

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 17-0974.01 Jane Ritter x4342

HOUSE BILL 17-1292

HOUSE SPONSORSHIP

Young, Hamner, Rankin

SENATE SPONSORSHIP

Lundberg, Lambert, Moreno

House Committees

Public Health Care & Human Services
Appropriations

Senate Committees

Appropriations

A BILL FOR AN ACT

101 **CONCERNING CHILD WELFARE LICENSED OUT-OF-HOME PLACEMENT**
102 **PROVIDER RATES, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

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/>.)

Joint Budget Committee. The bill sets forth guidelines for the establishment of provider rates for licensed out-of-home placement providers (providers). Rules adopted by the department of human services (department) concerning provider rates shall include cost-of-living adjustments and provider rate increases approved by the general

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
2nd Reading Unamended
May 1, 2017

HOUSE
3rd Reading Unamended
April 24, 2017

HOUSE
Amended 2nd Reading
April 21, 2017

assembly.

The department is directed to continue completing an annual review of the methodology by which counties evaluate and negotiate provider rates and outcomes and submit a report to the joint budget committee. As part of the continuing review, the department shall contract with an independent vendor to:

- ! Perform a salary survey and study related to the delivery of child welfare services. The study must include salary surveys for providers; child protection employees; residential child care facility employees; and state and county employees involved with the provision of child welfare services.
- ! Perform an actuarial analysis of actual vendor costs to do business in the context of current service demands; and
- ! Develop a rate-setting methodology for provider compensation using the salary survey and actuarial analysis. In developing the rate-setting methodology, the independent vendor shall solicit input from representatives of the state department, counties, the provider community, and the department of health care policy and financing. The rate-setting methodology must clearly include a process by which the full amount of any provider rate adjustments to the base rate or previously contracted rate approved by the general assembly are included as part of any final contract with a provider.

The department shall provide the joint budget committee with a report defining the new rate-setting methodology on or before April 2, 2018.

The new rate-setting methodology must be implemented on or before June 1, 2018, except for those rates that must be approved by the federal centers for medicare and medicaid services.

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

2 **SECTION 1.** In Colorado Revised Statutes, 26-5-104, **amend** (6);
3 and **add** (7) and (8) as follows:

4 **26-5-104. Funding of child welfare services - rules - report**
5 **-provider contracts - funding mechanism review - definitions.**

6 (6) **County negotiations with providers.** (a) Subject to rules
7 promulgated by the state department pursuant to ~~paragraph (b) of this~~

1 ~~subsection (6)~~ SUBSECTION (6)(b) OF THIS SECTION, a county ~~shall be~~ IS
2 authorized to negotiate rates, services, and outcomes with LICENSED
3 OUT-OF-HOME PLACEMENT providers if the county has a request for
4 proposal process in effect for soliciting bids from LICENSED OUT-OF-HOME
5 PLACEMENT providers or another mechanism for evaluating the rates,
6 services, and outcomes that it is negotiating with such LICENSED
7 OUT-OF-HOME PLACEMENT providers that is acceptable to the state
8 department.

9 (b) ~~No later than~~ ON OR BEFORE January 1, 2008, AND AS
10 NECESSARY THEREAFTER, the state department shall promulgate rules
11 governing the methodology by which counties may negotiate rates,
12 services, and outcomes with licensed OUT-OF-HOME PLACEMENT
13 providers.

14 (c) ~~A county that negotiates or renegotiates rates, services, and~~
15 ~~outcomes pursuant to paragraph (a) of this subsection (6) shall include as~~
16 ~~part of such negotiations or renegotiations cost of living adjustments and~~
17 ~~provider rate increases approved by the general assembly.~~

18 (d) By July 1, 2008, and by July 1 of each even-numbered year
19 thereafter, the state department shall complete a review of the
20 methodology by which counties EVALUATE AND negotiate rates, services,
21 and outcomes with licensed OUT-OF-HOME PLACEMENT providers. The
22 methodology used is governed by rules promulgated by the state
23 department pursuant to ~~paragraph (b) of this subsection (6)~~ SUBSECTION
24 (6)(b) OF THIS SECTION. In preparing for and conducting the review, the
25 state department shall convene a group of persons representing the
26 directors of county departments of human or social services and the
27 LICENSED OUT-OF-HOME PLACEMENT provider community. ON OR BEFORE

1 SEPTEMBER 1 OF EACH FISCAL YEAR, THE GROUP SHALL SUBMIT A REPORT
2 TO THE JOINT BUDGET COMMITTEE DETAILING ANY CHANGES TO THE
3 RATE-SETTING METHODOLOGY THAT RESULTS FROM THE REVIEW
4 CONDUCTED PURSUANT TO THIS SUBSECTION (6)(d).

5 (e) On or before ~~August 1, 2016~~ SEPTEMBER 29, 2017, as a
6 continuation of the review conducted pursuant to ~~paragraph (d) of this~~
7 ~~subsection (6)~~ SUBSECTION (6)(d) OF THIS SECTION of the methodology by
8 which counties EVALUATE AND negotiate rates, services, and outcomes
9 with licensed OUT-OF-HOME PLACEMENT providers, the state department
10 shall ~~convene a group of representatives from the state department,~~
11 ~~counties, the provider community, and the joint budget committee to~~
12 ~~review the rate-setting process for provider compensation. On or before~~
13 ~~December 15, 2016, the group shall provide the joint budget committee~~
14 ~~and the child welfare allocations committee with a report that~~
15 ~~recommends whether any changes to the rate-setting process for provider~~
16 ~~compensation are advisable and, if so, the recommended process or~~
17 ~~methodology. The group is not required to recommend changes to the~~
18 ~~current rate-setting process if it determines that the current rate-setting~~
19 ~~process is the preferable option.~~ CONTRACT WITH AN INDEPENDENT
20 VENDOR TO:

21 (I) PERFORM A SALARY SURVEY RELATED TO THE DELIVERY OF
22 CHILD WELFARE SERVICES. WHEN POSSIBLE, THE ENTITY MUST NOT
23 DUPLICATE EXISTING EFFORTS THAT COLLECT PUBLIC EMPLOYEE SALARY
24 INFORMATION BUT MUST INSTEAD INCORPORATE EXISTING INFORMATION
25 INTO THE OVERALL ANALYSIS. THE SURVEY MUST INFORM THE
26 DEVELOPMENT OF THE RATE-SETTING METHODOLOGY PURSUANT TO
27 SUBSECTION (6)(e)(III) OF THIS SECTION AND MUST ACCOUNT FOR THE

1 FUNCTIONS, RESPONSIBILITIES, QUALIFICATIONS, AND OTHER RELEVANT
2 INFORMATION FOR EACH POSITION. THE STUDY MUST ALSO GUARANTEE
3 THAT AVAILABLE INFORMATION IS GATHERED FROM A DIVERSE RANGE OF
4 GEOGRAPHICAL LOCATIONS THROUGHOUT COLORADO, INCLUDING URBAN,
5 SUBURBAN, RURAL, AND MOUNTAIN RESORT COMMUNITIES. THE STUDY
6 MUST INCLUDE INFORMATION PERTAINING TO FEDERAL AND STATE
7 REGULATIONS OR LICENSING REQUIREMENTS FOR EACH POSITION. THE
8 STUDY MUST ALSO INCLUDE SALARY SURVEYS THAT REPRESENT
9 EMPLOYEES PERFORMING ALL FACETS OF SIMILAR WORK, UTILIZING
10 SIMILAR KNOWLEDGE, SKILLS, AND ABILITIES FOR:

11 (A) LICENSED OUT-OF-HOME PLACEMENT PROVIDERS WHO HAVE
12 A CONTRACT WITH THE STATE DEPARTMENT OR A COUNTY;

13 (B) CHILD PLACEMENT AGENCY EMPLOYEES;

14 (C) RESIDENTIAL CHILD CARE FACILITY EMPLOYEES; AND

15

16 (D) COUNTY EMPLOYEES INVOLVED WITH THE PROVISION OF CHILD
17 WELFARE SERVICES.

18 (II) PERFORM AN ACTUARIAL ANALYSIS OF THE COSTS
19 NECESSARY TO PROVIDE SERVICES AT A LEVEL REQUIRED BY STATE
20 STATUTE, DEPARTMENTAL RULE, OR FEDERAL RULES AND REGULATIONS,
21 AS APPROPRIATE FOR THE FAMILIES REFERRED, INCLUDING SALARY
22 COMPARISONS BETWEEN LICENSED OUT-OF-HOME PLACEMENT PROVIDER
23 CATEGORIES AND OVERHEAD AND ADMINISTRATIVE COSTS, AND
24 DETERMINE THE EXTENT TO WHICH THE SALARY SURVEY IDENTIFIED IN
25 SUBSECTION (6)(e)(I) OF THIS SECTION SHOULD INFORM THE ACTUARIAL
26 ANALYSIS. THE ANALYSIS MUST INFORM THE DEVELOPMENT OF THE
27 RATE-SETTING METHODOLOGY PURSUANT TO SUBSECTION (6)(e)(III) OF

1 THIS SECTION AND MUST ALSO GUARANTEE THAT AVAILABLE
2 INFORMATION IS GATHERED FROM A DIVERSE RANGE OF GEOGRAPHICAL
3 LOCATIONS THROUGHOUT COLORADO, INCLUDING URBAN, SUBURBAN,
4 RURAL, AND MOUNTAIN RESORT COMMUNITIES.

5 (III) DEVELOP THE RATE-SETTING METHODOLOGY FOR LICENSED
6 OUT-OF-HOME PLACEMENT PROVIDER COMPENSATION. THE INDEPENDENT
7 VENDOR SHALL SOLICIT INPUT FROM REPRESENTATIVES FROM THE STATE
8 DEPARTMENT, COUNTIES, THE LICENSED OUT-OF-HOME PLACEMENT
9 PROVIDER COMMUNITY, AND THE DEPARTMENT OF HEALTH CARE POLICY
10 AND FINANCING. THE METHODOLOGY MUST BE BASED ON EQUAL
11 REPRESENTATION BY COUNTIES AND LICENSED OUT-OF-HOME PLACEMENT
12 PROVIDERS.

13 (f) ON OR BEFORE APRIL 2, 2018, THE STATE DEPARTMENT SHALL
14 PROVIDE THE JOINT BUDGET COMMITTEE WITH A REPORT DEFINING THE
15 RATE-SETTING METHODOLOGY DEVELOPED PURSUANT TO SUBSECTION
16 (6)(e)(III) OF THIS SECTION, INCLUDING THE PROCESS THROUGH WHICH
17 THE DAILY RATE WAS DETERMINED.

18 (g) THE METHODOLOGY MUST BE IMPLEMENTED ON OR BEFORE
19 JULY 1, 2018, EXCEPT FOR THOSE RATES THAT MUST BE APPROVED BY
20 CMS. RATES THAT MUST BE APPROVED BY CMS MUST BE IMPLEMENTED
21 UPON APPROVAL. IN THE EVENT THAT THE REPRESENTATIVES IDENTIFIED
22 IN SUBSECTION (6)(e) OF THIS SECTION DO NOT AGREE ON THE
23 RATE-SETTING METHODOLOGY ON OR BEFORE FEBRUARY 1, 2018, THE
24 STATE DEPARTMENT, THE COUNTY REPRESENTATIVES, AND THE LICENSED
25 OUT-OF-HOME PLACEMENT PROVIDERS SHALL SUBMIT ALTERNATIVES TO
26 THE JOINT BUDGET COMMITTEE. THE JOINT BUDGET COMMITTEE SHALL
27 THEN SELECT A METHODOLOGY PRIOR TO THE START OF THE SUCCEEDING

1 STATE FISCAL YEAR.

2 (h) THE RATE-SETTING METHODOLOGY DEVELOPED PURSUANT TO
3 SUBSECTION (6)(e)(III) OF THIS SECTION MUST CLEARLY UTILIZE THE
4 DAILY RATE AND INCLUDE:

5 (I) A PROCESS THROUGH WHICH PROVIDER RATE ADJUSTMENTS,
6 INCLUDING ANY COST OF LIVING ADJUSTMENTS, THAT ARE APPROVED BY
7 THE GENERAL ASSEMBLY MUST BE FACTORED INTO ESTABLISHING THE
8 DAILY RATE; AND

9 (II) A PROCESS THROUGH WHICH OUTCOMES RELATED TO THE
10 STABILITY AND WELL-BEING OF THE CHILD ARE FACTORED INTO
11 ESTABLISHING THE DAILY RATE CONTRACT WITH A LICENSED
12 OUT-OF-HOME PLACEMENT PROVIDER.

13 (7) (a) ON OR BEFORE SEPTEMBER 1, 2018, AND ON OR BEFORE
14 SEPTEMBER 1 OF EACH FISCAL YEAR THEREAFTER, THE STATE
15 DEPARTMENT, WITH INPUT FROM COUNTIES, SHALL SUBMIT TO THE JOINT
16 BUDGET COMMITTEE A REPORT INCLUDING INFORMATION ON WORKLOAD
17 INCREASES OR DECREASES FOR THE PRECEDING CALENDAR YEAR AND THE
18 COSTS ASSOCIATED WITH SUCH CHANGES. THE STATE DEPARTMENT IS
19 ENCOURAGED TO INCLUDE IN THE REPORT DATA ON THE COST OF SERVING
20 CHILDREN PLACED IN THE CARE OF LICENSED OUT-OF-HOME PLACEMENT
21 PROVIDERS BASED ON CASE ACUITY.

22 (b) NOTWITHSTANDING SECTION 24-1-136, THE REPORTING
23 REQUIREMENT IN SUBSECTION (7)(a) OF THIS SECTION CONTINUES
24 INDEFINITELY.

25 (8) FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
26 OTHERWISE REQUIRES:

27 (a) "ACUITY" MEANS THE LEVEL OF SERVICE NEEDED BY THE CHILD

1 OR FAMILY.

2 (b) "CMS" MEANS THE FEDERAL CENTERS FOR MEDICARE AND
3 MEDICAID SERVICES IN THE UNITED STATES DEPARTMENT OF HEALTH AND
4 HUMAN SERVICES.

5 (c) "LICENSED OUT-OF-HOME PLACEMENT PROVIDER" MEANS A
6 LICENSED RESIDENTIAL CHILD CARE FACILITY, A CHILD PLACEMENT
7 AGENCY, OR A SECURE RESIDENTIAL TREATMENT CENTER, AS DEFINED IN
8 SECTION 26-6-102.

9 (d) "WORKLOAD" MEANS THE NUMBER OF CHILD WELFARE CHILD
10 ABUSE AND NEGLECT HOTLINE CALLS, REFERRALS, ASSESSMENTS, OPEN
11 CASES, OUT-OF-HOME PLACEMENTS, NEW ADOPTIONS, AND ADOPTION
12 SUBSIDIES BEING HANDLED BY A COUNTY DEPARTMENT OF HUMAN OR
13 SOCIAL SERVICES.

14 **SECTION 2. Appropriation.** For the 2017-18 state fiscal year,
15 \$300,000 is appropriated to the department of human services for use by
16 the division of child welfare. This appropriation is from the general fund.
17 To implement this act, the division may use this appropriation for the
18 development of the child welfare rate-setting methodology.

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