

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 24-1044.01 Jason Gelender x4330

HOUSE BILL 24-1374

HOUSE SPONSORSHIP

Marvin and Rutinel,

SENATE SPONSORSHIP

Michaelson Jenet,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEANS OF ENSURING THAT INDEPENDENT CONTRACTORS**
102 **WHO PERFORM LEGAL SERVICES ON BEHALF OF INDEPENDENT**
103 **JUDICIAL AGENCIES ARE ELIGIBLE FOR THE FEDERAL PUBLIC**
104 **SERVICE LOAN FORGIVENESS PROGRAM.**

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>.)

Independent contractors (contractors) were previously ineligible for the federal public service loan forgiveness program (program), which forgives remaining federal student loan liability for government and

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

HOUSE
2nd Reading Unamended
April 5, 2024

nonprofit full-time employees after 10 years of qualifying service, but in 2023 the federal government made contractors who perform work for a government agency eligible for the program if the work cannot be performed by a government employee. Three independent judicial agencies, the office of the alternative defense counsel, the office of the child's representative, and the office of respondent parents' counsel (agencies) primarily use contractors to provide legal representation on behalf of the agencies because providing the same services through state employees would create ethical conflicts.

To enable these contractors to qualify for the program if they otherwise meet program requirements, the bill:

- Clarifies that state employees cannot provide the legal services that the independent contractors provide;
- Allows the agencies to certify that a contractor appears to be eligible for the program; and
- Because some contractors provide or have provided legal services on behalf of more than one of the agencies, authorizes the agencies to share contractor information to the extent necessary to certify a contractor's eligibility for the program.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Three independent judicial agencies, the office of the
5 alternative defense counsel, the office of the child's representative, and
6 the office of respondent parents' counsel, primarily use independent
7 contractors to provide legal representation as required by state law
8 because providing the same services through government employees
9 would be impracticable due to the ethical conflicts that such employment
10 would create;

11 (b) Providing legal representation through independent contractors
12 is a common model to address such conflicts;

13 (c) In 2007, Congress created the public service loan forgiveness
14 program to allow government and nonprofit full-time employees to have

1 their federal student loans forgiven after ten years of qualifying service,
2 but, unfortunately, independent contractors who provide crucial legal
3 representation through contracts with government agencies were not
4 eligible for the program;

5 (d) In 2023, the federal government changed the requirements for
6 the program to make an independent contractor eligible for public service
7 loan forgiveness if the work that the independent contractor performs for
8 a government agency cannot be performed by a government employee;

9 (e) Providing opportunities for independent contractors who
10 provide legal services on behalf of independent judicial agencies to be
11 eligible for the same federal public service loan forgiveness that would
12 be available for government employees performing similar work will
13 improve recruitment and retention for crucial public service legal work
14 and provide important financial benefits to Colorado residents and small
15 business owners;

16 (f) Each year, these three independent judicial agencies lose
17 highly qualified and trained contractors to full-time government or
18 nonprofit jobs because these contractors want to be eligible for public
19 service loan forgiveness, and this turnover is costly for the state and
20 detrimental to clients; and

21 (g) Nothing in this act is intended to alter eligibility for state or
22 local loan forgiveness, and the federal government will continue to be
23 ultimately responsible for determining eligibility for federal public
24 service loan forgiveness.

25 (2) The general assembly therefore declares that it is in the best
26 interests of the state, the legal profession, and the people served by
27 independent judicial agencies to clarify that independent contractors who

1 provide legal services on behalf of independent judicial agencies can be
2 eligible for federal public service loan forgiveness.

3 **SECTION 2.** In Colorado Revised Statutes, 13-91-105, **add** (3)
4 as follows:

5 **13-91-105. Duties of the office of the child's representative -**
6 **guardian ad litem and counsel for youth programs.** (3) COLORADO
7 RELIES PRIMARILY ON AN INDEPENDENT CONTRACTOR MODEL OF LEGAL
8 REPRESENTATION FOR CHILDREN AND YOUTH PROVIDED IN ACCORDANCE
9 WITH THIS SECTION. WHILE THE OFFICE OF THE CHILD'S REPRESENTATIVE
10 CURRENTLY PROVIDES LEGAL REPRESENTATION FOR CHILDREN AND YOUTH
11 IN SOME CASE TYPES AND IN ONE COUNTY THROUGH STATE EMPLOYEES
12 AND WILL CONTINUE TO EXPLORE THE USE OF A STATE EMPLOYEE STAFF
13 MODEL OF LEGAL REPRESENTATION FOR CHILDREN AND YOUTH WHERE
14 FEASIBLE, COLORADO'S NEED FOR LEGAL REPRESENTATION FOR CHILDREN
15 AND YOUTH CANNOT BE FILLED OR PROVIDED STATEWIDE SOLELY BY
16 EMPLOYEES OF THE OFFICE OF THE CHILD'S REPRESENTATIVE. THE
17 DIRECTOR OR THE DIRECTOR'S DESIGNEE IS AUTHORIZED TO SIGN A
18 CERTIFICATION FOR ANY CURRENT OR PAST INDEPENDENT CONTRACTOR
19 THAT CERTIFIES THAT THE CONTRACTOR APPEARS TO BE ELIGIBLE FOR
20 FEDERAL PUBLIC SERVICE LOAN FORGIVENESS AS ALLOWED BY FEDERAL
21 LAW OR REGULATIONS. WITH THE AUTHORIZATION OF AN INDEPENDENT
22 CONTRACTOR WHO IS PROVIDING OR HAS PROVIDED LEGAL
23 REPRESENTATION ON BEHALF OF THE OFFICE, THE DIRECTOR OR THE
24 DIRECTOR'S DESIGNEE MAY SHARE INFORMATION, INCLUDING THE
25 CONTRACTOR'S NAME, SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER
26 IDENTIFICATION NUMBER, AND THE TOTAL NUMBER OF HOURS BILLED BY
27 THE CONTRACTOR BY CALENDAR YEAR, WITH OTHER INDEPENDENT

1 JUDICIAL AGENCIES FOR THE PURPOSE OF CERTIFYING APPARENT PAST,
2 CURRENT, AND FUTURE ELIGIBILITY FOR PUBLIC SERVICE LOAN
3 FORGIVENESS ALLOWED BY FEDERAL LAW OR REGULATIONS.

4 **SECTION 3.** In Colorado Revised Statutes, 13-92-104, **add** (3)
5 as follows:

6 **13-92-104. Duties of the office of the respondent parents'**
7 **counsel.** (3) EMPLOYEES OF THE OFFICE ARE PROHIBITED FROM
8 PROVIDING DIRECT LEGAL REPRESENTATION TO RESPONDENT PARENTS.
9 FOR THE PURPOSE OF DETERMINING ELIGIBILITY FOR FEDERAL PUBLIC
10 SERVICE LOAN FORGIVENESS, AN INDEPENDENT CONTRACTOR, INCLUDING
11 AN ATTORNEY, A SOCIAL WORKER, A FAMILY ADVOCATE, OR A PARENT
12 ADVOCATE, WHO IS PROVIDING OR HAS PROVIDED LEGAL SERVICES TO
13 RESPONDENT PARENTS PURSUANT TO THE CONTRACTOR'S CONTRACT HAS
14 A CONFLICT THAT PROHIBITS THE CONTRACTOR FROM PROVIDING THESE
15 SERVICES AS A STATE EMPLOYEE. THE DIRECTOR OR THE DIRECTOR'S
16 DESIGNEE IS AUTHORIZED TO SIGN A CERTIFICATION FOR ANY CURRENT OR
17 PAST INDEPENDENT CONTRACTOR THAT CERTIFIES THAT THE CONTRACTOR
18 APPEARS TO BE ELIGIBLE FOR FEDERAL PUBLIC SERVICE LOAN
19 FORGIVENESS AS ALLOWED BY FEDERAL LAW OR REGULATIONS. WITH THE
20 AUTHORIZATION OF AN INDEPENDENT CONTRACTOR, THE DIRECTOR OR THE
21 DIRECTOR'S DESIGNEE MAY SHARE INFORMATION, INCLUDING THE
22 CONTRACTOR'S NAME, SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER
23 IDENTIFICATION NUMBER, AND TOTAL NUMBER OF HOURS BILLED BY THE
24 CONTRACTOR BY CALENDAR YEAR, WITH OTHER JUDICIAL AGENCIES FOR
25 THE PURPOSE OF CERTIFYING APPARENT PAST, CURRENT, AND FUTURE
26 ELIGIBILITY FOR PUBLIC SERVICE LOAN FORGIVENESS ALLOWED BY
27 FEDERAL LAW OR REGULATIONS.

1 **SECTION 4.** In Colorado Revised Statutes, 21-2-105, **add** (3) as
2 follows:

3 **21-2-105. Contracts with attorneys and other legal services**
4 **providers.** (3) COLORADO RELIES PRIMARILY ON AN INDEPENDENT
5 CONTRACTOR MODEL OF LEGAL REPRESENTATION FOR COURT-APPOINTED
6 ADULT AND YOUTH REPRESENTATION IN ACCORDANCE WITH THIS SECTION
7 WHEN THE PUBLIC DEFENDER'S OFFICE HAS A LEGAL CONFLICT OF
8 INTEREST. WHILE THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL
9 PROVIDES SOME LEGAL REPRESENTATION FOR INDIGENT INDIVIDUALS ON
10 SOME CASES THROUGH STATE EMPLOYEES AND WILL CONTINUE TO
11 EXPLORE THE USE OF STATE EMPLOYEE STAFF MODEL SOLUTIONS WHERE
12 FEASIBLE, COLORADO'S NEED FOR CONFLICT-FREE INDIGENT DEFENSE
13 COUNSEL CANNOT BE FILLED OR PROVIDED STATEWIDE BY DIRECT
14 EMPLOYEES OF THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL. FOR
15 THE PURPOSE OF DETERMINING ELIGIBILITY FOR FEDERAL PUBLIC SERVICE
16 LOAN FORGIVENESS, ANY INDEPENDENT CONTRACTOR, INCLUDING, BUT
17 NOT LIMITED TO, A RESOURCE ADVOCATE, AN INVESTIGATOR, A CASE
18 ASSISTANT, AN ATTORNEY, A SOCIAL WORKER, A PARALEGAL, OR A LEGAL
19 RESEARCHER, WHO IS CURRENTLY PROVIDING OR HAS PREVIOUSLY
20 PROVIDED LEGAL SERVICES OR SERVICES THROUGH AN INTERDISCIPLINARY
21 LEGAL TEAM HAS A CONFLICT IN PROVIDING THESE SERVICES AS A STATE
22 EMPLOYEE. THE DIRECTOR OF THE OFFICE OF THE ALTERNATE DEFENSE
23 COUNSEL OR THE DIRECTOR'S DESIGNEE IS AUTHORIZED TO SIGN A
24 CERTIFICATION FOR ANY CURRENT OR PAST INDEPENDENT CONTRACTOR
25 THAT CERTIFIES THAT THE CONTRACTOR APPEARS TO BE ELIGIBLE FOR
26 FEDERAL PUBLIC SERVICE LOAN FORGIVENESS AS ALLOWED BY FEDERAL
27 LAW OR REGULATIONS. WITH THE AUTHORIZATION OF AN INDEPENDENT

1 CONTRACTOR, THE DIRECTOR OF THE OFFICE OF THE ALTERNATE DEFENSE
2 COUNSEL OR THE DIRECTOR'S DESIGNEE MAY SHARE INFORMATION,
3 INCLUDING THE CONTRACTOR'S NAME, SOCIAL SECURITY NUMBER OR
4 FEDERAL EMPLOYER IDENTIFICATION NUMBER, AND THE TOTAL NUMBER
5 OF HOURS BILLED BY THE CONTRACTOR BY CALENDAR YEAR, WITH OTHER
6 INDEPENDENT JUDICIAL AGENCIES FOR THE PURPOSE OF CERTIFYING
7 APPARENT PAST, CURRENT, AND FUTURE ELIGIBILITY FOR PUBLIC SERVICE
8 LOAN FORGIVENESS ALLOWED BY FEDERAL LAW OR REGULATIONS.

9 **SECTION 5. Safety clause.** The general assembly finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, or safety or for appropriations for
12 the support and maintenance of the departments of the state and state
13 institutions.