

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

INTRODUCED

LLS NO. 19-0040.02 Conrad Imel x2313

HOUSE BILL 19-1142

HOUSE SPONSORSHIP

Ransom and Singer,

SENATE SPONSORSHIP

(None),

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CREATING AN OPTION FOR PARENTS WHO SEEK TO**
102 **VOLUNTARILY DELEGATE CERTAIN PARENTAL RESPONSIBILITIES**
103 **TO A SAFE FAMILY FOR A LIMITED PERIOD OF TIME WITHOUT**
104 **RELINQUISHING LEGAL CUSTODY OF THEIR CHILD.**

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>.)

Under current law, a parent or guardian of a minor or incapacitated person may delegate to another person power regarding care, custody, or property of the minor or ward for up to 12 months by executing a power

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

of attorney.

The bill permits a parent or guardian to use the assistance of a temporary care assistance program operated by a qualified nonprofit organization to identify an appropriate and safe approved temporary caregiver to whom the parent or guardian can choose to delegate temporary care responsibility of a minor through a power of attorney.

The bill limits the duration of a power of attorney that delegates temporary care responsibility of a minor to an approved temporary caregiver to 6 months, though the parent or guardian can elect to execute subsequent powers of attorney up to the maximum 12 months. The 12-month restriction does not apply to deployed or active duty military members. The bill clarifies that such a power of attorney can be revoked at any time and does not change legal rights or obligations existing pursuant to a court order. The minor must be returned to the custody of the parent or guardian within 48 hours after termination of the power of attorney.

A temporary care assistance program is permitted to approve as a temporary caregiver any person who:

- ! Meets the standards prescribed by the temporary care assistance program;
- ! Satisfactorily completes required criminal and child abuse and neglect background checks and sex offender registration checks; and
- ! Receives training conducted by the temporary care assistance program.

The department of human services may investigate a temporary care assistance program to ensure it is complying with the requirement to conduct background checks on temporary caregivers. The department may assess a fine of \$1,000 for each violation of the requirement. Employees of qualified nonprofit organizations are mandatory reporters of child abuse and neglect.

A power of attorney that delegates temporary care responsibility of a minor to an approved temporary caregiver does not constitute child abuse or neglect, constitute placing the minor into foster care, or relieve parents, guardians, or minors of rights and obligations pursuant to court orders.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 7 to article
3 6 of title 26 as follows:

4 **PART 7**

1 TEMPORARY CARE ASSISTANCE PROGRAM

2 **26-6-701. Definitions.** AS USED IN THIS PART 7, UNLESS THE
3 CONTEXT OTHERWISE REQUIRES:

4 (1) "APPROVED TEMPORARY CAREGIVER" MEANS A PERSON
5 APPROVED BY A TEMPORARY CARE ASSISTANCE PROGRAM PURSUANT TO
6 THIS PART 7 WHO IS DELEGATED TEMPORARY CARE RESPONSIBILITY OF A
7 MINOR BY A PARENT OR GUARDIAN THROUGH A POWER OF ATTORNEY.

8 (2) (a) "QUALIFIED NONPROFIT ORGANIZATION" MEANS A
9 CHARITABLE OR RELIGIOUS INSTITUTION THAT IS DESCRIBED IN SECTION
10 501 (c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
11 AMENDED, AND IS EXEMPT FROM INCOME TAXATION UNDER SECTION 501
12 (a) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED,
13 THAT ASSISTS A PARENT OR GUARDIAN OF A MINOR WITH THE PROCESS OF
14 PROVIDING FOR THE TEMPORARY CARE OF THAT MINOR THROUGH A
15 TEMPORARY CARE ASSISTANCE PROGRAM AS DESCRIBED IN THIS PART 7.

16 (b) A QUALIFIED NONPROFIT ORGANIZATION IS NOT A CHILD CARE
17 CENTER, AS DEFINED IN SECTION 26-6-102 (5), OR A CHILD PLACEMENT
18 AGENCY, AS DEFINED IN SECTION 26-6-102 (7), NOR IS THE ORGANIZATION
19 DEEMED TO PLACE OR BE PLACING CHILDREN. THE QUALIFIED NONPROFIT
20 ORGANIZATION MAY CHOOSE TO OPERATE AS A CHILD CARE CENTER OR
21 CHILD PLACEMENT AGENCY IN ADDITION TO PROVIDING ASSISTANCE
22 PURSUANT TO THIS SECTION.

23 (3) "TEMPORARY CARE ASSISTANCE PROGRAM" MEANS A PROGRAM
24 OPERATED BY A QUALIFIED NONPROFIT ORGANIZATION THAT ASSISTS A
25 PARENT OR GUARDIAN WITH RECRUITING AND IDENTIFYING AN
26 APPROPRIATE AND SAFE APPROVED TEMPORARY CAREGIVER TO WHOM THE
27 PARENT OR GUARDIAN CAN CHOOSE TO DELEGATE TEMPORARY CARE

1 RESPONSIBILITY OF A MINOR THROUGH A POWER OF ATTORNEY.

2 **26-6-702. Temporary care assistance program permitted.**

3 (1) A QUALIFIED NONPROFIT ORGANIZATION MAY OPERATE A TEMPORARY
4 CARE ASSISTANCE PROGRAM.

5 (2) THE ACTIVITIES OF A TEMPORARY CARE ASSISTANCE PROGRAM
6 PERFORMED PURSUANT TO THIS PART 7 DO NOT CONSTITUTE PLACING A
7 CHILD PURSUANT TO THIS ARTICLE 6 AND ARE NOT SUBJECT TO THE
8 LICENSING REQUIREMENTS OF FOSTER CARE.

9 **26-6-703. Temporary care assistance program - limitations on
10 duration of delegation - approved temporary caregiver. (1) (a) A**

11 PARENT OR GUARDIAN OF A MINOR MAY USE THE ASSISTANCE OF A
12 TEMPORARY CARE ASSISTANCE PROGRAM TO IDENTIFY AN APPROVED
13 TEMPORARY CAREGIVER TO DELEGATE ANY POWER REGARDING CARE,
14 CUSTODY, OR PROPERTY OF THE MINOR, EXCEPT THE POWER TO CONSENT
15 TO MARRIAGE OR ADOPTION, BY A POWER OF ATTORNEY, AS DESCRIBED IN
16 SECTION 15-14-105.

17 (b) (I) A POWER OF ATTORNEY THAT DELEGATES TEMPORARY CARE
18 RESPONSIBILITY OF A MINOR TO AN APPROVED TEMPORARY CAREGIVER
19 MUST NOT EXCEED SIX MONTHS. A PARENT OR GUARDIAN MAY EXECUTE
20 A SUBSEQUENT POWER OF ATTORNEY, BUT, EXCEPT AS PROVIDED IN
21 SUBSECTION (1)(b)(II) OF THIS SECTION, THE TOTAL LENGTH OF A
22 DELEGATION OF POWER TO AN APPROVED TEMPORARY CAREGIVER MUST
23 NOT EXCEED TWELVE MONTHS.

24 (II) A PERSON WHO IS DEPLOYED BY OR CALLED TO ACTIVE DUTY
25 IN THE UNITED STATES MILITARY MAY EXCEED THE TWELVE-MONTH
26 TOTAL TIME LIMIT DESCRIBED IN SUBSECTION (1)(b)(I) OF THIS SECTION;
27 EXCEPT THAT THE TOTAL LENGTH OF A DELEGATION OF POWER MADE TO

1 AN APPROVED TEMPORARY CAREGIVER BY A PERSON WHO IS DEPLOYED BY
2 OR CALLED TO ACTIVE DUTY IN THE UNITED STATES MILITARY MUST NOT
3 BE LONGER THAN THE END OF THE MEMBER'S DEPLOYMENT OR CALL TO
4 ACTIVE DUTY, PLUS THIRTY DAYS.

5 (c) THE PARENT OR GUARDIAN OF THE MINOR HAS THE AUTHORITY
6 TO REVOKE A POWER OF ATTORNEY THAT DELEGATES TEMPORARY CARE
7 RESPONSIBILITY OF A MINOR TO AN APPROVED TEMPORARY CAREGIVER AT
8 ANY TIME. UPON EXPIRATION, REVOCATION, OR OTHER TERMINATION OF
9 THE POWER OF ATTORNEY, THE MINOR MUST BE RETURNED TO THE
10 CUSTODY OF THE PARENT OR GUARDIAN AS SOON AS REASONABLY
11 POSSIBLE, BUT NO LATER THAN FORTY-EIGHT HOURS AFTER SUCH
12 EXPIRATION, REVOCATION, OR OTHER TERMINATION.

13 (d) A POWER OF ATTORNEY THAT DELEGATES TEMPORARY CARE
14 RESPONSIBILITY OF A MINOR TO AN APPROVED TEMPORARY CAREGIVER
15 DOES NOT:

16 (I) CHANGE PARENTAL RIGHTS, LEGAL RIGHTS, OBLIGATIONS, OR
17 OTHER AUTHORITY ESTABLISHED BY AN EXISTING COURT ORDER AND DOES
18 NOT DEPRIVE A PARENT OR GUARDIAN OF RIGHTS, OBLIGATIONS, OR OTHER
19 AUTHORITY RELATING TO THE CUSTODY, VISITATION, OR SUPPORT OF A
20 MINOR;

21 (II) CONSTITUTE CHILD ABUSE OR NEGLECT, AS DEFINED IN
22 SECTION 19-1-103 (1); OR

23 (III) RESULT IN A CHILD BEING NEGLECTED OR DEPENDENT, AS
24 DESCRIBED IN SECTION 19-3-102, UNLESS THE PARENT OR GUARDIAN FAILS
25 TO MAKE CONTACT, EXECUTE A NEW POWER OF ATTORNEY, OR RETAKE
26 CUSTODY WITHIN SEVENTY-TWO HOURS AFTER AN EXPIRED POWER OF
27 ATTORNEY, OR AFTER THE TOTAL TIME LIMIT DESCRIBED IN SUBSECTION

1 (1)(b) OF THIS SECTION HAS ELAPSED.

2 (2) (a) AN APPROVED TEMPORARY CAREGIVER SHALL EXERCISE
3 PARENTAL OR LEGAL AUTHORITY ON A CONTINUOUS BASIS AND WITHOUT
4 COMPENSATION FOR THE INTENDED DURATION OF THE POWER OF
5 ATTORNEY.

6 (b) (I) A MINOR SUBJECT TO THE POWER OF ATTORNEY THAT
7 DELEGATES TEMPORARY CARE RESPONSIBILITY OF THE MINOR TO AN
8 APPROVED TEMPORARY CAREGIVER IS NOT DEEMED PLACED IN A FOSTER
9 CARE HOME, AS DEFINED IN SECTION 26-6-102 (14), AND THE APPROVED
10 TEMPORARY CAREGIVER IS NOT DEEMED TO BE PROVIDING FOSTER CARE
11 NOR BE SUBJECT TO THE LICENSING REQUIREMENTS OF FOSTER CARE.

12 (II) NOTHING IN THIS SECTION DISQUALIFIES AN APPROVED
13 TEMPORARY CAREGIVER FROM BEING OR BECOMING A FOSTER CARE HOME
14 CERTIFIED BY A COUNTY DEPARTMENT OR PRIVATE AGENCY PURSUANT TO
15 SECTION 26-6-106.3.

16 (c) ANY PERIOD OF TIME DURING WHICH A MINOR RESIDES WITH AN
17 APPROVED TEMPORARY CAREGIVER PURSUANT TO AN UNEXPIRED AND
18 VALID POWER OF ATTORNEY IS NOT INCLUDED IN DETERMINING WHETHER
19 THE MINOR HAS RESIDED WITH THE APPROVED TEMPORARY CAREGIVER
20 FOR THE MINIMUM PERIOD REQUIRED FOR A PERSON TO BE CONSIDERED A
21 PERSON OTHER THAN A PARENT WHO HAS HAD THE PHYSICAL CARE OF A
22 CHILD FOR THE PURPOSES OF SECTION 14-10-123.

23 **26-6-704. Approval of temporary caregiver - background**
24 **check - training.** (1) A QUALIFIED NONPROFIT ORGANIZATION OPERATING
25 A TEMPORARY CARE ASSISTANCE PROGRAM MAY APPROVE AS A
26 TEMPORARY CAREGIVER ANY PERSON WHO MEETS THE STANDARDS
27 PRESCRIBED BY THE TEMPORARY CARE ASSISTANCE PROGRAM AND WHO

1 COMPLIES WITH THE REQUIREMENTS ESTABLISHED PURSUANT TO THIS
2 SECTION.

3 (2) (a) A QUALIFIED NONPROFIT ORGANIZATION OPERATING A
4 TEMPORARY CARE ASSISTANCE PROGRAM SHALL REQUIRE AN APPLICANT
5 TO BECOME AN APPROVED TEMPORARY CAREGIVER AND ANY OTHER
6 PERSON WHO RESIDES IN THE APPLICANT'S HOME AND IS EIGHTEEN YEARS
7 OF AGE OR OLDER TO SUBMIT TO THE FOLLOWING BACKGROUND CHECKS:

8 (I) A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
9 THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL
10 BUREAU OF INVESTIGATION;

11 (II) A CHILD ABUSE AND NEGLECT BACKGROUND CHECK ON THE
12 TRAILS SYSTEM, AS DEFINED IN SECTION 16-20.5-102 (10); AND

13 (III) A CHECK AGAINST THE STATE'S SEX OFFENDER REGISTRY AND
14 AGAINST THE NATIONAL SEX OFFENDER PUBLIC REGISTRY OPERATED BY
15 THE UNITED STATES DEPARTMENT OF JUSTICE THAT CHECKS NAMES AND
16 ADDRESSES IN THE REGISTRIES AND THE INTERACTIVE DATABASE SYSTEM
17 FOR COLORADO TO DETERMINE IF A PERSON IS A REGISTERED SEX
18 OFFENDER.

19 (b) A QUALIFIED NONPROFIT ORGANIZATION OPERATING A
20 TEMPORARY CARE ASSISTANCE PROGRAM IS RESPONSIBLE FOR THE COSTS
21 ARISING FROM ANY BACKGROUND CHECK PERFORMED PURSUANT TO THIS
22 SECTION. THE QUALIFIED NONPROFIT ORGANIZATION MAY COLLECT THE
23 COSTS FROM ANY PERSON SUBJECT TO A BACKGROUND CHECK.

24 (c) THE QUALIFIED NONPROFIT ORGANIZATION OPERATING A
25 TEMPORARY CARE ASSISTANCE PROGRAM SHALL MAINTAIN RECORDS OF
26 A BACKGROUND CHECK PERFORMED PURSUANT TO THIS SECTION,
27 INCLUDING THE FULL TRANSCRIPTS OF THE BACKGROUND CHECK, FOR A

1 PERIOD OF NOT LESS THAN FIVE YEARS. THE QUALIFIED NONPROFIT
2 ORGANIZATION SHALL MAKE THE RECORDS AVAILABLE TO A PARENT OR
3 GUARDIAN EXECUTING A POWER OF ATTORNEY, AND ANY LOCAL, STATE,
4 OR FEDERAL AUTHORITY CONDUCTING AN INVESTIGATION INVOLVING THE
5 APPROVED TEMPORARY CAREGIVER, THE PARENT OR GUARDIAN, OR THE
6 MINOR.

7 (d) A QUALIFIED NONPROFIT ORGANIZATION OPERATING A
8 TEMPORARY CARE ASSISTANCE PROGRAM SHALL NOT APPROVE AN
9 APPLICANT AS A TEMPORARY CARE PROVIDER IF A BACKGROUND CHECK
10 CONDUCTED PURSUANT TO THIS SECTION DISCLOSES A SUBSTANTIATED
11 ALLEGATION OF CHILD ABUSE, NEGLECT, OR EXPLOITATION, OR ANY CRIME
12 THAT WOULD DISQUALIFY THE APPLICANT OR ANY OTHER PERSON WHO
13 RESIDES IN THE APPLICANT'S HOME AND IS EIGHTEEN YEARS OF AGE OR
14 OLDER FROM BECOMING CERTIFIED OR LICENSED TO OPERATE A FOSTER
15 CARE HOME IN THE STATE.

16 (3) A QUALIFIED NONPROFIT ORGANIZATION OPERATING A
17 TEMPORARY CARE ASSISTANCE PROGRAM SHALL TRAIN AN APPROVED
18 TEMPORARY CAREGIVER IN THE RIGHTS, DUTIES, AND LIMITATIONS
19 ASSOCIATED WITH PROVIDING CARE FOR A MINOR PURSUANT TO THIS PART
20 7.

21 **26-6-705. Enforcement of part - civil penalties - rules.**

22 (1) (a) THE DEPARTMENT MAY INVESTIGATE A TEMPORARY CARE
23 ASSISTANCE PROGRAM TO ENSURE THAT THE PROGRAM IS COMPLYING
24 WITH THE REQUIREMENTS OF SECTION 26-6-704 (2).

25 (b) THE DEPARTMENT MAY ASSESS A CIVIL PENALTY OF ONE
26 THOUSAND DOLLARS AGAINST A TEMPORARY CARE ASSISTANCE PROGRAM
27 FOR EACH VIOLATION OF ANY PROVISION OF SECTION 26-6-704 (2).

1 (c) THE FINES COLLECTED PURSUANT TO THIS SECTION SHALL BE
2 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
3 TO THE CHILD CARE CASH FUND CREATED PURSUANT TO SECTION 26-6-114
4 (5).

5 (d) THE DEPARTMENT MAY PROMULGATE RULES NECESSARY TO
6 IMPLEMENT THIS SUBSECTION (1). ANY PROCEDURES FOR THE ASSESSMENT
7 OF A CIVIL PENALTY PURSUANT TO THIS SECTION MUST CONFORM WITH THE
8 PROVISIONS AND PROCEDURES SPECIFIED IN ARTICLE 4 OF TITLE 24.

9 (2) EXCEPT AS PROVIDED IN SUBSECTION (1) OF THIS SECTION, THE
10 DEPARTMENT SHALL NOT PROMULGATE ANY RULE REGULATING
11 TEMPORARY CARE ASSISTANCE PROGRAMS OR APPROVED TEMPORARY
12 CAREGIVERS.

13 **26-6-706. Application of part.** (1) THIS PART 7 APPLIES ONLY
14 WHEN A PARENT OR GUARDIAN OF A MINOR DELEGATES ANY POWER
15 REGARDING CARE, CUSTODY, OR PROPERTY OF THE MINOR TO AN
16 APPROVED TEMPORARY CAREGIVER WITH THE ASSISTANCE OF A
17 TEMPORARY CARE ASSISTANCE PROGRAM PURSUANT TO THIS PART 7.
18 NOTHING IN THIS PART 7 RESTRICTS, ABRIDGES, OR ALTERS THE RIGHT OF
19 A MINOR'S PARENT OR GUARDIAN TO PROVIDE FOR THE CARE OF THE MINOR
20 BY POWER OF ATTORNEY PURSUANT TO ANY OTHER PROVISION OF LAW.

21 (2) NOTHING IN THIS PART 7:

22 (a) RELIEVES THE PARENT OF ANY OBLIGATION TO SUPPORT THE
23 MINOR AS OTHERWISE PROVIDED BY LAW;

24 (b) LIMITS THE AUTHORITY OF THE COURT TO ORDER A PARENT TO
25 MAKE SUPPORT PAYMENTS OR REIMBURSEMENTS FOR MEDICAL,
26 BEHAVIORAL, HEALTH, OR OTHER CARE OR TREATMENT;

27 (c) ABROGATES THE RIGHT OF THE MINOR TO ANY BENEFITS

1 PROVIDED THROUGH PUBLIC FUNDS FOR WHICH THE MINOR IS OTHERWISE
2 ENTITLED; OR

3 (d) LIMITS OR PREVENTS THE ABILITY OF LAW ENFORCEMENT OR
4 COUNTY CHILD WELFARE AGENCIES TO INVESTIGATE A REPORT OF
5 SUSPECTED ABUSE OR NEGLECT OF A CHILD PURSUANT TO SECTION
6 19-3-308.

7 **SECTION 2.** In Colorado Revised Statutes, 19-1-307, **add**
8 (2)(j.8) as follows:

9 **19-1-307. Dependency and neglect records and information -**
10 **access - fee - rules - records and reports fund - misuse of information**
11 **- penalty - adult protective services data system check. (2) Records**
12 **and reports - access to certain persons - agencies.** Except as otherwise
13 provided in section 19-1-303, only the following persons or agencies shall
14 have access to child abuse or neglect records and reports:

15 (j.8) THE STATE DEPARTMENT OF HUMAN SERVICES INVESTIGATING
16 AN APPLICANT FOR EMPLOYMENT OR FOR A VOLUNTEER POSITION WITH A
17 QUALIFIED NONPROFIT ORGANIZATION, AS DEFINED IN SECTION 26-6-701
18 (2), OR ANY OTHER PERSON REQUIRED TO SUBMIT TO A BACKGROUND
19 CHECK PURSUANT TO SECTION 26-6-704 (2), WHEN THE APPLICANT OR
20 OTHER PERSON HAS GIVEN WRITTEN AUTHORIZATION TO THE STATE
21 DEPARTMENT OF HUMAN SERVICES TO CHECK RECORDS OR REPORTS OF
22 CHILD ABUSE OR NEGLECT;

23 **SECTION 3.** In Colorado Revised Statutes, 19-3-304, **amend**
24 (2)(ll) and (2)(mm); and **add** (2)(nn) as follows:

25 **19-3-304. Persons required to report child abuse or neglect.**
26 (2) Persons required to report such abuse or neglect or circumstances or
27 conditions include any:

1 (ll) Officials or employees of county departments of health,
2 human services, or social services; ~~and~~

3 (mm) Naturopathic doctor registered under article 37.3 of title 12;

4 AND

5 (nn) EMPLOYEE OF A QUALIFIED NONPROFIT ORGANIZATION, AS
6 DEFINED IN SECTION 26-6-701.

7 **SECTION 4. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly (August
10 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
11 referendum petition is filed pursuant to section 1 (3) of article V of the
12 state constitution against this act or an item, section, or part of this act
13 within such period, then the act, item, section, or part will not take effect
14 unless approved by the people at the general election to be held in
15 November 2020 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.