any sexual offense
8 against a child.

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

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

26 (B) ~~Such~~ Rules PROMULGATED BY THE STATE BOARD PURSUANT TO
27 THIS SUBPARAGRAPH (I) shall allow an exemption from the criminal

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

11 (C) ~~The~~ Rules PROMULGATED BY THE STATE BOARD PURSUANT TO
12 THIS SUBPARAGRAPH (I) shall require the criminal background check in all
13 ~~other~~ circumstances OTHER THAN THOSE IDENTIFIED IN
14 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I) to include a
15 fingerprint check through the Colorado bureau of investigation. As part
16 of said investigation, the state central registry of child protection shall be
17 accessed to determine whether the owner, applicant, employee, newly
18 hired employee, licensee, or individual who resides in the licensed facility
19 being investigated is the subject of a report of known or suspected child
20 abuse. Pursuant to section 19-1-307 (2) (j), C.R.S., information shall be
21 made available if a person's name is on the central registry of child
22 protection, or has been designated as "status pending" pursuant to section
23 19-3-313, C.R.S. Any change in ownership of a licensed facility or the
24 addition of a new resident adult or newly hired employee to the licensed
25 facility shall require a new investigation as provided for in this section.

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

1 (I.5) RULES PROMULGATED BY THE STATE BOARD PURSUANT TO
2 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL PROVIDE THAT CRIMINAL
3 BACKGROUND CHECKS CONDUCTED BY THE STATE DEPARTMENT PURSUANT
4 TO THIS SECTION SHALL INCLUDE:

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

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

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

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

20 **26-6-108. Denial of original license - suspension - revocation -**
21 **probation - refusal to renew license - fines.** (2.9) THE CONVICTIONS
22 IDENTIFIED IN THIS SECTION SHALL BE DETERMINED ACCORDING TO THE
23 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION, THE ICON
24 SYSTEM AT THE STATE JUDICIAL DEPARTMENT, OR ANY OTHER SOURCE, AS
25 SET FORTH IN SECTION 26-6-107 (1) (a) (I.5).

26 **SECTION 12.** Part 1 of article 6 of title 26, Colorado Revised
27 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW

1 SECTIONS to read:

2 **26-6-117. Criminal background check - comparison of records**

3 **- investigation.** THE STATE DEPARTMENT MAY REQUEST THAT THE
4 COLORADO BUREAU OF INVESTIGATION FORWARD INFORMATION
5 INVOLVING ANY CRIMINAL BACKGROUND CHECK REQUIRED UNDER THIS
6 PART 1 TO THE STATE JUDICIAL DEPARTMENT FOR COMPARISON WITH
7 INFORMATION IN THAT DEPARTMENT'S ICON SYSTEM. THE BUREAU SHALL
8 FORWARD SUCH INFORMATION TO THE STATE DEPARTMENT PURSUANT TO
9 SECTION 24-33.5-412 (3) (d), C.R.S., AND THE STATE DEPARTMENT SHALL
10 COMPARE THE RECORDS, ATTEMPT TO IDENTIFY DISPOSITIONAL
11 INFORMATION, AND CONDUCT A FURTHER INVESTIGATION TO DETERMINE
12 IF THE PERSON WHO IS THE SUBJECT OF THE CRIMINAL BACKGROUND CHECK
13 SHOULD BE PROHIBITED FROM PROVIDING CHILD CARE PURSUANT TO STATE
14 LAW.

15 **26-6-118. County department duty - criminal background**
16 **check - legally-exempt providers - child care assistance program.**

17 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 6 TO THE
18 CONTRARY, AND IN ADDITION TO THOSE HOMES AND FACILITIES LICENSED
19 PURSUANT TO THIS PART 1, A COUNTY DEPARTMENT SHALL CONDUCT A
20 CRIMINAL BACKGROUND CHECK ON A PERSON PROVIDING CHILD CARE
21 SERVICES IN A HOME OR FACILITY, AND ON ANY RESIDENT ADULT OF THE
22 HOME OR FACILITY, IF SUCH HOME OR FACILITY IS A LEGALLY-EXEMPT
23 CHILD CARE FACILITY DESCRIBED IN SECTION 26-6-103, AND RECEIVING
24 MONEYS EITHER DIRECTLY OR INDIRECTLY THROUGH THE COLORADO
25 CHILD CARE ASSISTANCE PROGRAM PURSUANT TO PART 8 OF ARTICLE 2 OF
26 THIS TITLE. NO HOME OR FACILITY DESCRIBED BY THIS SECTION SHALL
27 RECEIVE SUCH MONEYS IF SUCH CRIMINAL BACKGROUND CHECK INDICATES

1 THAT THE PERSON HAS BEEN CONVICTED OF ANY OF THE OFFENSES LISTED
2 IN SECTION 26-6-104 (7) OR 26-6-108.

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