

**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

Criminal Justice
Appropriations

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.

SENATE
3rd Reading Unamended
April 17, 2001

SENATE
Amended 2nd Reading
April 16, 2001

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 THE RECEIPT OF:

14 (I) AN ELECTRONIC VERSION OF THE SUSPECT'S ARREST AND
15 FINGERPRINT INFORMATION BY THE BUREAU; OR

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

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
10 FINGERPRINT-BASED criminal ~~record~~ HISTORY BACKGROUND check by
11 reviewing any record that shall be used to assist the STATE department in
12 ascertaining whether the person being investigated has been convicted of
13 any of the criminal offenses specified in section 26-6-104 (7) or any other
14 felony. The state board of ~~human services~~ shall promulgate rules that
15 define and identify what the criminal HISTORY background check shall
16 entail.

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

1 conduct personal interviews with each such prospective employee.

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

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

24 (I.5) RULES PROMULGATED BY THE STATE BOARD PURSUANT TO
25 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL ALSO INCLUDE:

26 (A) A COMPARISON SEARCH ON THE ICON SYSTEM AT THE STATE
27 JUDICIAL DEPARTMENT WITH THE NAME AND DATE OF BIRTH INFORMATION

1 AND ANY OTHER AVAILABLE SOURCE OF CRIMINAL HISTORY INFORMATION
2 THAT THE STATE DEPARTMENT DETERMINES IS APPROPRIATE FOR EACH
3 CIRCUMSTANCE IN WHICH THE CBI FINGERPRINT CHECK EITHER DOES NOT
4 CONFIRM A CRIMINAL HISTORY OR CONFIRMS A CRIMINAL HISTORY, IN
5 ORDER TO DETERMINE THE CRIME OR CRIMES FOR WHICH THE PERSON WAS
6 ARRESTED OR CONVICTED AND THE DISPOSITION THEREOF; AND

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

10 **SECTION 9.** 26-6-108, Colorado Revised Statutes, is amended
11 BY THE ADDITION OF A NEW SUBSECTION to read:

12 **26-6-108. Denial of original license - suspension - revocation -**
13 **probation - refusal to renew license - fines.** (2.9) THE CONVICTIONS
14 IDENTIFIED IN THIS SECTION SHALL BE DETERMINED ACCORDING TO THE
15 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION, THE ICON
16 SYSTEM AT THE STATE JUDICIAL DEPARTMENT, OR ANY OTHER SOURCE, AS
17 SET FORTH IN SECTION 26-6-107 (1) (a) (I.5).

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21 **SECTION 10. Appropriation.** (1) In addition to any other
22 appropriation, there is hereby appropriated, for the fiscal year beginning
23 July 1, 2001, to the department of human services, division of child care,
24 for child care licensing and administration, the sum of ninety-five
25 thousand six hundred fifty-eight dollars (\$95,658) and 2.5 FTE, or so
26 much thereof is necessary for implementation of this act. Of said sum,
27 nineteen thousand one hundred thirty-two dollars (\$19,132) shall be from

1 the general fund, and seventy-six thousand five hundred twenty-six
2 dollars (\$76,526) shall be from federal child care development funds.

3 (2) In addition to any other appropriation, there is hereby
4 appropriated, for the fiscal year beginning July 1, 2001, to the department
5 of public safety, Colorado bureau of investigation, the sum of three
6 hundred twenty-three thousand two hundred thirty-eight dollars
7 (\$323,238) and 1.5 FTE, or so much thereof is necessary for
8 implementation of this act. Of said sum, two hundred forty-eight
9 thousand nine hundred eighty-eight dollars (\$248,988) shall be from cash
10 funds from fingerprint and name check processing fees, and seventy-four
11 thousand two hundred and fifty dollars (\$74,250) shall be from cash funds
12 exempt.

13 (3) It is the intent of the general assembly that the general fund
14 appropriation in subsection (1) of this section for the implementation of
15 this act shall be derived from savings generated from the implementation
16 of the provisions of S.B. 01-77, as enacted during the first regular session
17 of the sixty-third general assembly.

18 **SECTION 11. Effective date.** (1) This act shall take effect upon
19 the passage.

20 (2) Notwithstanding the provisions of subsection (1) of this
21 section, this act shall only take effect if:

22 (a) The final fiscal estimate for S.B. 01-77, as reflected in the
23 appropriations clause for said act, shows a net general fund savings that
24 is equal to or greater than the final general fund fiscal estimate for this act,
25 as reflected in section 10 of this act; and

26 (b) S.B. 01-77 is enacted at the first regular session of the sixty-
27 third general assembly and becomes law.

1 **SECTION 12. 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.