

CHAPTER 140

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**HUMAN SERVICES - SOCIAL SERVICES**

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**SENATE BILL 02-114**

BY SENATOR(S) Hanna, Andrews, Entz, Hernandez, Isgar, Phillips, Taylor, and Teck;  
also REPRESENTATIVE(S) Crane, Alexander, Dean, Miller, Scott, and Smith.

**AN ACT**

**CONCERNING THE REGULATION OF SKI AREA GUEST CHILD CARE FACILITIES.**

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

**SECTION 1.** 26-6-102 (5), Colorado Revised Statutes, is amended, and the said 26-6-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**26-6-102. Definitions.** As used in this article, unless the context otherwise requires:

(4.7) "GUARDIAN" MEANS THE GUARDIAN OF THE PERSON OF A MINOR.

(5) ~~"Guardian" means the guardian of the person of a minor.~~ "GUEST CHILD CARE FACILITY" MEANS A FACILITY OPERATED BY A SKI AREA, AS THAT TERM IS DEFINED IN SECTION 33-44-103 (6), C.R.S., WHERE CHILDREN ARE CARED FOR:

(a) WHILE PARENTS OR PERSONS IN CHARGE OF SUCH CHILD ARE PATRONIZING THE SKI AREA;

(b) FEWER THAN TEN TOTAL HOURS PER DAY;

(c) FEWER THAN TEN CONSECUTIVE DAYS PER YEAR; AND

(d) FEWER THAN FORTY-FIVE DAYS IN A CALENDAR YEAR, WITH THIRTY OR FEWER OF SUCH FORTY-FIVE DAYS OCCURRING IN EITHER THE WINTER OR SUMMER MONTHS.

(10.5) "SUPERVISORY EMPLOYEE" MEANS, FOR PURPOSES OF SECTION 26-6-103.5, A PERSON DIRECTLY RESPONSIBLE FOR MANAGING A GUEST CHILD CARE FACILITY AND

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

THE EMPLOYEES OF SUCH FACILITY.

**SECTION 2.** Part 1 of article 6 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**26-6-103.5. Application of part - guest child care facilities.** (1) GUEST CHILD CARE FACILITIES SHALL BE SUBJECT ONLY TO THE REQUIREMENTS OF THIS SECTION AND SHALL OTHERWISE BE EXCLUDED FROM THE REQUIREMENTS OF THIS PART 1. EACH GUEST CHILD CARE FACILITY SHALL POST A NOTICE IN BOLD PRINT AND IN PLAIN VIEW ON THE PREMISES OF THE GUEST CHILD CARE FACILITY. THE NOTICE SHALL SPECIFY THE TELEPHONE NUMBER AND ADDRESS OF THE APPROPRIATE DIVISION WITHIN THE STATE DEPARTMENT FOR INVESTIGATING CHILD CARE FACILITY COMPLAINTS AND SHALL STATE THAT ANY COMPLAINT ABOUT THE GUEST CHILD CARE FACILITY'S COMPLIANCE WITH THESE REQUIREMENTS SHOULD BE DIRECTED TO SUCH DIVISION.

(2) NO PERSON OR ENTITY SHALL OPERATE A GUEST CHILD CARE FACILITY UNLESS THE FOLLOWING REQUIREMENTS ARE MET:

(a) THE GUEST CHILD CARE FACILITY IS INSPECTED NOT LESS FREQUENTLY THAN ONE TIME PER YEAR BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND IT CONFORMS TO THE SANITARY STANDARDS PRESCRIBED BY SUCH DEPARTMENT UNDER THE PROVISIONS OF SECTION 25-1-107 (1) (m), C.R.S.;

(b) THE GUEST CHILD CARE FACILITY IS INSPECTED NOT LESS FREQUENTLY THAN ONE TIME PER YEAR BY THE LOCAL FIRE DEPARTMENT, AND IT CONFORMS TO THE FIRE PREVENTION AND PROTECTION REQUIREMENTS OF THE LOCAL FIRE DEPARTMENT IN THE LOCALITY OF THE FACILITY, OR IN LIEU THEREOF, THE DIVISION OF LABOR;

(c) THE GUEST CHILD CARE FACILITY RETAINS, ON THE PREMISES AT ALL TIMES, THE RECORDS OF THE INSPECTIONS REQUIRED BY PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (2) FOR THE CURRENT CALENDAR YEAR AND THE IMMEDIATELY PRECEDING CALENDAR YEAR;

(d) THE GUEST CHILD CARE FACILITY RETAINS, ON THE PREMISES AT ALL TIMES, A RECORD OF CHILDREN CARED FOR OVER THE COURSE OF THE CURRENT CALENDAR YEAR AND THE IMMEDIATELY PRECEDING CALENDAR YEAR;

(e) AT LEAST ONE SUPERVISORY EMPLOYEE, AS THAT TERM IS DEFINED IN SECTION 26-6-102 (10.5), IS ON DUTY AT THE FACILITY AT ALL TIMES WHEN THE FACILITY IS OPERATING;

(f) (I) THE GUEST CHILD CARE FACILITY REQUIRES ALL SUPERVISORY EMPLOYEES OF THE GUEST CHILD CARE FACILITY AND APPLICANTS FOR SUPERVISORY EMPLOYEE POSITIONS AT THE GUEST CHILD CARE FACILITY TO OBTAIN A FINGERPRINT-BASED CRIMINAL HISTORY CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND REQUESTS THE STATE DEPARTMENT TO ASCERTAIN WHETHER THE PERSON BEING INVESTIGATED HAS BEEN CONVICTED OF ANY OF THE CRIMINAL OFFENSES SPECIFIED IN SECTION 26-6-104 (7) (a) (I) OR WHETHER THE PERSON HAS BEEN DETERMINED TO HAVE A PATTERN OF MISDEMEANOR CONVICTIONS AS DESCRIBED IN SECTION 26-6-104 (8) (b), AND THE GUEST CHILD CARE FACILITY PROHIBITS THE HIRING OF ANY SUCH

PERSON AS A SUPERVISORY EMPLOYEE OR TERMINATES THE EMPLOYMENT OF ANY SUCH PERSON AS A SUPERVISORY EMPLOYEE UPON CONFIRMATION OF SUCH A CRIMINAL HISTORY;

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (f), THE GUEST CHILD CARE FACILITY REQUIRES ALL SUPERVISORY EMPLOYEES AND APPLICANTS FOR SUPERVISORY EMPLOYEE POSITIONS WHO HAVE RESIDED IN THE STATE OF COLORADO FOR FEWER THAN TWO YEARS TO HAVE A FEDERAL BUREAU OF INVESTIGATION FINGERPRINT-BASED CRIMINAL HISTORY BACKGROUND CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND REQUESTS THE STATE DEPARTMENT TO ASCERTAIN WHETHER THE PERSON BEING INVESTIGATED HAS BEEN CONVICTED OF ANY OF THE CRIMINAL OFFENSES SPECIFIED IN SECTION 26-6-104 (7) (a) (I) OR WHETHER THE PERSON HAS BEEN DETERMINED TO HAVE A PATTERN OF MISDEMEANOR CONVICTIONS AS DESCRIBED IN SECTION 26-6-104 (8) (b), AND THE GUEST CHILD CARE FACILITY PROHIBITS THE HIRING OF ANY SUCH PERSON AS A SUPERVISORY EMPLOYEE OR TERMINATES THE EMPLOYMENT OF ANY SUCH PERSON AS A SUPERVISORY EMPLOYEE UPON CONFIRMATION OF SUCH A CRIMINAL HISTORY;

(III) THE GUEST CHILD CARE FACILITY REQUESTS THE STATE DEPARTMENT TO ACCESS THE STATE CENTRAL REGISTRY OF CHILD PROTECTION TO DETERMINE WHETHER THE SUPERVISORY EMPLOYEE OR APPLICANT FOR A SUPERVISORY EMPLOYEE POSITION IS THE SUBJECT OF A REPORT OF KNOWN OR SUSPECTED CHILD ABUSE, AND THE GUEST CHILD CARE FACILITY PROHIBITS THE HIRING OF ANY SUCH PERSON AS A SUPERVISORY EMPLOYEE OR TERMINATES THE EMPLOYMENT OF ANY SUCH PERSON AS A SUPERVISORY EMPLOYEE. PURSUANT TO SECTION 19-1-307 (2) (k), C.R.S., CENTRAL REGISTRY INFORMATION SHALL BE MADE AVAILABLE IF A PERSON'S NAME IS ON THE CENTRAL REGISTRY OF CHILD PROTECTION OR HAS BEEN DESIGNATED AS "STATUS PENDING" PURSUANT TO SECTION 19-3-313 (5.5) (b), C.R.S.

(IV) (A) THE GUEST CHILD CARE FACILITY REQUESTS THE STATE DEPARTMENT TO OBTAIN A COMPARISON SEARCH ON THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT WITH THE NAME AND DATE OF BIRTH INFORMATION AND ANY OTHER AVAILABLE SOURCE OF CRIMINAL HISTORY INFORMATION THAT THE STATE DEPARTMENT DETERMINES IS APPROPRIATE, WHETHER OR NOT THE CRIMINAL HISTORY BACKGROUND CHECK CONFIRMS A CRIMINAL HISTORY, IN ORDER TO DETERMINE THE CRIME OR CRIMES, IF ANY, FOR WHICH THE SUPERVISORY EMPLOYEE OR APPLICANT FOR A SUPERVISORY EMPLOYEE POSITION WAS ARRESTED OR CONVICTED AND THE DISPOSITION THEREOF; AND

(B) THE GUEST CHILD CARE FACILITY REQUESTS THE STATE DEPARTMENT TO OBTAIN SUCH INFORMATION CONCERNING THE SUPERVISORY EMPLOYEE OR APPLICANT FOR A SUPERVISORY EMPLOYEE POSITION FROM ANY OTHER RECOGNIZED DATABASE, IF ANY, THAT IS ACCESSIBLE ON A STATEWIDE BASIS AS SET FORTH BY RULES PROMULGATED BY THE STATE BOARD;

(g) (I) THE GUEST CHILD CARE FACILITY REQUIRES ALL OTHER EMPLOYEES OF THE GUEST CHILD CARE FACILITY TO OBTAIN A FINGERPRINT-BASED CRIMINAL HISTORY CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND REQUESTS THE STATE DEPARTMENT TO ASCERTAIN WHETHER THE PERSON BEING INVESTIGATED HAS BEEN CONVICTED OF ANY OF THE CRIMINAL OFFENSES SPECIFIED IN SECTION 26-6-104

(7) (a) (I) OR WHETHER THE PERSON HAS BEEN DETERMINED TO HAVE A PATTERN OF MISDEMEANOR CONVICTIONS AS DESCRIBED IN SECTION 26-6-104 (8) (b), AND THE GUEST CHILD CARE FACILITY TERMINATES THE EMPLOYMENT OF ANY SUCH PERSON AS AN EMPLOYEE UPON CONFIRMATION OF SUCH A CRIMINAL HISTORY;

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (g), THE GUEST CHILD CARE FACILITY REQUIRES ALL EMPLOYEES, OTHER THAN SUPERVISORY EMPLOYEES, WHO HAVE RESIDED IN THE STATE OF COLORADO FOR FEWER THAN TWO YEARS TO HAVE A FEDERAL BUREAU OF INVESTIGATION FINGERPRINT-BASED CRIMINAL HISTORY BACKGROUND CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND REQUESTS THE STATE DEPARTMENT TO ASCERTAIN WHETHER THE PERSON BEING INVESTIGATED HAS BEEN CONVICTED OF ANY OF THE CRIMINAL OFFENSES SPECIFIED IN SECTION 26-6-104 (7) (a) (I) OR WHETHER THE PERSON HAS BEEN DETERMINED TO HAVE A PATTERN OF MISDEMEANOR CONVICTIONS AS DESCRIBED IN SECTION 26-6-104 (8) (b), AND THE GUEST CHILD CARE FACILITY TERMINATES THE EMPLOYMENT OF ANY SUCH PERSON AS AN EMPLOYEE UPON CONFIRMATION OF SUCH A CRIMINAL HISTORY;

(III) THE GUEST CHILD CARE FACILITY REQUESTS THE STATE DEPARTMENT TO ACCESS THE STATE CENTRAL REGISTRY OF CHILD PROTECTION TO DETERMINE WHETHER THE EMPLOYEE IS THE SUBJECT OF A REPORT OF KNOWN OR SUSPECTED CHILD ABUSE, AND THE GUEST CHILD CARE FACILITY TERMINATES THE EMPLOYMENT OF ANY SUCH PERSON. PURSUANT TO SECTION 19-1-307 (2) (k), C.R.S., CENTRAL REGISTRY INFORMATION SHALL BE MADE AVAILABLE IF A PERSON'S NAME IS ON THE CENTRAL REGISTRY OF CHILD PROTECTION OR HAS BEEN DESIGNATED AS "STATUS PENDING" PURSUANT TO SECTION 19-3-313 (5.5) (b), C.R.S.;

(IV) (A) THE GUEST CHILD CARE FACILITY REQUESTS THE STATE DEPARTMENT TO OBTAIN A COMPARISON SEARCH ON THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT WITH THE NAME AND DATE OF BIRTH INFORMATION AND ANY OTHER AVAILABLE SOURCE OF CRIMINAL HISTORY INFORMATION THAT THE STATE DEPARTMENT DETERMINES IS APPROPRIATE, WHETHER OR NOT THE CRIMINAL HISTORY BACKGROUND CHECK CONFIRMS A CRIMINAL HISTORY, IN ORDER TO DETERMINE THE CRIME OR CRIMES, IF ANY, FOR WHICH THE EMPLOYEE WAS ARRESTED OR CONVICTED AND THE DISPOSITION THEREOF; AND

(B) THE GUEST CHILD CARE FACILITY REQUESTS THE STATE DEPARTMENT TO OBTAIN SUCH INFORMATION CONCERNING THE EMPLOYEE FROM ANY OTHER RECOGNIZED DATABASE, IF ANY, THAT IS ACCESSIBLE ON A STATEWIDE BASIS AS SET FORTH BY RULES PROMULGATED BY THE STATE BOARD; AND

(h) THE GUEST CHILD CARE FACILITY MAINTAINS THE FOLLOWING EMPLOYEE-TO-CHILD RATIOS AT ALL TIMES WHEN THE FACILITY IS OPERATING:

(I) ONE GUEST CHILD CARE FACILITY EMPLOYEE FOR EVERY FIVE CHILDREN AGES SIX WEEKS TO EIGHTEEN MONTHS;

(II) ONE GUEST CHILD CARE FACILITY EMPLOYEE FOR EVERY FIVE CHILDREN AGES TWELVE MONTHS TO THIRTY-SIX MONTHS;

(III) ONE GUEST CHILD CARE FACILITY EMPLOYEE FOR EVERY SEVEN CHILDREN

AGES TWENTY-FOUR MONTHS TO THIRTY-SIX MONTHS;

(IV) ONE GUEST CHILD CARE FACILITY EMPLOYEE FOR EVERY EIGHT CHILDREN AGES TWO AND ONE-HALF YEARS TO THREE YEARS;

(V) ONE GUEST CHILD CARE FACILITY EMPLOYEE FOR EVERY TEN CHILDREN AGES THREE YEARS TO FOUR YEARS;

(VI) ONE GUEST CHILD CARE FACILITY EMPLOYEE FOR EVERY TWELVE CHILDREN AGES FOUR YEARS TO FIVE YEARS;

(VII) ONE GUEST CHILD CARE FACILITY EMPLOYEE FOR EVERY FIFTEEN CHILDREN AGES FIVE YEARS OF AGE AND OLDER; AND

(VIII) ONE GUEST CHILD CARE FACILITY EMPLOYEE FOR EVERY TEN CHILDREN IN A MIXED AGE GROUP, AGES TWO AND ONE-HALF YEARS TO SIX YEARS.

(3) (a) IF THE GUEST CHILD CARE FACILITY REFUSES TO HIRE A SUPERVISORY EMPLOYEE OR TERMINATES THE EMPLOYMENT OF A SUPERVISORY EMPLOYEE AS A RESULT OF INFORMATION DISCLOSED IN AN INVESTIGATION OF THE SUPERVISORY EMPLOYEE OR APPLICANT THEREFOR PURSUANT TO PARAGRAPH (f) OF SUBSECTION (2) OF THIS SECTION, THE GUEST CHILD CARE FACILITY SHALL NOT BE SUBJECT TO CIVIL LIABILITY FOR SUCH REFUSAL TO HIRE.

(b) IF THE GUEST CHILD CARE FACILITY TERMINATES THE EMPLOYMENT OF AN EMPLOYEE AS A RESULT OF THE INFORMATION DISCLOSED IN AN INVESTIGATION OF THE EMPLOYEE PURSUANT TO PARAGRAPH (g) OF SUBSECTION (2) OF THIS SECTION, THE GUEST CHILD CARE FACILITY SHALL NOT BE SUBJECT TO CIVIL LIABILITY FOR SUCH TERMINATION OF EMPLOYMENT.

(4) NO GUEST CHILD CARE FACILITY EMPLOYEE OR SUPERVISORY EMPLOYEE APPLICANT WHO HAS OBTAINED A FINGERPRINT-BASED CRIMINAL HISTORY CHECK PURSUANT TO PARAGRAPH (f) OR (g) OF SUBSECTION (2) OF THIS SECTION, OR PURSUANT TO SUBSECTION (5) OF THIS SECTION, SHALL BE REQUIRED TO OBTAIN A NEW FINGERPRINT-BASED CRIMINAL HISTORY CHECK IF HE OR SHE RETURNS TO A GUEST CHILD CARE FACILITY TO WORK IN SUBSEQUENT SEASONS. THE STATE DEPARTMENT SHALL MAINTAIN THE RESULTS OF THE INITIAL BACKGROUND CHECK AND RECEIVE SUBSEQUENT NOTIFICATION OF ACTIVITY ON THE RECORD FOR THE PURPOSE OF REDETERMINING, IF NECESSARY, WHETHER THE EMPLOYEE OR SUPERVISORY EMPLOYEE APPLICANT HAS BEEN CONVICTED OF ANY OF THE CRIMINAL OFFENSES SPECIFIED IN SECTION 26-6-104 (7) (a) (I), OR WHETHER THE EMPLOYEE OR SUPERVISORY EMPLOYEE APPLICANT HAS A PATTERN OF MISDEMEANOR CONVICTIONS AS DESCRIBED IN SECTION 26-6-108 (8) (b), AND THE GUEST CHILD CARE FACILITY SHALL CONTACT THE STATE DEPARTMENT FOR INFORMATION CONCERNING SUBSEQUENT CONVICTIONS, IF ANY, PRIOR TO REHIRING SUCH EMPLOYEE.

(5) THE REQUIREMENTS OF PARAGRAPHS (f) AND (g) OF SUBSECTION (2) OF THIS SECTION SHALL NOT APPLY TO THOSE EMPLOYEES OF GUEST CHILD CARE FACILITIES CONCERNING WHOM CRIMINAL HISTORY BACKGROUND CHECKS WERE CONDUCTED ON OR AFTER JULY 1, 2001, AND BEFORE JULY 1, 2002, FOR PURPOSES OF STATE CHILD CARE LICENSURE REQUIREMENTS.

(6) FOR PURPOSES OF THIS SECTION, A "GUEST CHILD CARE FACILITY" DOES NOT INCLUDE A SKI SCHOOL. FOR PURPOSES OF THIS SECTION, "SKI SCHOOL" MEANS A SCHOOL LOCATED AT THE SKI AREA IN WHICH THE GUEST CHILD CARE FACILITY IS LOCATED FOR PURPOSES OF TEACHING CHILDREN HOW TO SKI OR SNOWBOARD.

(7) THE STATE DEPARTMENT SHALL HAVE THE AUTHORITY TO RECEIVE, RESPOND TO, AND INVESTIGATE ANY COMPLAINT CONCERNING COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN THIS PART 1 FOR A GUEST CHILD CARE FACILITY.

**SECTION 3.** 19-1-307 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**19-1-307. Dependency and neglect records and information.** (2) **Records and reports - access to certain persons - agencies.** Except as otherwise provided in section 19-1-303, only the following persons or agencies shall be given access to child abuse or neglect records and reports:

(r) THE DEPARTMENT OF HUMAN SERVICES INVESTIGATING AN APPLICANT FOR A SUPERVISORY EMPLOYEE POSITION OR AN EMPLOYEE OF A GUEST CHILD CARE FACILITY PURSUANT TO SECTION 26-6-103.5, C.R.S., WHEN THE APPLICANT OR EMPLOYEE, AS A REQUIREMENT OF APPLICATION FOR EMPLOYMENT, HAS GIVEN WRITTEN AUTHORIZATION TO THE DEPARTMENT OF HUMAN SERVICES TO OBTAIN REPORTS OF CHILD ABUSE OR NEGLECT OR TO REVIEW THE STATE CENTRAL REGISTRY OF CHILD PROTECTION.

**SECTION 4.** 25-1-107 (1) (m), Colorado Revised Statutes, is amended to read:

**25-1-107. Powers and duties of the department - repeal.** (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(m) To establish and enforce sanitary standards for the operation and maintenance of orphanages, day care nurseries, foster homes, family care homes, summer camps for children, lodging houses, GUEST CHILD CARE FACILITIES, AS DEFINED IN SECTION 26-6-102 (5), C.R.S., hotels, public conveyances and stations, schools, factories, workshops, industrial and labor camps, recreational resorts and camps, swimming pools, public baths, mobile home parks, and other buildings, centers, and places used for public gatherings;

**SECTION 5.** 26-6-104 (1) (a), Colorado Revised Statutes, is amended to read:

**26-6-104. Licenses - out-of-state notices and consent.** (1) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 1, no person shall operate any agency or facility defined in this part 1 without first being licensed to operate or maintain such agency or facility by the state department and paying the fee prescribed therefor. Except as otherwise provided in subparagraph (II) of paragraph (b) of this subsection (1) and paragraph (c) of this subsection (1), any such license issued by the state department shall be permanent unless otherwise revoked or suspended pursuant to section 26-6-108.

**SECTION 6. Effective date - applicability.** This act shall take effect July 1,

2002, and shall apply to guest child care facilities operated on or after said date.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 6, 2002