

## CHAPTER 223

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**HUMAN SERVICES - SOCIAL SERVICES**

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**SENATE BILL 07-212**

BY SENATOR(S) Sandoval, Boyd, Groff, Kester, Spence, Veiga, Shaffer, Tupa, and Williams;  
also REPRESENTATIVE(S) Marshall, Borodkin, Carroll T., Casso, Curry, Gibbs, Hodge, Kerr A., Labuda, Madden, McGihon,  
Merrifield, Peniston, Primavera, Solano, Stafford, and Todd.

**AN ACT****CONCERNING THE REGULATION OF DROP-IN CHILD CARE FACILITIES.**

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

**SECTION 1.** 26-6-102 (10.5), 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 - repeal.** As used in this article, unless the context otherwise requires:

(6.7) "PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY" MEANS A FACILITY THAT IS OPERATED BY OR FOR A COUNTY DEPARTMENT OF SOCIAL SERVICES OR A COURT AND THAT PROVIDES CARE FOR A CHILD:

(a) WHILE THE CHILD'S PARENT OR THE PERSON IN CHARGE OF THE CHILD IS CONDUCTING BUSINESS WITH THE COUNTY DEPARTMENT OF SOCIAL SERVICES OR PARTICIPATING IN COURT PROCEEDINGS;

(b) FEWER THAN TEN TOTAL HOURS PER DAY;

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

(d) FEWER THAN FORTY-FIVE DAYS IN A CALENDAR YEAR.

(10.5) "Supervisory employee" means for purposes of section 26-6-103.5:

(a) A person directly responsible for managing a guest child care facility and the

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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.*

employees of ~~such~~ THE facility; OR

(b) A PERSON DIRECTLY RESPONSIBLE FOR MANAGING A PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY AND THE EMPLOYEES OF THE FACILITY.

**SECTION 2.** 26-6-103.5, Colorado Revised Statutes, is amended to read:

**26-6-103.5. Application of part - guest child care facilities - public services short-term child care facilities.** (1) Guest child care facilities AND PUBLIC SERVICES SHORT-TERM 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 AND EACH PUBLIC SERVICES SHORT-TERM 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 OR THE PUBLIC SERVICES SHORT-TERM 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 OR A PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY unless the following requirements are met:

(a) The guest child care facility OR PUBLIC SERVICES SHORT-TERM 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)~~ 25-1.5-101 (1) (h), C.R.S.;

(b) The guest child care facility OR PUBLIC SERVICES SHORT-TERM 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 OR PUBLIC SERVICES SHORT-TERM 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 OR PUBLIC SERVICES SHORT-TERM 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 GUEST CHILD CARE FACILITY OR PUBLIC SERVICES SHORT-TERM CHILD CARE facility at all times when the facility is operating;

(f) (I) The guest child care facility OR PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY requires all supervisory employees of the guest child care facility OR

PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY and applicants for supervisory employee positions at the guest child care facility OR PUBLIC SERVICES SHORT-TERM 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 (7) (a) (I) (E) and the guest child care facility OR PUBLIC SERVICES SHORT-TERM 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 OR PUBLIC SERVICES SHORT-TERM 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 (7) (a) (I) (E) and the guest child care facility OR PUBLIC SERVICES SHORT-TERM 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 OR PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY requests the state department to access records and reports of child abuse or neglect to determine whether the supervisory employee or applicant for a supervisory employee position has been found to be responsible in a confirmed report of child abuse or neglect and the guest child care facility OR PUBLIC SERVICES SHORT-TERM 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. Information shall be made available pursuant to section ~~19-1-307 (2) (k)~~ 19-1-307 (2) (r), C.R.S., and rules promulgated by the state board pursuant to section 19-3-313.5 (4), C.R.S.

(IV) (A) The guest child care facility OR PUBLIC SERVICES SHORT-TERM 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 OR PUBLIC SERVICES SHORT-TERM 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 OR PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY requires all other employees of the guest child care facility OR PUBLIC SERVICES SHORT-TERM 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 (7) (a) (I) (E) and the guest child care facility OR PUBLIC SERVICES SHORT-TERM 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 OR PUBLIC SERVICES SHORT-TERM 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 (7) (a) (I) (E) and the guest child care facility OR PUBLIC SERVICES SHORT-TERM 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 OR PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY requests the state department to access records and reports of child abuse or neglect to determine whether the employee has been found to be responsible in a confirmed report of child abuse or neglect and the guest child care facility OR PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY terminates the employment of any such person. Information shall be made available pursuant to section ~~19-1-307 (2) (k)~~ 19-1-307 (2) (r), C.R.S., and rules promulgated by the state board pursuant to section 19-3-313.5 (4), C.R.S.

(IV) (A) The guest child care facility OR PUBLIC SERVICES SHORT-TERM 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 OR PUBLIC SERVICES SHORT-TERM 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 OR PUBLIC SERVICES SHORT-TERM 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.

(2.5) IN ADDITION TO THE REQUIREMENTS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, A PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY SHALL ENSURE THAT AT LEAST ONE EMPLOYEE IS ON DUTY AT THE FACILITY AT ALL TIMES WHEN THE FACILITY IS OPERATING WHO HOLDS A CURRENT DEPARTMENT-APPROVED FIRST AID AND SAFETY CERTIFICATE THAT INCLUDES CERTIFICATION IN CARDIOPULMONARY RESUSCITATION TRAINING FOR ALL AGES OF CHILDREN.

(3) (a) If the guest child care facility OR PUBLIC SERVICES SHORT-TERM 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 OR PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY shall not be subject to civil liability for such refusal to hire.

(b) If the guest child care facility OR PUBLIC SERVICES SHORT-TERM 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 OR PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY shall not be subject to civil liability for such termination of employment.

(4) ~~No~~ A 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 NOT 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 OR A PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY.

**SECTION 3.** 19-1-307 (2) (r), Colorado Revised Statutes, is amended to read:

**19-1-307. Dependency and neglect records and information - access - fee - records and reports fund - misuse of information - penalty.** (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 state department of human services investigating an applicant for a supervisory employee position or an employee of a guest child care facility OR A PUBLIC SERVICES SHORT-TERM 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 state department of human services to check records or reports of child abuse or neglect;

**SECTION 4.** 25-1.5-101 (1) (h), Colorado Revised Statutes, is amended to read:

**25-1.5-101. Powers and duties of the department.** (1) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section as follows:

(h) 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., PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITIES AS DEFINED IN SECTION 26-6-102 (6.7), 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.** 25-4-901 (2), Colorado Revised Statutes, is amended to read:

**25-4-901. Definitions.** As used in this part 9, unless the context otherwise requires:

(2) (a) "School" means, EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2), a public, private, or parochial nursery school, day care center, child care facility, family child care home, foster care home, head start program, kindergarten, elementary or secondary school through grade twelve, or college or university.

(b) "School" does not include:

(I) A PUBLIC SERVICES SHORT-TERM CHILD CARE FACILITY AS DEFINED IN SECTION 26-6-102 (6.7), C.R.S.;

(II) A GUEST CHILD CARE FACILITY AS DEFINED IN SECTION 26-6-102 (5), C.R.S., OR A SKI SCHOOL AS DEFINED IN SECTION 26-6-103.5 (6), C.R.S.; OR

(II) College or university courses of study that are offered off-campus, or are offered to nontraditional adult students, as defined by the governing board of the institution, or are offered at colleges or universities that do not have residence hall facilities.

**SECTION 6. 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 14, 2007