

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0944.01 Brita Darling x2241

SENATE BILL 19-178

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A BILL FOR AN ACT

101 **CONCERNING THE SUBSIDIZATION OF ADOPTION FOR ELIGIBLE**
102 **CHILDREN IN COLORADO.**

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 repeals and reenacts, with amendments, provisions of the state's adoption assistance program (adoption program) that provides cash subsidies and other noncash benefits to families who adopt eligible children and youth who might not otherwise be adopted, in order to update the adoption program. The department of human services (state department) administers the adoption program in conjunction with county

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.

SENATE
3rd Reading Unamended
March 20, 2019

SENATE
Amended 2nd Reading
March 19, 2019

departments of human or social services (county departments).

The bill outlines eligibility for the adoption program and the available benefits. Determination of the type and amount of benefits to be provided through the adoption program must take into consideration the circumstances of the adopting family and the needs of the eligible child or youth being adopted. Specific benefits for an adoption made through the adoption program are detailed in a written adoption assistance agreement (agreement). The terms of an agreement are negotiated among all parties involved. The agreement must be reviewed at least every 3 years but may be reviewed sooner at the request of the adoptive parents or the county department.

The adoptive parents may appeal any decision made pursuant to the provisions of the adoption program with a hearing before an administrative law judge.

The bill outlines the conditions under which adoption program subsidies may be suspended or terminated and under which the agreement may be terminated.

The state department is required to keep data on the adoption program to help evaluate the adoption program's ongoing effectiveness in providing stability to families involved in the adoption of eligible children and youth. As appropriate, the state department, a county department, or a nonprofit child placement agency is required to provide prospective adoptive families, at the time the family is matched, with information on the various benefits available through the adoption program.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** article 7 of title 26 as follows:

4 **ARTICLE 7**

5 **Subsidization of Adoption**

6 **26-7-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY
7 FINDS AND DECLARES THAT:

8 (a) COLORADO CHILDREN AND YOUTH WHO RESIDE IN OR HAVE
9 PREVIOUSLY RESIDED IN AN OUT-OF-HOME PLACEMENT DESERVE AND CAN
10 BENEFIT FROM THE STABILITY AND SECURITY OF PERMANENT, SAFE
11 ADOPTIVE HOMES;

1 (b) IN PARTICULAR, ADOPTION IS AN IMPORTANT TOOL TO HELP
2 INCREASE THE NUMBER OF PERMANENT AND STABLE HOMES FOR
3 COLORADO'S ABUSED AND NEGLECTED CHILDREN AND YOUTH; AND

4 (c) MANY CHILDREN AND YOUTH WHO ARE ADOPTED IN COLORADO
5 HAVE EXPERIENCED PRIOR ABUSE, NEGLECT, MULTIPLE PLACEMENTS, AND
6 INSTITUTIONALIZATION. THESE PRIOR EXPERIENCES OFTEN CAUSE
7 PHYSICAL, PSYCHOLOGICAL, EMOTIONAL, AND DEVELOPMENTAL HARM
8 THAT AFFECTS THESE CHILDREN AND YOUTH THROUGHOUT THEIR LIVES.

9 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS
10 THE INTENT OF THIS ARTICLE 7 TO:

11 (a) ENCOURAGE FAMILIES OF ANY ECONOMIC STATUS TO ADOPT
12 ELIGIBLE CHILDREN AND YOUTH AND TO PROVIDE SUCH FAMILIES WITH
13 BENEFITS THAT WILL ENABLE THEM TO MEET THE NEEDS OF ELIGIBLE
14 CHILDREN AND YOUTH WHO MEET THE CRITERIA FOR THE BENEFITS AS
15 ESTABLISHED IN THIS ARTICLE 7;

16 (b) ENSURE THAT ALL FAMILIES AND ELIGIBLE CHILDREN AND
17 YOUTH IN COLORADO HAVE EQUAL OPPORTUNITIES TO ACCESS THE
18 BENEFITS ESTABLISHED IN THIS ARTICLE 7;

19 (c) ENSURE THAT ALL FAMILIES AND ELIGIBLE CHILDREN AND
20 YOUTH IN COLORADO HAVE EQUAL ACCESS TO CONSISTENT INFORMATION,
21 GUIDANCE, AND PRACTICES TO ENSURE THAT THE NEEDS OF EACH CHILD
22 OR YOUTH RECEIVE CONSISTENT CONSIDERATION, REGARDLESS OF THE
23 AGENCY THAT IS ADMINISTERING BENEFITS PURSUANT TO THIS ARTICLE 7;

24 (d) ENSURE THAT FAMILIES ARE ABLE TO MAINTAIN SAFE AND
25 STABLE HOMES FOR THE ELIGIBLE CHILDREN AND YOUTH THEY ADOPT
26 THROUGH BENEFITS TAILORED TO ACCOMMODATE AND SUPPORT THE
27 NEEDS OF THE ADOPTED ELIGIBLE CHILDREN AND YOUTH; AND

1 (e) ENSURE THAT ANY AGENCY PROVIDING BENEFITS PURSUANT TO
2 THIS ARTICLE 7 HAS CLEAR GUIDANCE AND SUPPORT IN ITS EFFORTS TO
3 HELP ELIGIBLE CHILDREN AND YOUTH FIND AND MAINTAIN SAFE,
4 PERMANENT ADOPTIVE HOMES.

5 **26-7-102. Definitions.** AS USED IN THIS ARTICLE 7, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (1) "AGREEMENT" MEANS AN ADOPTION ASSISTANCE AGREEMENT
8 NEGOTIATED AND ENTERED INTO PURSUANT TO SECTION 26-7-107.

9 (2) "ANTICIPATED NEEDS" MEANS THOSE NEEDS THAT ARE
10 REASONABLY FORESEEABLE AND AS DEFINED IN THE ELIGIBILITY CRITERIA
11 LISTED IN SUBSECTION (8) OF THIS SECTION THAT ARE KNOWN AT THE TIME
12 OF FINALIZATION OF THE ADOPTION. CONSIDERATION OF THESE
13 ANTICIPATED NEEDS AND SERVICES ARE PART OF THE GOOD-FAITH
14 NEGOTIATION OF THE AMOUNT OF THE ADOPTION ASSISTANCE PAYMENT
15 AND SERVICES AND MUST COMPLY WITH THE FUNDING REQUIREMENTS IN
16 SECTION 26-7-103.

17 (3) "BENEFIT" MEANS ANY SUBSIDY OR SERVICE AVAILABLE TO
18 ADOPTIVE FAMILIES PURSUANT TO THIS ARTICLE 7, INCLUDING MONTHLY
19 SUBSIDY PAYMENTS. THESE PAYMENTS MUST NOT INCLUDE PAYMENTS FOR
20 SERVICES THAT ARE REASONABLY ACCESSIBLE AND CAN BE FUNDED
21 THROUGH OTHER PUBLIC OR PRIVATE SOURCES, INCLUDING BUT NOT
22 LIMITED TO SOCIAL SECURITY AND MEDICAID, AS REQUIRED IN 20 U.S.C.
23 SEC. 1440.

24 (4) "CHILD PLACEMENT AGENCY" MEANS ANY ENTITY THAT,
25 PURSUANT TO THE REQUIREMENTS IN SECTION 26-6-102 (7), MAY PLACE,
26 FACILITATE PLACEMENT, OR ARRANGE FOR THE PLACEMENT OF AN
27 ELIGIBLE CHILD OR YOUTH FOR THE PURPOSE OF ADOPTION, TREATMENT,

1 OR FOSTER CARE. ONLY ELIGIBLE CHILDREN OR YOUTH WHO ARE PLACED
2 BY A COUNTY DEPARTMENT OR THROUGH A CHILD PLACEMENT AGENCY
3 THAT IS DESIGNATED AS A NONPROFIT ENTITY AND LICENSED BY THE
4 STATE DEPARTMENT ARE ELIGIBLE TO RECEIVE BENEFITS PURSUANT TO
5 THIS ARTICLE 7.

6 (5) "CIRCUMSTANCES OF THE FAMILY" MEANS THE CAPACITY OF
7 THE FAMILY, INCLUDING BUT NOT LIMITED TO FINANCIAL CAPACITY, TO
8 MEET THE ANTICIPATED NEEDS OF THE ELIGIBLE CHILD OR YOUTH.

9 (6) "COUNTY DEPARTMENT" MEANS A COUNTY DEPARTMENT OF
10 HUMAN OR SOCIAL SERVICES.

11 (7) "DISSOLVED ADOPTION" MEANS AN ADOPTION IN WHICH THE
12 LEGAL RELATIONSHIP BETWEEN THE ADOPTIVE PARENTS AND ADOPTIVE
13 CHILD OR YOUTH IS SEVERED, EITHER VOLUNTARILY OR INVOLUNTARILY,
14 AFTER THE ADOPTION IS LEGALLY FINALIZED. THIS MAY RESULT IN THE
15 CHILD OR YOUTH'S RETURN TO, OR ENTRY INTO, FOSTER CARE.

16 (8) "ELIGIBLE CHILD OR YOUTH" MEANS A CHILD OR YOUTH WHO
17 MEETS THE MEDICAL AND DISABILITY REQUIREMENTS FOR FEDERAL
18 SUPPLEMENTAL SECURITY INCOME OR IS A CHILD OR YOUTH WITH ONE OR
19 MORE SPECIFIC FACTORS OR CONDITIONS THAT WOULD MAKE IT
20 REASONABLE TO CONCLUDE THAT A CHILD OR YOUTH CANNOT BE ADOPTED
21 WITHOUT PROVIDING BENEFITS TO ASSIST IN THE ADOPTION. SUCH
22 FACTORS MAY INCLUDE BUT ARE NOT LIMITED TO:

23 (a) A PHYSICAL DISABILITY, SUCH AS HEARING, VISION, OR
24 PHYSICAL IMPAIRMENT; NEUROLOGICAL CONDITIONS; DISFIGURING
25 DEFECTS; METABOLIC DISORDER; A CHILD OR YOUTH INFECTED WITH THE
26 HUMAN IMMUNODEFICIENCY VIRUS; OR HEART DEFECTS THAT HAVE BEEN
27 DOCUMENTED BY A LICENSED MEDICAL PROFESSIONAL;

1 (b) A MENTAL, INTELLECTUAL, OR DEVELOPMENTAL DISABILITY
2 THAT HAS BEEN DOCUMENTED BY A LICENSED MEDICAL PROFESSIONAL,
3 SUCH AS A PERCEPTUAL, SPEECH, OR LANGUAGE DISABILITY OR ANY
4 DISABILITY THAT RESULTS IN EDUCATIONAL DELAYS OR SIGNIFICANT
5 LEARNING DIFFICULTIES;

6 (c) AN EMOTIONAL HANDICAP, SUCH AS POST-TRAUMATIC STRESS
7 DISORDER, BIPOLAR DISORDER, OR OTHER MENTAL HEALTH DISORDER
8 THAT HAS BEEN DOCUMENTED BY A LICENSED MENTAL HEALTH
9 PROFESSIONAL;

10 (d) HEREDITARY FACTORS THAT HAVE BEEN DOCUMENTED BY A
11 LICENSED MEDICAL PROVIDER OR MENTAL HEALTH PROFESSIONAL;

12 (e) AN EDUCATIONAL DISABILITY THAT QUALIFIES FOR SECTION
13 504 OF THE FEDERAL "REHABILITATION ACT OF 1973", AS AMENDED, 29
14 U.S.C. SEC. 701 ET SEQ., OR SPECIAL EDUCATION SERVICES;

15 (f) FACTORS THAT PLACE A CHILD OR YOUTH IN A "HIGH-RISK"
16 CATEGORY, SUCH AS BEING DRUG- OR ALCOHOL-EXPOSED IN UTERO;

17 (g) OTHER CONDITIONS THAT ACT AS A BARRIER TO THE CHILD'S OR
18 YOUTH'S ADOPTION, INCLUDING BUT NOT LIMITED TO A HEALTHY CHILD OR
19 YOUTH OVER SEVEN YEARS OF AGE OR A SIBLING GROUP THAT SHOULD
20 REMAIN INTACT AND MEDICAL CONDITIONS THAT ARE LIKELY TO REQUIRE
21 FURTHER TREATMENT; OR

22 (h) ETHNIC BACKGROUND OR MEMBERSHIP IN A MINORITY GROUP
23 WHOSE CHILDREN OR YOUTH MIGHT BE DIFFICULT TO PLACE.

24 (9) "PROGRAM" MEANS THE ADOPTION ASSISTANCE PROGRAM
25 CREATED IN SECTION 26-7-103.

26 (10) "SERVICES" MEANS ANY BENEFITS OTHER THAN MONTHLY
27 SUBSIDY PAYMENTS THAT A FAMILY MAY RECEIVE AS PART OF AN

1 AGREEMENT.

2 (11) "STATE DEPARTMENT" MEANS THE STATE DEPARTMENT OF
3 HUMAN SERVICES.

4 (12) "SUBSIDY" REFERS EXCLUSIVELY TO MONTHLY CASH
5 PAYMENTS THAT ARE PROVIDED TO ELIGIBLE FAMILIES AS PART OF AN
6 AGREEMENT.

7 (13) "TITLE IV-E" REFERS TO FEDERAL FUNDS ADMINISTERED
8 THROUGH THE SOCIAL SECURITY ACT TO SUPPORT STATES' PROGRAMS,
9 INCLUDING BUT NOT LIMITED TO FOSTER CARE, ADOPTION ASSISTANCE,
10 AND GUARDIANSHIP ASSISTANCE.

11 **26-7-103. Adoption assistance program - created -**
12 **administration - funding - reporting - rules - definition.** (1) THE
13 ADOPTION ASSISTANCE PROGRAM IS CREATED IN THE STATE DEPARTMENT
14 AND SUPERVISED BY THE STATE DEPARTMENT. THE PROGRAM SHALL BE
15 ADMINISTERED BY COUNTY DEPARTMENTS PURSUANT TO THIS ARTICLE 7.
16 THE STATE DEPARTMENT SHALL, THROUGH THE STATE BOARD OF HUMAN
17 SERVICES, ADOPT ANY RULES NECESSARY TO IMPLEMENT THE PROVISIONS
18 OF THIS ARTICLE 7.

19 (2) IN ADDITION TO ANY MONEY APPROPRIATED TO THE STATE
20 DEPARTMENT BY THE GENERAL ASSEMBLY FOR THE PROGRAM, THE STATE
21 DEPARTMENT IS ALSO AUTHORIZED TO ACCEPT, ON BEHALF OF THE
22 PROGRAM, ANY FEDERAL FUNDS MADE AVAILABLE FOR ANY PURPOSE
23 CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE 7.

24 (3) THE STATE DEPARTMENT SHALL KEEP DATA AS NECESSARY TO
25 EVALUATE THE PROGRAM'S EFFECTIVENESS IN PROVIDING STABILITY TO
26 ELIGIBLE CHILDREN, YOUTH, AND FAMILIES INVOLVED IN ADOPTION
27 THROUGH THE CHILD WELFARE SYSTEM. ON OR BEFORE NOVEMBER 1,

1 2020, AND EVERY NOVEMBER 1 THEREAFTER, THE STATE DEPARTMENT
2 SHALL PREPARE AND MAKE AVAILABLE TO THE PUBLIC A REPORT THAT
3 INCLUDES, BUT IS NOT LIMITED TO, INFORMATION CONCERNING:

4 (a) THE COST OF ADMINISTERING THE PROGRAM, INCLUDING
5 EXPENDITURES FOR MONTHLY SUBSIDIES AND OTHER BENEFITS;

6 (b) THE TYPES OF SERVICES AWARDED THROUGH THE PROGRAM ON
7 A STATEWIDE BASIS;

8 (c) THE NUMBER OF DISSOLVED ADOPTIONS INVOLVING CHILDREN
9 AND YOUTH WHO QUALIFIED FOR OR RECEIVED BENEFITS FROM THE
10 PROGRAM;

11 (d) THE RESULTS OF ANY PROGRAM EVALUATION PERFORMED BY
12 THE STATE DEPARTMENT.

13 **26-7-104. General information for prospective adoptive**
14 **families.** (1) AT THE TIME THAT THE FAMILY IS MATCHED FOR ADOPTION
15 OF A CHILD OR YOUTH WHO IS POTENTIALLY ELIGIBLE FOR BENEFITS
16 PURSUANT TO THIS ARTICLE 7, THE STATE DEPARTMENT, A COUNTY
17 DEPARTMENT, OR A NONPROFIT CHILD PLACEMENT AGENCY, AS
18 APPROPRIATE, SHALL PROVIDE THE PROSPECTIVE ADOPTIVE FAMILY, IN
19 WRITING, WITH INFORMATION CONCERNING THE FOLLOWING:

20 (a) THE AVAILABILITY OF BENEFITS, WITH AN EXPLANATION OF THE
21 DIFFERENCES BETWEEN THESE BENEFITS AND FOSTER CARE MAINTENANCE
22 PAYMENTS;

23 (b) THE AVAILABILITY OF REIMBURSEMENT FOR ANY
24 NONRECURRING EXPENSES INCURRED IN THE ADOPTION OF AN ELIGIBLE
25 CHILD OR YOUTH;

26 (c) THE AVAILABILITY OF MENTAL HEALTH SERVICES THROUGH
27 THE STATE MEDICAL ASSISTANCE PROGRAM PURSUANT TO ARTICLES 4, 5,

1 AND 6 OF TITLE 25.5 OR OTHER PROGRAMS;

2 (d) THE FEDERAL ADOPTION TAX CREDIT FOR AN INDIVIDUAL WHO
3 IS ADOPTING OR IS CONSIDERING ADOPTING A CHILD OR YOUTH IN FOSTER
4 CARE OR THROUGH A NONPROFIT CHILD PLACEMENT AGENCY, IN
5 ACCORDANCE WITH SECTION 403 OF THE FEDERAL "FOSTERING
6 CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008",
7 PUB.L.110-351;

8 (e) NOTICE OF THE GENERAL RIGHT TO BRING TO THE ADOPTION
9 ASSISTANCE NEGOTIATION PROCESS:

10 (I) PARTIES WHO POSSESS RELEVANT INFORMATION ABOUT A
11 CHILD'S OR YOUTH'S HISTORY AND NEEDS, INCLUDING THE CHILD'S
12 GUARDIAN AD LITEM OR THE FAMILY'S ADVOCATE; AND

13 (II) LEGAL REPRESENTATION FOR A CHILD OR YOUTH OR
14 PROSPECTIVE ADOPTIVE FAMILY;

15 (f) NOTICE OF THE RIGHT TO APPEAL AND BE REPRESENTED BY
16 LEGAL COUNSEL, AT THE PROSPECTIVE ADOPTIVE PARENTS' EXPENSE, IN
17 ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",
18 ARTICLE 4 OF TITLE 24, AND PURSUANT TO SECTION 26-7-109; AND

19 (g) NOTICE OF THE GENERAL RIGHT TO REQUEST A NEGOTIATION
20 MEETING.

21 (2) THE STATE DEPARTMENT SHALL ALSO MAKE THE INFORMATION
22 DESCRIBED IN THIS SECTION AVAILABLE ON ITS WEBSITE.

23 **26-7-105. Eligibility for adoption benefits.** (1) ONLY AN
24 ELIGIBLE CHILD OR YOUTH WHO HAS SPECIAL NEEDS THAT CREATE A
25 BARRIER TO HIS OR HER ADOPTION IS ELIGIBLE FOR ADOPTION BENEFITS.

26 (2) THE FOLLOWING CONDITIONS MUST BE PRESENT AT THE TIME
27 THE ELIGIBLE CHILD OR YOUTH WAS PLACED FOR ADOPTION; EXCEPT THAT

1 A CHILD OR YOUTH WHO MEETS THE MEDICAL AND DISABILITY
2 REQUIREMENTS FOR FEDERAL SUPPLEMENTAL SECURITY INCOME DOES NOT
3 NEED TO MEET THE ADDITIONAL CONDITIONS:

4 (a) THE ELIGIBLE CHILD OR YOUTH WAS IN THE CUSTODY OF A
5 COUNTY DEPARTMENT, A PERSON TO WHOM THE CUSTODY OF THE CHILD
6 HAS BEEN GIVEN BY PROPER ORDER OF A DEPENDENCY AND NEGLECT
7 COURT, OR A NONPROFIT CHILD PLACEMENT AGENCY, AND IS LEGALLY
8 AVAILABLE FOR ADOPTION, INCLUDING THE RESOLUTION OF ALL APPEALS;
9 AND

10 (b) IT HAS BEEN DETERMINED THAT THE ELIGIBLE CHILD OR YOUTH
11 CANNOT OR SHOULD NOT BE RETURNED HOME TO HIS OR HER BIOLOGICAL
12 PARENTS; AND

13 (c) REASONABLE BUT UNSUCCESSFUL EFFORTS TO PLACE THE
14 ELIGIBLE CHILD OR YOUTH FOR ADOPTION WITHOUT BENEFITS HAVE BEEN
15 MADE, EXCEPT UNDER THE FOLLOWING CIRCUMSTANCES:

16 (I) IT IS DETERMINED THAT SUCH EFFORTS WOULD BE AGAINST THE
17 BEST INTEREST OF THE ELIGIBLE CHILD OR YOUTH BECAUSE OF FACTORS
18 THAT INCLUDE, BUT ARE NOT LIMITED TO, THE EXISTENCE OF A
19 SIGNIFICANT BOND WITH THE PROSPECTIVE ADOPTIVE PARENTS OR A
20 SEARCH FOR A NONSUBSIDIZED ADOPTIVE PLACEMENT WOULD DELAY A
21 CHILD'S OR YOUTH'S RIGHT TO PERMANENCY IN A TIMELY MANNER; OR

22 (II) THE ELIGIBLE CHILD OR YOUTH IS BEING PLACED BY A BIRTH
23 PARENT WITH DESIGNATED ADOPTIVE PARENTS THROUGH A NONPROFIT
24 CHILD PLACEMENT AGENCY; AND

25 (d) THE COUNTY DEPARTMENT OR NONPROFIT CHILD PLACEMENT
26 AGENCY HAS DETERMINED THAT THE ADOPTIVE FAMILY HAS THE
27 CAPABILITY OF PROVIDING FOR THE NONFINANCIAL NEEDS OF THE ELIGIBLE

1 CHILD OR YOUTH.

2 **26-7-106. Available benefits.** (1) A COUNTY DEPARTMENT MAY
3 AUTHORIZE OR ADMINISTER ONE OR MORE OF THE TYPES OF BENEFITS
4 AVAILABLE PURSUANT TO THIS ARTICLE 7, AS DESCRIBED IN SUBSECTION
5 (2) OF THIS SECTION.

6 (2) THE BENEFITS AVAILABLE PURSUANT TO THIS ARTICLE 7
7 INCLUDE:

8 (a) MONTHLY SUBSIDY PAYMENTS;

9 (b) MEDICAL ASSISTANCE PURSUANT TO ARTICLES 4, 5 AND 6 OF
10 TITLE 25.5;

11 (c) REIMBURSEMENT FOR NONRECURRING EXPENSES INCURRED BY
12 OR ON BEHALF OF THE ADOPTIVE PARENT IN CONNECTION WITH THE
13 ADOPTION, INCLUDED BUT NOT LIMITED TO:

14 (I) ANY FEES ORDINARILY ASSESSED BY THE STATE DEPARTMENT,
15 A COUNTY DEPARTMENT, OR A CHILD PLACEMENT AGENCY FOR ADOPTION
16 INVESTIGATIONS AND HOME STUDY REPORTS; AND

17 (II) ANY REASONABLE AND NECESSARY ADOPTION FEES, COURT
18 COSTS, ATTORNEY FEES, AND OTHER EXPENSES THAT ARE DIRECTLY
19 RELATED TO THE LEGAL ADOPTION OF THE CHILD AS DESCRIBED IN 42
20 U.S.C. SEC. 673 (a)(1); AND

21 (d) PAYMENT OR REIMBURSEMENT FOR OTHER SERVICES OR
22 BENEFITS AS DEFINED IN SECTION 26-7-102 (3).

23 **26-7-107. Determination of benefits - adoption assistance**
24 **agreement - review - definitions.** (1) THE BENEFITS PROVIDED IN ANY
25 CASE PURSUANT TO THIS ARTICLE 7 MUST BE DETERMINED THROUGH AN
26 AGREEMENT BETWEEN THE ADOPTIVE PARENTS AND THE COUNTY
27 DEPARTMENT ADMINISTERING THE PROGRAM. THE TERMS OF THE

1 AGREEMENT MUST BE REACHED THROUGH A DISCUSSION AND GOOD-FAITH
2 NEGOTIATION PROCESS THAT ADDRESSES THE NEEDS OF THE ELIGIBLE
3 CHILD OR YOUTH. ONCE THE TERMS OF THE AGREEMENT ARE REACHED BY
4 THE RESPECTIVE PARTIES, THE PARTIES SHALL SIGN THE AGREEMENT PRIOR
5 TO ADOPTION FINALIZATION. IF AN AGREEMENT CANNOT BE REACHED
6 WITH THE CONCURRENCE OF THE ADOPTIVE PARENTS, THE ADOPTIVE
7 PARENTS' REQUEST FOR ADOPTION ASSISTANCE MAY BE REVIEWABLE
8 THROUGH THE ADMINISTRATIVE LAW APPEALS PROCESS.

9 (2) THE USE OF A MEANS TEST IS PROHIBITED IN THE PROCESS OF
10 SELECTING AN ADOPTIVE FAMILY. A MEANS TEST ALSO MUST NOT BE
11 SUBSTITUTED FOR THE NEGOTIATION OF AN ADOPTIVE FAMILY'S BENEFITS.
12 THE CIRCUMSTANCES OF THE FAMILY, AS DEFINED IN SECTION 26-7-102
13 (5), SHOULD BE CONSIDERED IN NEGOTIATING A FAMILY'S BENEFITS.

14 (3) DETERMINATION OF THE TYPE AND AMOUNT OF BENEFITS TO BE
15 PROVIDED MUST TAKE INTO CONSIDERATION THE CIRCUMSTANCES OF THE
16 ADOPTIVE FAMILY AND THE CURRENT AND ANTICIPATED NEEDS OF THE
17 ELIGIBLE CHILD OR YOUTH BEING ADOPTED. IN NO CASE MAY THE AMOUNT
18 OF THE MONTHLY SUBSIDY PAYMENT EXCEED THE FOSTER CARE
19 MAINTENANCE PAYMENT THAT WOULD HAVE BEEN PAID IF THE ELIGIBLE
20 CHILD OR YOUTH HAD BEEN IN FOSTER CARE AT THE TIME OF THE ELIGIBLE
21 CHILD OR YOUTH'S ADOPTION OR AT THE TIME OF RENEGOTIATION IN THE
22 CASE OF ADOPTION ASSISTANCE ADJUSTMENT. THE AMOUNT OF PAYMENTS
23 MAY BE ADJUSTED PERIODICALLY IF EITHER THE NEEDS OF THE ELIGIBLE
24 CHILD OR YOUTH OR THE CIRCUMSTANCES OF THE FAMILY CHANGE, BUT
25 ONLY WITH THE CONCURRENCE OF THE ADOPTIVE PARENTS.

26 (4) IN CASES WHERE A SUBSIDY IS NOT PROVIDED IN AN
27 AGREEMENT, THE COUNTY DEPARTMENT SHALL DOCUMENT:

1 (a) THE CHILD'S OR YOUTH'S SPECIAL NEEDS IN THE SERVICES
2 RECORD AND IN THE STATE DEPARTMENT'S AUTOMATED CHILD WELFARE
3 SYSTEM; AND

4 (b) THE POTENTIAL NEED FOR FINANCIAL SUBSIDIES THAT EXIST
5 AND MAY NEED TO BE ACTIVATED AT A FUTURE TIME.

6 (5) AN AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION
7 MUST BE REVIEWED AT LEAST EVERY THREE YEARS. THE _____ COUNTY
8 DEPARTMENTS SHALL PROVIDE WRITTEN NOTICE OF THE UPCOMING
9 REVIEW TO THE ADOPTIVE FAMILY.

10 (6) ANY NEW AGREEMENT MUST INCLUDE THE CIRCUMSTANCES
11 UNDER WHICH THE _____ COUNTY DEPARTMENT MAY SUSPEND SUBSIDY
12 PAYMENTS.

13 (7) THE AGREEMENT MAY BE ADJUSTED AFTER GOOD-FAITH
14 NEGOTIATION AND WITH THE CONCURRENCE OF THE ADOPTIVE FAMILY. AN
15 ADJUSTMENT IS REVIEWABLE THROUGH THE ADMINISTRATIVE LAW
16 PROCESS UPON THE REQUEST OF THE FAMILY. ANY PARTY MAY REQUEST
17 A REVIEW OF THE AGREEMENT PRIOR TO THE THREE-YEAR MANDATORY
18 REVIEW IF CHANGES OCCUR IN THE NEEDS OF THE ADOPTIVE CHILD OR
19 YOUTH OR IN THE CIRCUMSTANCES OF THE FAMILY.

20 (8) BENEFITS PROVIDED THROUGH THE PROGRAM MUST BE
21 CONTINUED IF THE ADOPTIVE PARENTS LEAVE THE STATE OF COLORADO
22 WITH THE ADOPTED CHILD OR YOUTH.

23 **26-7-108. Suspension of subsidies.** (1) THE _____ COUNTY
24 DEPARTMENT MAY SUSPEND THE PAYMENT OF SUBSIDIES AVAILABLE
25 PURSUANT TO THIS ARTICLE 7 WHEN CONTACT WITH THE ADOPTIVE FAMILY
26 CANNOT BE ESTABLISHED AND THE COUNTY DEPARTMENT CANNOT
27 ESTABLISH THAT THE ADOPTIVE PARENT IS PROVIDING ANY SUPPORT,

1 WHICH INCLUDES FINANCIAL SUPPORT AS DETERMINED BY THE TITLE IV-E
2 AGENCY.

3 (2) PRIOR TO SUSPENSION, THE ___ COUNTY DEPARTMENT SHALL
4 PROVIDE NOTICE TO THE ADOPTIVE PARENTS OF INTENT TO SUSPEND
5 SUBSIDY PAYMENTS AT LEAST TEN DAYS PRIOR TO SUSPENSION AND SHALL
6 INCLUDE IN THE NOTICE:

7 (a) A STATEMENT OF THE ___ COUNTY DEPARTMENT'S INTENT TO
8 SUSPEND SUBSIDY PAYMENTS, AS WELL AS THE REASONS AND LEGAL BASIS
9 FOR THE INTENDED SUSPENSION;

10 (b) A DESCRIPTION OF THE ADOPTIVE PARENTS' RIGHT TO REQUEST
11 A FAIR HEARING PURSUANT TO 45 CFR 205.10;

12 (c) A DESCRIPTION OF THE CIRCUMSTANCES UNDER WHICH
13 ADOPTION ASSISTANCE MUST BE CONTINUED IF A HEARING IS REQUESTED;
14 AND

15 (d) THE CIRCUMSTANCES UNDER WHICH A SUSPENSION MAY BE
16 REVERSED WITHOUT A FAIR HEARING.

17 (3) WHEN THE SUBSIDY PAYMENT IS SUSPENDED, THE ELIGIBLE
18 CHILD OR YOUTH REMAINS TITLE IV-E ELIGIBLE, THE TITLE IV-E
19 AGREEMENT REMAINS IN EFFECT, AND THE ELIGIBLE CHILD OR YOUTH
20 REMAINS ELIGIBLE FOR, AND IN RECEIPT OF, MEDICAL ASSISTANCE
21 PURSUANT TO ARTICLES 4, 5 AND 6 OF TITLE 25.5, IF APPLICABLE.

22 **26-7-109. Termination of adoption assistance agreement.**

23 (1) THE ___ COUNTY DEPARTMENT SHALL TERMINATE THE PAYMENT OF
24 SUBSIDIES AVAILABLE PURSUANT TO THIS ARTICLE 7 WHEN ANY OF THE
25 FOLLOWING SITUATIONS OCCUR:

26 (a) THE CHILD OR YOUTH REACHES EIGHTEEN YEARS OF AGE;
27 EXCEPT THAT, IN CASES WHERE THE ___ COUNTY DEPARTMENT HAS

1 DETERMINED THAT THE CHILD OR YOUTH HAS A MENTAL OR PHYSICAL
2 HANDICAP THAT WARRANTS CONTINUED ASSISTANCE, THE PAYMENT OF
3 SUBSIDIES SHALL CONTINUE UNTIL THE CHILD OR YOUTH REACHES
4 TWENTY-ONE YEARS OF AGE;

5 (b) THE ADOPTIVE PARENT OR PARENTS ARE NO LONGER LEGALLY
6 RESPONSIBLE FOR THE SUPPORT OF THE CHILD OR YOUTH;

7 (c) THE CHILD OR YOUTH IS NO LONGER RECEIVING SUPPORT FROM
8 THE ADOPTIVE FAMILY, WHICH INCLUDES FINANCIAL SUPPORT AS
9 DETERMINED BY THE TITLE IV-E AGENCY; OR

10 (d) THE _____ COUNTY DEPARTMENT CERTIFIES THE DEATH,
11 MARRIAGE, OR ENROLLMENT IN MILITARY SERVICE OF THE CHILD OR
12 YOUTH.

13 (2) ADOPTIVE PARENTS WHO RECEIVE SUBSIDIES SHALL KEEP THE
14 _____ COUNTY DEPARTMENT THAT IS ADMINISTERING THE PROGRAM
15 INFORMED OF CIRCUMSTANCES THAT WOULD MAKE THEM INELIGIBLE TO
16 CONTINUE TO RECEIVE SUBSIDIES PURSUANT TO THIS ARTICLE 7.

17 **26-7-110. Appeals.** (1) IN ANY DECISION MADE PURSUANT TO
18 THIS ARTICLE 7, THE ADOPTIVE PARENTS HAVE THE RIGHT TO APPEAL TO
19 THE STATE DEPARTMENT, WITH A HEARING BEFORE A STATE DEPARTMENT
20 ADMINISTRATIVE LAW JUDGE IN ACCORDANCE WITH THE "STATE
21 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24.

22 (2) THE FOLLOWING SITUATIONS ARE SUBJECT TO APPEAL:

23 (a) A DETERMINATION OF A CHILD'S OR YOUTH'S ELIGIBILITY FOR
24 BENEFITS PURSUANT TO SECTION 26-7-105;

25 (b) ANY DETERMINATION, REDETERMINATION, OR REDUCTION OF
26 BENEFITS PURSUANT TO THIS ARTICLE 7;

27 (c) TERMINATION OF THE AGREEMENT ENTERED INTO PURSUANT

1 TO SECTION 26-7-107; OR

2 (d) THE FAILURE OF THE STATE DEPARTMENT, COUNTY
3 DEPARTMENT, OR NONPROFIT CHILD PLACEMENT AGENCY TO NOTIFY THE
4 ADOPTIVE FAMILY OF AN ELIGIBLE CHILD OR YOUTH ABOUT THE
5 AVAILABILITY OF BENEFITS PURSUANT TO THIS ARTICLE 7.

6 **SECTION 2.** In Colorado Revised Statutes, 19-1-115, **amend**
7 (4)(d)(II) as follows:

8 **19-1-115. Legal custody - guardianship - placement out of the**
9 **home - petition for review for need of placement.** (4) (d) (II) For an
10 adoptive family who receives an approved Title IV-E adoption assistance
11 subsidy pursuant to the federal "Social Security Act", 42 U.S.C. sec. 673
12 et seq., or an approved payment in subsidization of adoption pursuant to
13 ~~section 26-7-103, C.R.S.~~ ARTICLE 7 OF TITLE 26, the cost of care, as
14 defined in section 19-1-103 (30), ~~shall~~ MUST not exceed the amount of the
15 adoption assistance payment.

16 **SECTION 3.** In Colorado Revised Statutes, 19-2-114, **amend**
17 (1)(b) as follows:

18 **19-2-114. Cost of care.** (1) (b) For an adoptive family who
19 receives an approved Title IV-E adoption assistance subsidy pursuant to
20 the federal "Social Security Act", 42 U.S.C. sec. 673 et seq., or an
21 approved payment in subsidization of adoption pursuant to ~~section~~
22 ~~26-7-103, C.R.S.~~ ARTICLE 7 OF TITLE 26, the cost of care, as defined in
23 section 19-1-103 (30), ~~shall~~ MUST not exceed the amount of the adoption
24 assistance payment.

25 **SECTION 4. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2020 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.