

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0652.01 Brita Darling x2241

HOUSE BILL 17-1284

HOUSE SPONSORSHIP

Lontine,

SENATE SPONSORSHIP

Aguilar and Gardner,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTING AT-RISK ADULTS FROM MISTREATMENT BY**
102 **ESTABLISHING A CHECK OF THE COLORADO ADULT PROTECTIVE**
103 **SERVICES DATA SYSTEM FOR PERSONS EMPLOYED TO PROVIDE**
104 **DIRECT CARE TO AT-RISK ADULTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes a state-level program (program) within the department of human services (department) for a check of the department's Colorado adult protective services (CAPS) data system. The

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.

CAPS check verifies whether a person is substantiated in a case of mistreatment of an at-risk adult, as defined in the bill. A person must be substantiated in a case of mistreatment of an at-risk adult, and the administrative appeals process must be concluded before the person's name is included in a CAPS check for an employer.

On and after a date stated in the bill, the bill requires certain employers at facilities or programs that serve at-risk adults to request a CAPS check prior to hiring employees who will provide direct care, as defined in the bill, to at-risk adults.

The bill grants immunity from civil liability for employers who make an employment decision based upon the information obtained in the CAPS check, unless the employer knows that the information is false.

The bill requires the department to promulgate rules relating to the investigation of reports of mistreatment of at-risk adults and the notification of perpetrators of the finding and of the right to administrative appeal to the department. The department shall provide training to county departments of human or social services relating to investigations, the accurate entry of documentation into CAPS, and confidentiality of information.

Further, the department shall promulgate rules concerning the process and procedures for the CAPS check, including rules relating to submitting a CAPS check request, the timeline for completion of a CAPS check, the employer-paid fee for each check, department personnel granted access to CAPS, information provided to an employer as part of a CAPS check, and the consequences of the improper release of the information in CAPS.

A person who improperly releases or willfully permits the release of CAPS information to persons not entitled to access to the information pursuant to the program commits a class 1 misdemeanor.

The list of employers required to request a CAPS check includes:

- ! Health facilities licensed by the department of public health and environment;
- ! An adult day care facility;
- ! A community integrated health care service agency;
- ! A community-centered board or service agency;
- ! An area agency on aging;
- ! A facility operated by the department for persons with mental illness;
- ! A facility operated by the department for persons with intellectual and developmental disabilities; and
- ! A veterans community living center.

County departments of human or social services are required to conduct a CAPS check of adult protective services employees. The department is authorized to assess a fee for each CAPS check sufficient to cover certain expenses, including those related to the CAPS check.

The bill includes conforming amendments concerning the CAPS check requirement in statutes relating to employers subject to the requirement.

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

2 **SECTION 1.** In Colorado Revised Statutes, 26-3.1-101, **amend**
3 the introductory portion; and **add** (1.7), (1.8), and (3.5) as follows:

4 **26-3.1-101. Definitions.** As used in this ~~article~~ ARTICLE 3.1,
5 unless the context otherwise requires:

6 (1.7) "CAPS" MEANS THE COLORADO ADULT PROTECTIVE
7 SERVICES DATA SYSTEM THAT INCLUDES RECORDS OF REPORTS OF
8 MISTREATMENT OF AT-RISK ADULTS.

9 (1.8) "CAPS CHECK" MEANS A CHECK OF THE COLORADO ADULT
10 PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111.

11 (3.5) "DIRECT CARE" MEANS SERVICES AND SUPPORTS, INCLUDING
12 CASE MANAGEMENT SERVICES, PROTECTIVE SERVICES, PHYSICAL CARE,
13 MENTAL HEALTH SERVICES, OR ANY OTHER SERVICE NECESSARY FOR THE
14 AT-RISK ADULT'S HEALTH, SAFETY, OR WELFARE.

15 **SECTION 2.** In Colorado Revised Statutes, 26-3.1-102, **amend**
16 (7)(b) as follows:

17 **26-3.1-102. Reporting requirements.** (7) (b) Disclosure of a
18 report of the mistreatment or self-neglect of an at-risk adult and
19 information relating to an investigation of such a report is permitted only
20 when authorized by a court for good cause. Such disclosure is not ~~be~~
21 prohibited when:

22 (I) A criminal complaint, information, or indictment based on the
23 report is filed;

24 (II) There is a death of a suspected at-risk adult from mistreatment

1 or self-neglect and a law enforcement agency files a formal charge or a
2 grand jury issues an indictment in connection with the death;

3 (III) ~~Such~~ THE disclosure is necessary for the coordination of
4 multiple agencies' investigation of a report or for the provision of
5 protective services to an at-risk adult; ~~or~~

6 (IV) ~~Such~~ THE disclosure is necessary for purposes of an audit of
7 a county department of human or social services pursuant to section
8 26-1-114.5;

9 (V) THE DISCLOSURE IS MADE FOR PURPOSES OF THE APPEALS
10 PROCESS RELATING TO A SUBSTANTIATED CASE OF MISTREATMENT OF AN
11 AT-RISK ADULT PURSUANT TO SECTION 26-3.1-108 (2); OR

12 (VI) THE DISCLOSURE IS MADE BY THE STATE DEPARTMENT TO AN
13 EMPLOYER AS PART OF A CAPS CHECK PURSUANT TO SECTION 26-3.1-111
14 OR BY A COUNTY DEPARTMENT PURSUANT TO SECTION 26-3.1-107.

15 **SECTION 3.** In Colorado Revised Statutes, 26-3.1-103, **add** (1.5)
16 as follows:

17 **26-3.1-103. Evaluations - investigations - training - rules.**

18 (1.5) THE STATE DEPARTMENT SHALL PROVIDE TRAINING TO ALL CURRENT
19 COUNTY DEPARTMENT ADULT PROTECTIVE SERVICES CASEWORKERS AND
20 SUPERVISORS NO LATER THAN JULY 1, 2018, AND TO NEW COUNTY
21 DEPARTMENT ADULT PROTECTIVE SERVICES CASEWORKERS AND
22 SUPERVISORS HIRED AFTER JULY 1, 2018, TO ACHIEVE CONSISTENCY IN
23 THE PERFORMANCE OF THE FOLLOWING DUTIES:

24 (a) INVESTIGATING REPORTS OF SUSPECTED MISTREATMENT OR
25 SELF-NEGLECT OF AT-RISK ADULTS AND MAKING FINDINGS CONCERNING
26 CASES AND ALLEGED PERPETRATORS;

27 (b) NOTIFYING A PERSON WHO HAS BEEN SUBSTANTIATED IN A

1 CASE OF MISTREATMENT OF AN AT-RISK ADULT OF THE FINDING AND OF
2 THE PERSON'S RIGHT TO APPEAL THE FINDING TO THE STATE DEPARTMENT;

3 (c) ASSESSING THE CLIENT'S STRENGTHS AND NEEDS AND
4 DEVELOPING A PLAN FOR THE PROVISION OF PROTECTIVE SERVICES;

5 (d) DETERMINING THE APPROPRIATENESS OF CASE CLOSURE;

6 (e) ENTERING ACCURATE AND COMPLETE DOCUMENTATION OF THE
7 REPORT AND SUBSEQUENT CASEWORK INTO CAPS; AND

8 (f) MAINTAINING CONFIDENTIALITY IN ACCORDANCE WITH STATE
9 LAW.

10 **SECTION 4.** In Colorado Revised Statutes, **amend** 26-3.1-107
11 as follows:

12 **26-3.1-107. Background check - adult protective services data**
13 **system check.** (1) Each county department shall require each protective
14 services employee hired on or after May 29, 2012, to complete a
15 fingerprint-based criminal history records check utilizing the records of
16 the Colorado bureau of investigation and the federal bureau of
17 investigation. The employee shall pay the cost of the fingerprint-based
18 criminal history records check unless the county department chooses to
19 pay the cost. Upon completion of the criminal history records check, the
20 Colorado bureau of investigation shall forward the results to the county
21 department. The county department may require a name-based criminal
22 history records check for an applicant or an employee who has twice
23 submitted to a fingerprint-based criminal history records check and whose
24 fingerprints are unclassifiable.

25 (2) FOR EACH ADULT PROTECTIVE SERVICES EMPLOYEE HIRED ON
26 OR AFTER JANUARY 1, 2019, EACH COUNTY DEPARTMENT SHALL CONDUCT
27 A CAPS CHECK TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A

1 CASE OF MISTREATMENT OF AN AT-RISK ADULT. THE COUNTY
2 DEPARTMENT SHALL CONDUCT THE CAPS CHECK PURSUANT TO STATE
3 DEPARTMENT RULES.

4 **SECTION 5.** In Colorado Revised Statutes, **amend 26-3.1-108**
5 as follows:

6 **26-3.1-108. Notice of report - appeals - rules.** (1) The state
7 department shall promulgate appropriate rules for the implementation of
8 this ~~article~~ ARTICLE 3.1.

9 (2) IN ADDITION TO RULES PROMULGATED PURSUANT TO
10 SUBSECTION (1) OF THIS SECTION, AT A MINIMUM, THE STATE DEPARTMENT
11 SHALL PROMULGATE RULES CONCERNING:

12 (a) THE PROCESS BY WHICH A PERSON WHO IS SUBSTANTIATED IN
13 A CASE OF MISTREATMENT OF AN AT-RISK ADULT RECEIVES ADEQUATE
14 AND TIMELY NOTICE OF THAT FINDING AND OF HIS OR HER RIGHT TO
15 APPEAL THE FINDING TO THE STATE DEPARTMENT;

16 (b) THE TIMELINE AND PROCESS FOR APPEALING THE FINDING OF
17 A SUBSTANTIATED CASE OF MISTREATMENT OF AN AT-RISK ADULT;

18 (c) DESIGNATION OF THE ENTITY OTHER THAN THE COUNTY
19 DEPARTMENT WITH THE AUTHORITY TO ACCEPT AND RESPOND TO AN
20 APPEAL BY A PERSON SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN
21 AT-RISK ADULT AT EACH STAGE OF THE APPELLATE PROCESS;

22 (d) THE LEGAL STANDARDS INVOLVED IN THE APPELLATE PROCESS
23 AND A DESIGNATION OF THE PARTY WHO BEARS THE BURDEN OF
24 ESTABLISHING THAT EACH STANDARD IS MET; AND

25 (e) THE CONFIDENTIALITY REQUIREMENTS OF THE APPEALS
26 PROCESS.

27 (3) A COUNTY DEPARTMENT IS NOT REQUIRED TO PROVIDE NOTICE

1 TO A PERSON OF A FINDING OF A SUBSTANTIATED CASE OF MISTREATMENT
2 OF AN AT-RISK ADULT UNTIL CAPS IS CAPABLE OF AUTOMATICALLY
3 GENERATING THE NOTICE REQUIRED PURSUANT TO STATE DEPARTMENT
4 RULES. A CAPS CHECK MUST NOT INCLUDE INFORMATION RELATING TO A
5 PERSON WHO WAS NOT PROVIDED NOTICE PURSUANT TO STATE
6 DEPARTMENT RULES.

7 **SECTION 6.** In Colorado Revised Statutes, **add** 26-3.1-111 as
8 follows:

9 **26-3.1-111. Access to CAPS - employment checks -**
10 **confidentiality - fees - rules - legislative declaration - definitions.**

11 (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT INDIVIDUALS
12 RECEIVING CARE AND SERVICES FROM PERSONS EMPLOYED IN PROGRAMS
13 OR FACILITIES DESCRIBED IN SUBSECTION (7) OF THIS SECTION ARE
14 VULNERABLE TO MISTREATMENT, INCLUDING ABUSE, NEGLECT, AND
15 EXPLOITATION. IT IS THE INTENT OF THE GENERAL ASSEMBLY TO MINIMIZE
16 THE POTENTIAL FOR EMPLOYMENT OF PERSONS WITH A HISTORY OF
17 MISTREATMENT OF AT-RISK ADULTS IN POSITIONS THAT WOULD ALLOW
18 THOSE PERSONS UNSUPERVISED ACCESS TO THESE ADULTS. AS A RESULT,
19 THE GENERAL ASSEMBLY FINDS IT NECESSARY TO STRENGTHEN
20 PROTECTIONS FOR VULNERABLE ADULTS BY REQUIRING CERTAIN
21 EMPLOYERS TO REQUEST A CAPS CHECK BY THE STATE DEPARTMENT TO
22 DETERMINE IF A PERSON WHO WILL PROVIDE DIRECT CARE TO AN AT-RISK
23 ADULT HAS BEEN SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN
24 AT-RISK ADULT.

25 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
26 REQUIRES:

27 (a) "EMPLOYEE" MEANS A PERSON, OTHER THAN A VOLUNTEER,

1 WHO IS EMPLOYED BY OR CONTRACTED WITH AN EMPLOYER, AND
2 INCLUDES A PROSPECTIVE EMPLOYEE.

3 (b) "EMPLOYER" MEANS A PERSON, FACILITY, ENTITY, OR AGENCY
4 DESCRIBED IN SUBSECTION (7) OF THIS SECTION AND INCLUDES A
5 PROSPECTIVE EMPLOYER. "EMPLOYER" ALSO INCLUDES A PERSON HIRING
6 SOMEONE TO PROVIDE CONSUMER-DIRECTED ATTENDANT SUPPORT
7 SERVICES PURSUANT TO ARTICLE 11 OF TITLE 25.5, IF THE PERSON
8 REQUESTS A CAPS CHECK.

9 (3) THE STATE DEPARTMENT SHALL ESTABLISH AND IMPLEMENT A
10 STATE-LEVEL PROGRAM FOR EMPLOYERS TO OBTAIN A CAPS CHECK TO
11 DETERMINE IF A PERSON WHO WILL PROVIDE DIRECT CARE TO AN AT-RISK
12 ADULT IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK
13 ADULT. THE STATE DEPARTMENT'S PROGRAM SHALL BE OPERATIONAL FOR
14 AN EMPLOYER CAPS CHECK ON AND AFTER JANUARY 1, 2019.

15 (4) THE STATE DEPARTMENT SHALL NOT RELEASE INFORMATION
16 RELATING TO ANY PERSON DURING A CAPS CHECK UNLESS THE PERSON IS
17 SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT, THE
18 STATE DEPARTMENT HAS PROVIDED NOTICE OF THE FINDING TO THE
19 PERSON PURSUANT TO STATE DEPARTMENT RULES, AND ANY PENDING
20 APPEAL PROCESS HAS CONCLUDED.

21 (5) THE STATE DEPARTMENT SHALL PROMULGATE RULES FOR THE
22 IMPLEMENTATION OF THIS SECTION, WHICH RULES MUST INCLUDE THE
23 FOLLOWING:

24 (a) THE EMPLOYER PROCESS FOR REQUESTING A CAPS CHECK FOR
25 AN EXISTING OR PROSPECTIVE EMPLOYEE WHO HAS AN ACTIVE
26 APPLICATION FOR EMPLOYMENT FOR A POSITION IN WHICH THE PERSON
27 WILL PROVIDE DIRECT CARE TO AN AT-RISK ADULT;

1 (b) THE STATE DEPARTMENT OR COUNTY DEPARTMENT EMPLOYEES
2 OR EMPLOYEE POSITIONS GRANTED ACCESS TO CAPS;

3 (c) THE PROCESS FOR COMPLETING A CAPS CHECK AND THE FEE
4 CHARGED TO AN EMPLOYER FOR EACH CAPS CHECK;

5 (d) THE INFORMATION IN CAPS THAT WILL BE MADE AVAILABLE
6 TO AN EMPLOYER REQUESTING A CAPS CHECK;

7 (e) THE PURPOSES FOR WHICH THE INFORMATION IN CAPS MAY BE
8 MADE AVAILABLE; AND

9 (f) THE CONSEQUENCES OF THE IMPROPER RELEASE OF THE
10 INFORMATION IN CAPS.

11 (6) (a) ON AND AFTER JANUARY 1, 2019, PRIOR TO HIRING OR
12 CONTRACTING WITH AN EMPLOYEE WHO WILL PROVIDE DIRECT CARE TO AN
13 AT-RISK ADULT, AN EMPLOYER DESCRIBED IN SUBSECTION (7) OF THIS
14 SECTION SHALL REQUEST A CAPS CHECK BY THE STATE DEPARTMENT
15 PURSUANT TO THIS SECTION TO DETERMINE IF THE PERSON IS
16 SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.
17 WITHIN TEN DAYS AFTER THE DATE OF THE EMPLOYER'S REQUEST, IF THE
18 EMPLOYEE WAS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN
19 AT-RISK ADULT, THE STATE DEPARTMENT SHALL PROVIDE THE EMPLOYER
20 WITH INFORMATION CONCERNING THE MISTREATMENT THROUGH
21 ELECTRONIC MEANS, INCLUDING THE DATE THE MISTREATMENT WAS
22 REPORTED, THE TYPE OF MISTREATMENT REPORTED, AND THE COUNTY
23 THAT INVESTIGATED THE REPORT OF MISTREATMENT.

24 (b) AS A CONDITION OF EMPLOYMENT OR CONTRACTING, A PERSON
25 SEEKING EMPLOYMENT OR TO CONTRACT WITH THE EMPLOYER IN A
26 POSITION IN WHICH THE PERSON WILL PROVIDE DIRECT CARE TO AN
27 AT-RISK ADULT SHALL PROVIDE TO THE EMPLOYER WRITTEN

1 AUTHORIZATION AND ANY REQUIRED IDENTIFYING INFORMATION
2 NECESSARY TO CONDUCT A CAPS CHECK PURSUANT TO THIS SECTION. THE
3 EMPLOYER SHALL PAY A FEE ESTABLISHED BY THE STATE DEPARTMENT
4 FOR EACH CAPS CHECK, OR MAY REQUIRE THE PERSON SEEKING
5 EMPLOYMENT OR TO CONTRACT WITH THE EMPLOYER TO PAY THE
6 REQUIRED FEE FOR THE CAPS CHECK.

7 (c) (I) AN EMPLOYER THAT RELIES UPON INFORMATION OBTAINED
8 THROUGH A CAPS CHECK IN MAKING AN EMPLOYMENT DECISION OR
9 CONCLUDES THAT THE NATURE OF ANY INFORMATION DISQUALIFIES A
10 PROSPECTIVE EMPLOYEE FROM EMPLOYMENT IS IMMUNE FROM CIVIL
11 LIABILITY IN AN ACTION BROUGHT BY THE PROSPECTIVE EMPLOYEE FOR
12 THAT CONCLUSION OR DECISION UNLESS THE CAPS INFORMATION RELIED
13 UPON IS FALSE AND THE EMPLOYER KNOWS THE INFORMATION IS FALSE.

14 (II) NOTHING IN THIS SUBSECTION (6)(c) AMENDS, SUPERCEDES, OR
15 OTHERWISE LIMITS THE CIVIL LIABILITY OF THE EMPLOYER WITH RESPECT
16 TO ANY CLAIM OR ACTION RELATED TO THE EMPLOYMENT DECISION OTHER
17 THAN A CLAIM OR ACTION RELATING TO THE INFORMATION RECEIVED BY
18 THE EMPLOYER PURSUANT TO A CAPS CHECK.

19 (d) (I) EXCEPT AS PROVIDED IN SUBSECTION (6)(d)(II) OF THIS
20 SECTION, AN EMPLOYER IS DEEMED TO HAVE VIOLATED SUBSECTION (6)(e)
21 OF THIS SECTION IF THE EMPLOYER:

22 (A) REQUESTS A CAPS CHECK PURSUANT TO THIS SECTION FOR A
23 PERSON WHO IS NOT AN EXISTING EMPLOYEE OR WHO DOES NOT HAVE AN
24 ACTIVE APPLICATION FOR OR IS NOT CONTRACTING WITH THE EMPLOYER
25 FOR A POSITION PROVIDING DIRECT CARE TO AN AT-RISK ADULT; OR

26 (B) RELEASES INFORMATION OBTAINED PURSUANT TO THE CAPS
27 CHECK TO ANY PERSON OTHER THAN A PERSON DIRECTLY INVOLVED IN THE

1 EMPLOYER'S HIRING PROCESS.

2 (II) AN EMPLOYER HAS NOT VIOLATED SUBSECTION (6)(e) OF THIS
3 SECTION IF THE EMPLOYER RELEASES INFORMATION RECEIVED THROUGH
4 A CAPS CHECK:

5 (A) TO A STATE AGENCY OR ITS CONTRACTOR UPON THE REQUEST
6 OF THE AGENCY OR CONTRACTOR FOR PURPOSES OF AN EMPLOYER
7 INSPECTION OR SURVEY; OR

8 (B) AT THE REQUEST OF A CURRENT OR PROSPECTIVE EMPLOYER
9 OF A HEALTH CARE WORKER OR CAREGIVER IN ACCORDANCE WITH
10 SECTION 8-2-111.6 OR SECTION 8-2-111.7.

11 (e) ANY PERSON WHO IMPROPERLY RELEASES OR WHO WILLFULLY
12 PERMITS OR ENCOURAGES THE RELEASE OF DATA OR INFORMATION
13 OBTAINED THROUGH A CAPS CHECK TO PERSONS NOT PERMITTED ACCESS
14 TO THE INFORMATION PURSUANT TO THIS ARTICLE 3.1, COMMITS A CLASS
15 1 MISDEMEANOR AND IS PUNISHED AS PROVIDED IN SECTION 18-1.3-501.

16 (7) THE FOLLOWING EMPLOYERS SHALL REQUEST A CAPS CHECK
17 PURSUANT TO THIS SECTION:

18 (a) A HEALTH FACILITY LICENSED PURSUANT TO SECTION
19 25-1.5-103, INCLUDING THOSE WHOLLY OWNED AND OPERATED BY ANY
20 GOVERNMENTAL UNIT;

21 (b) AN ADULT DAY CARE FACILITY, AS DEFINED IN SECTION
22 25.5-6-303 (1);

23 (c) A COMMUNITY INTEGRATED HEALTH CARE SERVICE AGENCY,
24 AS DEFINED IN SECTION 25-3.5-1301 (1);

25 (d) A COMMUNITY-CENTERED BOARD OR A PROGRAM-APPROVED
26 SERVICE AGENCY PROVIDING OR CONTRACTING FOR SERVICES AND
27 SUPPORTS PURSUANT TO ARTICLE 10 OF TITLE 25.5;

1 (e) AN AREA AGENCY ON AGING, AS DEFINED IN SECTION
2 26-11-201 (2), AND ANY AGENCY OR PROVIDER THE AREA AGENCY ON
3 AGING CONTRACTS WITH TO PROVIDE SERVICES;

4 (f) A FACILITY OPERATED BY THE STATE DEPARTMENT FOR THE
5 CARE AND TREATMENT OF PERSONS WITH MENTAL ILLNESS PURSUANT TO
6 ARTICLE 65 OF TITLE 27;

7 (g) A FACILITY OPERATED BY THE STATE DEPARTMENT FOR THE
8 CARE AND TREATMENT OF PERSONS WITH INTELLECTUAL AND
9 DEVELOPMENTAL DISABILITIES PURSUANT TO ARTICLE 10.5 OF TITLE 27;
10 AND

11 (h) VETERANS COMMUNITY LIVING CENTERS OPERATED PURSUANT
12 TO ARTICLE 12 OF THIS TITLE 26.

13 (8) A PERSON HIRING SOMEONE TO PROVIDE CONSUMER-DIRECTED
14 ATTENDANT SUPPORT SERVICES PURSUANT TO ARTICLE 11 OF TITLE 25.5
15 MAY REQUEST A CAPS CHECK PURSUANT TO THIS SECTION AT THE
16 PERSON'S EXPENSE. THE PERSON REQUESTING THE CAPS CHECK MUST
17 COMPLY WITH STATE DEPARTMENT RULES AND THE PROVISIONS OF
18 SUBSECTION (6) OF THIS SECTION RELATING TO THE RELEASE OF
19 INFORMATION OBTAINED THROUGH A CAPS CHECK.

20 (9) EXCEPT FOR THE COSTS INCURRED FOR THE DEVELOPMENT AND
21 INITIAL IMPLEMENTATION OF THE PROGRAM, DIRECT AND INDIRECT COSTS
22 INCURRED FOR THE ADMINISTRATIVE APPEALS PROCESS FOR PERSONS
23 APPEALING CLAIMS OF MISTREATMENT OF AT-RISK ADULTS AND THE
24 DIRECT AND INDIRECT COSTS OF CONDUCTING EMPLOYER-REQUESTED
25 CAPS CHECKS PURSUANT TO THIS SECTION ARE FUNDED THROUGH A FEE
26 ASSESSED ON AN EMPLOYER FOR EACH CAPS CHECK. THE STATE
27 DEPARTMENT SHALL ESTABLISH AND COLLECT THE FEE PURSUANT TO

1 PARAMETERS SET FORTH IN RULE ESTABLISHED BY THE STATE BOARD. AT
2 A MINIMUM, THE STATE BOARD'S RULES MUST INCLUDE A PROVISION
3 REQUIRING THE STATE DEPARTMENT TO PROVIDE NOTICE OF THE FEE TO
4 INTERESTED PERSONS AND THE MAXIMUM FEE AMOUNT THAT THE STATE
5 DEPARTMENT SHALL NOT EXCEED WITHOUT THE EXPRESS APPROVAL OF
6 THE STATE BOARD. THE FEE ESTABLISHED MUST NOT EXCEED DIRECT AND
7 INDIRECT COSTS INCURRED FOR THE ADMINISTRATIVE APPEALS PROCESS
8 FOR PERSONS APPEALING CLAIMS OF MISTREATMENT OF AT-RISK ADULTS
9 AND THE DIRECT AND INDIRECT COSTS OF CONDUCTING
10 EMPLOYER-REQUESTED CAPS CHECKS PURSUANT TO THIS SECTION. FEES
11 COLLECTED FOR CAPS CHECKS SHALL BE TRANSFERRED TO THE STATE
12 TREASURER AND CREDITED TO THE RECORDS AND REPORTS FUND CREATED
13 IN SECTION 19-1-307 (2.5).

14 (10) THE STATE DEPARTMENT SHALL REVIEW THE FEASIBILITY AND
15 COST OF INCLUDING A FEATURE IN CAPS THAT WOULD PROVIDE
16 NOTIFICATION TO AN EMPLOYER IF A SUBSTANTIATED FINDING OF
17 MISTREATMENT BY AN EMPLOYEE IS SUBSEQUENTLY ENTERED INTO CAPS.
18 IF IT IS FEASIBLE TO INCLUDE A NOTIFICATION FEATURE, SUBJECT TO
19 AVAILABLE MONEY TO IMPLEMENT ANY NECESSARY SYSTEM CHANGES
20 AND COMPLETION OF THOSE SYSTEM CHANGES, THE STATE DEPARTMENT
21 SHALL IMPLEMENT THE NOTIFICATION FEATURE AS PART OF A CAPS
22 CHECK.

23 **SECTION 7.** In Colorado Revised Statutes, 19-1-307, **amend**
24 (2.5) as follows:

25 **19-1-307. Dependency and neglect records and information -**
26 **access - fee - rules - records and reports fund - misuse of information**
27 **- penalty - adult protective services data system check. (2.5) (a) Fee**

1 **- rules - records and reports fund.** Any person or agency provided
2 information from the state department of human services pursuant to
3 ~~paragraph (i), paragraphs (k) to (o), and paragraph (t) of subsection (2)~~
4 SUBSECTIONS (2)(i), (2)(k) TO (2)(o), AND (2)(t) of this section and any
5 child placement agency shall be assessed a fee that shall be established
6 and collected by the state department of human services pursuant to
7 parameters set forth in rule established by the state board of human
8 services. At a minimum, the rules shall include a provision requiring the
9 state department of human services to provide notice of the fee to
10 interested persons and the maximum fee amount that the department shall
11 not exceed without the express approval of the state board of human
12 services. The fee established shall not exceed the direct and indirect costs
13 of administering ~~paragraph (i), paragraphs (k) to (o), and paragraph (t) of~~
14 ~~subsection (2)~~ SUBSECTIONS (2)(i), (2)(k) TO (2)(o), AND (2)(t) of this
15 section and the direct and indirect costs of administering section
16 19-3-313.5 (3) and (4).

17 (b) All fees collected in accordance with ~~this subsection (2.5)~~
18 SUBSECTION (2.5)(a) OF THIS SECTION shall be transmitted to the state
19 treasurer who shall credit the same to the records and reports fund, which
20 fund is hereby created. THE FUND ALSO CONSISTS OF FEES CREDITED TO
21 THE FUND PURSUANT TO SECTION 26-3.1-111. The ~~moneys~~ MONEY in the
22 records and reports fund shall be subject to annual appropriation by the
23 general assembly for the direct and indirect costs of administering
24 ~~paragraph (i), paragraphs (k) to (o), and paragraph (t) of subsection (2)~~
25 SUBSECTIONS (2)(i), (2)(k) TO (2)(o), AND (2)(t) of this section, ~~and~~ for
26 the direct and indirect costs of administering section 19-3-313.5 (3) and
27 (4), AND FOR THE DIRECT AND INDIRECT COSTS DESCRIBED IN SECTION

1 26-3.1-111.

2 **SECTION 8.** In Colorado Revised Statutes, 25-1-124.5, **add** (3)
3 as follows:

4 **25-1-124.5. Nursing care facilities - employees - criminal**
5 **history check - adult protective services data system check.** (3) IN
6 ADDITION TO THE CRIMINAL HISTORY BACKGROUND CHECK REQUIRED
7 PURSUANT TO THIS SECTION, ON AND AFTER JANUARY 1, 2019, PRIOR TO
8 EMPLOYMENT, A NURSING CARE FACILITY SHALL SUBMIT THE NAME OF A
9 PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION
10 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION
11 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING
12 INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF
13 THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO
14 SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN
15 A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

16 **SECTION 9.** In Colorado Revised Statutes, **add** 25-1-124.7 as
17 follows:

18 **25-1-124.7. Health facilities - employees - adult protective**
19 **services data system check.** ON AND AFTER JANUARY 1, 2019, PRIOR TO
20 EMPLOYMENT, A HEALTH FACILITY LICENSED PURSUANT TO SECTION
21 25-1.5-103 (1)(a)(I)(A), INCLUDING HEALTH FACILITIES WHOLLY OWNED
22 AND OPERATED BY ANY GOVERNMENTAL UNIT OR AGENCY, SHALL SUBMIT
23 THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS
24 DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED
25 IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED
26 IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES
27 FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA

1 SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON
2 IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

3 **SECTION 10.** In Colorado Revised Statutes, 25-3.5-1303, **add**
4 (2) as follows:

5 **25-3.5-1303. Minimum standards for community integrated**
6 **health care service agencies - adult protective services data system**
7 **check - rules.** (2) ON AND AFTER JANUARY 1, 2019, PRIOR TO
8 EMPLOYMENT, A COMMUNITY INTEGRATED HEALTH CARE SERVICE AGENCY
9 SHALL SUBMIT THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT
10 CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS
11 DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED
12 IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES
13 FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA
14 SYSTEM, PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON
15 IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

16 **SECTION 11.** In Colorado Revised Statutes, 25.5-10-206,
17 **amend** (4)(b) as follows:

18 **25.5-10-206. Authorized services and supports - conditions of**
19 **funding - purchase of services and supports - adult protective services**
20 **data system check - boards of county commissioners - appropriation.**

21 (4) (b) (I) The state department shall only purchase services and supports
22 directly from those community-centered boards or service agencies that
23 meet established standards.

24 (II) THE STANDARDS REFERENCED IN SUBSECTION (4)(b)(I) OF THIS
25 SECTION MUST INCLUDE A REQUIREMENT THAT, ON AND AFTER JANUARY
26 1, 2019, PRIOR TO EMPLOYMENT, THE NAME OF A PERSON WHO WILL BE
27 PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN

1 AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY
2 OTHER REQUIRED IDENTIFYING INFORMATION, IS SUBMITTED TO THE
3 DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO
4 ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION
5 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF
6 MISTREATMENT OF AN AT-RISK ADULT.

7 **SECTION 12.** In Colorado Revised Statutes, 26-12-107, **add** (4)
8 as follows:

9 **26-12-107. Standards - management - employees - adult**
10 **protective services data system check.** (4) ON AND AFTER JANUARY 1,
11 2019, PRIOR TO EMPLOYMENT, A VETERANS CENTER SHALL SUBMIT THE
12 NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN
13 SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION
14 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING
15 INFORMATION, TO THE STATE DEPARTMENT FOR A CHECK OF THE
16 COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO
17 SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN
18 A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

19 **SECTION 13.** In Colorado Revised Statutes, **add** 27-10.5-313 as
20 follows:

21 **27-10.5-313. Regional center - employees - adult protective**
22 **services data system check.** ON AND AFTER JANUARY 1, 2019, PRIOR TO
23 EMPLOYMENT, A REGIONAL CENTER SHALL SUBMIT THE NAME OF A PERSON
24 WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101
25 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS
26 WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, TO THE
27 DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO

1 ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION
2 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF
3 MISTREATMENT OF AN AT-RISK ADULT.

4 **SECTION 14.** In Colorado Revised Statutes, 27-93-103, **add**
5 (1.5) as follows:

6 **27-93-103. Employees - adult protective services data system**
7 **check - publications.** (1.5) ON AND AFTER JANUARY 1, 2019, THE HEAD
8 OF THE ADMINISTRATIVE DIVISION OVERSEEING THE COLORADO MENTAL
9 HEALTH INSTITUTE AT PUEBLO SHALL, PRIOR TO EMPLOYMENT, SUBMIT
10 THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS
11 DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED
12 IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED
13 IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES
14 FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA
15 SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON
16 IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

17 **SECTION 15.** In Colorado Revised Statutes, 27-94-103, **add**
18 (1.5) as follows:

19 **27-94-103. Employees - adult protective services data system**
20 **check - publications.** (1.5) ON AND AFTER JANUARY 1, 2019, THE HEAD
21 OF THE ADMINISTRATIVE DIVISION OVERSEEING THE CENTER SHALL PRIOR
22 TO EMPLOYMENT, SUBMIT THE NAME OF A PERSON WHO WILL BE
23 PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN
24 AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY
25 OTHER REQUIRED IDENTIFYING INFORMATION, TO THE DEPARTMENT OF
26 HUMAN SERVICES FOR A CHECK OF THE COLORADO ADULT PROTECTIVE
27 SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE

1 IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN
2 AT-RISK ADULT.

3 **SECTION 16. 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.