

CHAPTER 289

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 03-1024

BY REPRESENTATIVE(S) Jahn, Boyd, Butcher, Carroll, Clapp, Cloer, Coleman, Frangas, Hoppe, May M., McFadyen, Merrifield, Miller, Paccione, Ragsdale, Stafford, Stengel, Tochrop, Weddig, Williams S., and Young; also SENATOR(S) Chlouber, and Hagedorn.

AN ACT

CONCERNING CHILD CARE, AND, IN CONNECTION THEREWITH, MAKING MODIFICATIONS TO CERTAIN STATUTES AFFECTING CHILD PLACEMENT AGENCIES, AND MAKING AN APPROPRIATION THEREFOR.

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

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

26-6-106.5. Foster care - rules applying generally - rule-making - report.

(1) ~~NO LATER THAN JANUARY 1, 2004,~~ THE STATE BOARD SHALL PROMULGATE RULES THAT APPLY TO FOSTER CARE GENERALLY, REGARDLESS OF WHETHER THE FOSTER CARE IS PROVIDED BY A FOSTER CARE HOME CERTIFIED BY A COUNTY DEPARTMENT OR BY A CHILD PLACEMENT AGENCY. THE STATE BOARD SHALL DEVELOP THE RULES IN CONSULTATION WITH THE STATE DEPARTMENT, COUNTY DEPARTMENTS, CHILD PLACEMENT AGENCIES, AND OTHERS WITH EXPERTISE IN THE DEVELOPMENT OF RULES REGARDING FOSTER CARE.

(2) AT A MINIMUM, THE RULES DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL INCLUDE THE FOLLOWING:

(a) CONTINGENT UPON THE IMPLEMENTATION OF THE COMPUTER "TRAILS" ENHANCEMENTS, THE PROCEDURES FOR NOTIFYING ALL COUNTY DEPARTMENTS AND CHILD PLACEMENT AGENCIES THAT PLACE CHILDREN IN FOSTER CARE WHEN THE STATE DEPARTMENT HAS IDENTIFIED A CONFIRMED REPORT OF CHILD ABUSE OR NEGLECT, AS DEFINED IN SECTION 19-1-103 (27), C.R.S., THAT INVOLVES A FOSTER CARE HOME, AS WELL AS THE SUSPENSION OF ANY FURTHER PLACEMENTS IN THE FOSTER CARE HOME UNTIL THE INVESTIGATION IS CONCLUDED; AND

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

(b) THE IMMEDIATE NOTIFICATION OF A CHILD'S GUARDIAN AD LITEM UPON THE CHILD'S PLACEMENT IN A FOSTER CARE HOME, AND THE PROVISION OF THE GUARDIAN AD LITEM'S CONTACT INFORMATION TO THE FOSTER PARENTS.

SECTION 2. 26-6-102 (11), Colorado Revised Statutes, is amended, and the said 26-6-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

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

(5.6) "MEDICAL FOSTER CARE" MEANS A PROGRAM OF FOSTER CARE THAT PROVIDES HOME-BASED CARE FOR MEDICALLY FRAGILE CHILDREN AND YOUTH WHO WOULD OTHERWISE BE CONFINED TO A HOSPITAL OR INSTITUTIONAL SETTING AND INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

(a) INFANTS IMPACTED BY PRENATAL DRUG AND ALCOHOL ABUSE;

(b) CHILDREN WITH DEVELOPMENTAL DISABILITIES WHICH REQUIRE ONGOING MEDICAL INTERVENTION;

(c) CHILDREN AND YOUTH DIAGNOSED WITH ACQUIRED IMMUNE DEFICIENCY SYNDROME OR HUMAN IMMUNODEFICIENCY VIRUS;

(d) CHILDREN WITH A FAILURE TO THRIVE OR OTHER NUTRITIONAL DISORDERS; AND

(e) CHILDREN DEPENDENT ON TECHNOLOGY SUCH AS RESPIRATORS OR VENTILATORS IN ORDER TO SURVIVE.

(11) "Therapeutic ~~services~~ FOSTER CARE" means a program of foster care that incorporates treatment for the special physical, psychological, or emotional needs of a child placed with specially trained foster parents, BUT DOES NOT INCLUDE MEDICAL FOSTER CARE.

SECTION 3. 26-6-104 (1) (b) (II), (7) (a) (I) (A), (7) (a) (I) (E), (7) (b), and (9) (b), Colorado Revised Statutes, are amended, and the said 26-6-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

26-6-104. Licenses - out-of-state notices and consent. (1) (b) (II) On and after July 1, 2002, and contingent upon the time lines for implementation of the computer "trails" enhancements, the state board shall promulgate rules requiring the annual recertification of foster care homes and setting forth the procedural requirements associated with recertification. Such rules shall include requirements that the certifying entity shall perform on-site visits to each foster care home applying for certification or recertification and shall require inspections of the entire premises of the foster care home, including sleeping areas, as well as other assessments of the foster care home. No foster care home shall be certified AT ANY ONE TIME by more than one child placement agency or county department.

(7) (a) (I) No license or certificate to operate a family child care home, a foster care home, a child care center, a residential child care facility, a secure residential

child care facility, or a child placement agency shall be issued by the state department, a county department, or a child placement agency licensed under the provisions of this part 1 if the person applying for such a license or certificate has been convicted of:

(A) ~~Felony~~ Child abuse, as specified in section 18-6-401, C.R.S.;

(E) Any ~~felony~~ offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in sub-subparagraphs (A) to (D.5) of this subparagraph (I).

(b) The convictions identified in paragraph (a) of this subsection (7) shall be determined according to the records of the Colorado bureau of investigation, the ICON system at the state judicial department, or any other source, as set forth in section 26-6-107 (1) (a) (I.5). A certified copy of the judgment of a court of competent jurisdiction of such conviction, deferred judgment and sentence agreement, deferred prosecution agreement, or deferred adjudication agreement shall be prima facie evidence of such conviction or agreement. No license or certificate to operate a family child care home, a foster care home, a child care center, a residential child care facility, a secure residential child care facility, or a child placement agency shall be issued if the state department has a certified court order from another state indicating that the person applying for such a license or certificate has been convicted of ~~felony~~ child abuse or any unlawful sexual offense against a child under a law of any other state or the United States or the state department has a certified court order from another state that the person applying for the license or certificate has entered into a deferred judgment or deferred prosecution agreement in another state as to ~~felony~~ child abuse or any sexual offense against a child.

(7.5) NO LATER THAN JANUARY 1, 2004, THE STATE BOARD SHALL PROMULGATE RULES THAT REQUIRE ALL CURRENT AND PROSPECTIVE EMPLOYEES OF A COUNTY DEPARTMENT WHO IN THEIR POSITION HAVE DIRECT CONTACT WITH ANY CHILD IN THE PROCESS OF BEING PLACED, OR WHO HAS BEEN PLACED, IN FOSTER CARE TO SUBMIT A SET OF FINGERPRINTS FOR PURPOSES OF OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK, UNLESS THE PERSON HAS ALREADY SUBMITTED A SET OF FINGERPRINTS. THE CHECK SHALL BE CONDUCTED IN THE SAME MANNER AS PROVIDED IN SUBSECTION (7) OF THIS SECTION AND IN SECTION 26-6-107 (1) (a). THE PERSON'S EMPLOYMENT SHALL BE CONDITIONAL UPON A SATISFACTORY CRIMINAL BACKGROUND CHECK AND SUBJECT TO THE SAME GROUNDS FOR DENIAL OR DISMISSAL AS SET FORTH IN SUBSECTION (7) OF THIS SECTION AND IN SECTION 26-6-107 (1) (a). THE COSTS FOR THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK SHALL BE BORNE BY THE APPLICANT.

(9) The state department is strongly encouraged to examine and report to the general assembly on the benefits of licensing any private, nonprofit child placement agency that is dedicated to serving the special needs of foster care children through services delivered by specialized foster care parents in conjunction with and supported by staff of the child placement agency. Such child placement agencies examined shall be able to:

(b) Provide a form of specialized foster care including, but not limited to, the following types of care:

- (I) ~~Treatment foster care;~~
- (II) Medical foster care;
- (III) Respite foster care; ~~and~~
- (IV) ~~Intensive treatment foster care;~~
- (V) THERAPEUTIC FOSTER CARE; AND
- (VI) DEVELOPMENTALLY DISABLED FOSTER CARE.

SECTION 4. 26-6-107 (1) (b) (I) and (2), Colorado Revised Statutes, are amended, and the said 26-6-107 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

26-6-107. Investigations and inspections - local authority - reports - rules.

(1) (b) (I) When the state department, county department, or child placement agency is ~~satisfied~~ ABLE TO CERTIFY that the applicant or licensee is competent and will operate adequate facilities to care for children under the requirements of this part 1 and that standards are being met and will be complied with, it shall issue the license for which applied. The state department shall inspect or cause to be inspected the facilities to be operated by an applicant for an original license before the license is granted and shall thereafter inspect or cause to be inspected the facilities of all licensees that, during the period of licensure, have been found to be the subject of complaints or to be out of compliance with the standards set forth in section 26-6-106 and the rules of the state department or that otherwise appear to be placing children at risk. The state department may make such other inspections as it deems necessary to ensure that the requirements of this article are being met and that the health, safety, and welfare of the children being placed are protected. If, as a result of an inspection of a certified foster care home, the state department determines that any child residing in such foster care home is subject to an immediate and direct threat to his or her safety and welfare as defined by rules promulgated by the state board or that a substantial violation of a fundamental standard of care warrants immediate action, the state department may require a county department to immediately remove such child from the foster care home.

(2) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), the state department may authorize or contract with any county department, the county department of health, or any other publicly or privately operated organization that has a declared interest in children and experience working with children or on behalf of children to investigate and inspect the facilities applying for an original or renewal license or applying for a permanent license following the issuance of a probationary or provisional license under this part 1 and may accept reports on such investigations and inspections from such agencies or organizations as a basis for such licensing. When contracting for investigations and inspections, the state department shall assure that the contractor is qualified by training and experience and has no conflict of interest with respect to the facilities to be inspected.

(II) THE STATE DEPARTMENT SHALL NOT AUTHORIZE OR CONTRACT WITH ANY COUNTY DEPARTMENT, THE COUNTY DEPARTMENT OF HEALTH, OR ANY OTHER

PUBLICLY OR PRIVATELY OPERATED ORGANIZATION THAT HAS A DECLARED INTEREST IN CHILDREN AND EXPERIENCE WORKING WITH CHILDREN OR ON BEHALF OF CHILDREN FOR INVESTIGATIONS AND INSPECTIONS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) OF ANY FACILITIES THAT PROVIDE TWENTY-FOUR-HOUR CARE AND ARE LICENSED PURSUANT TO THIS PART 1.

(b) A city, county, or city and county may impose and enforce higher standards and requirements for facilities licensed under this part 1 than the standards and requirements specified under this part 1.

(4) WITHIN AVAILABLE APPROPRIATIONS, THE STATE DEPARTMENT SHALL MONITOR, ON AT LEAST A QUARTERLY BASIS, THE COUNTY DEPARTMENT CERTIFICATION OF FOSTER CARE HOMES.

SECTION 5. 26-6-118 (2), Colorado Revised Statutes, is amended to read:

26-6-118. Child placement agencies - information sharing - investigations by state department. (2) Upon receipt of a request for investigation of a child placement agency from a county department, the state department shall commence an investigation and, upon conclusion, report its findings to the requesting county department. THE STATE DEPARTMENT SHALL INCLUDE IN ITS REPORT TO THE COUNTY DEPARTMENT THE CHILD PLACEMENT AGENCY'S RESPONSE, IF ANY, TO THE FINDINGS.

SECTION 6. 26-6-106 (2) (q) (I) (C), Colorado Revised Statutes, is amended to read:

26-6-106. Standards for facilities and agencies. (2) Standards prescribed by such rules shall be restricted to:

(q) (I) Standards for the training of foster care parents, which shall include, at a minimum:

(C) In addition to the hours described in sub-subparagraph (B) of this subparagraph (I), twelve hours per year for foster care parents providing therapeutic services FOSTER CARE.

SECTION 7. 24-33.5-415.7 (2), Colorado Revised Statutes, is amended to read:

24-33.5-415.7. Amber alert program. (2) For the purposes of this section, "abducted child" means a child:

(a) Whose whereabouts are unknown;

(b) (I) Whose domicile at the time he or she was reported missing was Colorado;
OR

(II) ABOUT WHOM CREDIBLE INFORMATION IS RECEIVED FROM A LAW ENFORCEMENT AGENCY LOCATED IN ANOTHER STATE THAT THE ABDUCTED CHILD IS TRAVELING TO OR IN THE STATE OF COLORADO;

(c) Whose age at the time he or she was first reported missing was seventeen years

of age or younger; and

(d) Whose disappearance poses a credible threat as determined by local law enforcement to the safety and health of the child.

SECTION 8. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the department of public safety, for allocation to the Colorado bureau of investigation, for the fiscal year beginning July 1, 2003, the sum of twenty-four thousand three hundred dollars (\$24,300), or so much thereof as may be necessary, for fingerprint processing services related to the implementation of this act. Of said sum, twenty-one thousand dollars (\$21,000) shall be from cash funds and three thousand three hundred dollars (\$3,300) shall be from cash funds exempt.

SECTION 9. 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 22, 2003