

**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 COLORADO ON-LINE NETWORK (ICON) OF
2 THE 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 PROGRAM ESTABLISHED BY ARTICLE 20.5 OF THIS
8 TITLE.

9 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT,
10 IN ORDER TO ASSURE THAT CRIMINAL BACKGROUND CHECKS FOR CHILD
11 CARE WORKERS ARE ACCURATE AND COMPLETE, IT IS CRITICAL THAT THE
12 CRIMINAL JUSTICE AGENCIES PARTICIPATING IN THE INTEGRATED CRIMINAL
13 JUSTICE INFORMATION SYSTEM PROGRAM ESTABLISHED BY ARTICLE 20.5 OF
14 THIS TITLE AND POLITICAL SUBDIVISIONS CONTINUE TO WORK WITH EACH
15 OTHER TO COMPLETE AND IMPLEMENT SUCH PROGRAM IN A TIMELY
16 MANNER AND CONSIDER THE INTEGRATION OF MUNICIPAL RECORDS,
17 INCLUDING THE COUNTY COURT RECORDS OF THE CITY AND COUNTY OF
18 DENVER, INTO SUCH PROGRAM.

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 COLORADO ON-LINE NETWORK USED
12 BY 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 CRIMINAL JUSTICE INFORMATION PROGRAM TASK FORCE
22 CREATED IN SECTION 16-20.5-103, C.R.S., SHALL ESTABLISH AND REQUIRE
23 THE USE OF UNIFORM IDENTIFIERS IN THE INFORMATION REQUIRED BY THIS
24 SUBSECTION (3) IN ORDER TO FACILITATE THE MATCHING OF CRIMINAL
25 RECORDS IN THE BUREAU'S DATABASES AND IN THE ICON SYSTEM AT THE
26 STATE JUDICIAL DEPARTMENT, AND SUCH IDENTIFIERS MAY BE ANY
27 IDENTIFIERS EXISTING ON OR AFTER THE EFFECTIVE DATE OF THIS ACT; AND

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

9 (d) THE BUREAU SHALL ELECTRONICALLY FORWARD THE
10 INFORMATION REQUIRED BY THIS SUBSECTION (3) TO THE JUDICIAL
11 DEPARTMENT THROUGH THE INTEGRATED CRIMINAL JUSTICE INFORMATION
12 SYSTEM PROGRAM ESTABLISHED BY ARTICLE 20.5 OF TITLE 16, C.R.S.,
13 WITHIN TWENTY-FOUR HOURS AFTER:

14 (I) THE SUSPECT'S ARREST AND FINGERPRINTING IF THE
15 INFORMATION IS FROM A JURISDICTION THAT USES AN
16 ELECTRONICALLY-BASED FINGERPRINT TRANSMISSION SYSTEM; OR

17 (II) THE RECEIPT OF A PAPER COPY OF THE SUSPECT'S FINGERPRINTS
18 BY THE BUREAU IF THE INFORMATION IS FROM A JURISDICTION THAT DOES
19 NOT USE AN ELECTRONICALLY-BASED FINGERPRINT TRANSMISSION SYSTEM.

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21 **SECTION 5.** 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 COLORADO ON-LINE NETWORK USED
27 BY THE STATE JUDICIAL DEPARTMENT.

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

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

26-6-104. Licenses - out-of-state notices and consent.
(7) (b) The convictions identified in paragraph (a) of this subsection (7) shall be determined according to the records of the Colorado bureau of investigation, THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT, or any other source, AS SET FORTH IN SECTION 26-6-107 (1) (a) (I.5). 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 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 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.

SECTION 8. 26-6-107 (1) (a) (I), Colorado Revised Statutes, is amended, and the said 26-6-107 (1) (a) is further amended BY THE

1 ADDITION OF A NEW SUBPARAGRAPH, to read:

2 **26-6-107. Investigations and inspections - local authority -**
3 **reports - rules.** (1) (a) (I) (A) The STATE department shall investigate
4 and pass on each original application for a license, and each application
5 for a permanent license following the issuance of a probationary or
6 provisional license, to operate a facility or an agency prior to granting
7 such license. As part of such investigation, the STATE department shall
8 require each applicant, owner, employee, newly hired employee, licensee,
9 and any adult who resides in the licensed facility to obtain a criminal
10 ~~record~~ BACKGROUND check by reviewing any record that shall be used to
11 assist the STATE department in ascertaining whether the person being
12 investigated has been convicted of any of the criminal offenses specified
13 in section 26-6-104 (7) or any other felony. The state board of ~~human~~
14 ~~services~~ shall promulgate rules that define and identify what the criminal
15 background check shall entail.

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

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

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

18 (I.5) RULES PROMULGATED BY THE STATE BOARD PURSUANT TO
19 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL PROVIDE THAT THE
20 COSTS FOR PERFORMING CRIMINAL BACKGROUND CHECKS CONDUCTED BY
21 THE STATE DEPARTMENT FOR ANY FACILITY LICENSED PURSUANT TO THIS
22 PART 1 THAT PROVIDES LESS THAN TWENTY-FOUR-HOUR CARE SHALL BE
23 REIMBURSED FROM FEDERAL MONEYS IN THE CHILD CARE DEVELOPMENT
24 FUND AND SHALL ALSO PROVIDE THAT SAID CRIMINAL BACKGROUND
25 CHECKS 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 9.** 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).

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23 **SECTION 10. Appropriation.** In addition to any other
24 appropriation, division of child care, child care assistance program, for the
25 fiscal year beginning July 1, 2001, the sum of sixty-three thousand one
26 hundred seventy-eight dollars (\$63,178) in federal funds and 1.7 FTE
27 from child care development funds.

1 **SECTION 11. 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.