

CHAPTER 260

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 07-226

BY SENATOR(S) Boyd, Keller, Tochtrop, and Ward;
also REPRESENTATIVE(S) Riesberg, Borodkin, McGihon, Stafford, and Todd.

AN ACT

**CONCERNING NECESSARY CHANGES TO STATUTES TO COMPLY WITH FEDERAL LAW REGARDING
PLACEMENT OF A CHILD OUTSIDE OF THE HOME, AND MAKING AN APPROPRIATION THEREFOR.**

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

SECTION 1. 19-1-307 (2) (k.5), (2) (n), and (2.5), Colorado Revised Statutes, are amended, and the said 19-1-307 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, 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:

(k.5) The state department of human services, when requested in writing by a qualified county department of social services, individual, or child placement agency approved to conduct home study investigations and reports pursuant to section 19-5-207.5 (2) (b) (I) for purposes of screening a prospective adoptive parent OR ANY ADULT RESIDING IN THE HOME under section 19-5-207 (2.5) ~~(a)~~ (c), OR INVESTIGATING A PROSPECTIVE FAMILY FOSTER CARE PARENT, KINSHIP CARE PARENT, OR AN ADULT RESIDING IN THE HOME UNDER SECTION 26-6-107 (1) (a.7), C.R.S. Within ten days after the request, the state department of human services shall provide the date of the report of the incident, the location of investigation, the type of abuse and neglect, and the county that investigated the incident contained in the confirmed reports of child abuse or neglect. The county department, individual, or child placement agency shall be subject to the fee assessment established in subsection (2.5) of this section. WITH RESPECT TO SCREENING A PROSPECTIVE ADOPTIVE PARENT, any employee of the county department or the

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

child placement agency or any individual who releases any information obtained under this paragraph (k.5) to any person other than the adoption court shall be deemed to have violated the provisions of subsection (4) of this section and shall be subject to penalty therefor.

(n) Private adoption agencies, INCLUDING PRIVATE ADOPTION AGENCIES LOCATED IN OTHER STATES, for the purpose of screening prospective adoptive parents;

(t) STATE, COUNTY, AND LOCAL GOVERNMENT AGENCIES OF OTHER STATES AND CHILD PLACEMENT AGENCIES LOCATED IN OTHER STATES, FOR THE PURPOSE OF SCREENING PROSPECTIVE FOSTER OR ADOPTIVE PARENTS OR ANY ADULT RESIDING IN THE HOME OF THE PROSPECTIVE FOSTER OR ADOPTIVE PARENTS.

(2.5) Any person or agency provided information from the state department of human services pursuant to paragraph (i), ~~and~~ paragraphs (k) to (o), AND PARAGRAPH (t) of subsection (2) of this section and any child placement agency shall be assessed a fee ~~which~~ THAT shall be established and collected BY THE STATE DEPARTMENT OF HUMAN SERVICES pursuant to PARAMETERS SET FORTH IN rule established by the state board of human services. AT A MINIMUM, THE RULES SHALL INCLUDE A PROVISION REQUIRING THE STATE DEPARTMENT OF HUMAN SERVICES TO PROVIDE NOTICE OF THE FEE TO INTERESTED PERSONS AND THE MAXIMUM FEE AMOUNT THAT THE DEPARTMENT SHALL NOT EXCEED WITHOUT THE EXPRESS APPROVAL OF THE STATE BOARD OF HUMAN SERVICES. The fee established shall not exceed the direct and indirect costs of administering paragraph (i), ~~and~~ paragraphs (k) to (o), AND PARAGRAPH (t) of subsection (2) of this section and the direct and indirect costs of administering section 19-3-313.5 (3) and (4). All fees collected in accordance with this subsection (2.5) shall be transmitted to the state treasurer who shall credit the same to the records and reports fund, which fund is hereby created. On January 1, 2004, the state treasurer shall transfer the moneys in the central registry fund created in section 19-3-313 (14) to the records and reports fund created in this subsection (2.5). The moneys in the records and reports fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of administering paragraph (i), ~~and~~ paragraphs (k) to (o), AND PARAGRAPH (t) of subsection (2) of this section and for the direct and indirect costs of administering section 19-3-313.5 (3) and (4).

SECTION 2. 19-2-906.5 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19-2-906.5. Orders - community placement - reasonable efforts required - reviews. (3) (d) THE ENTITY CONDUCTING THE PERMANENCY HEARING SHALL CONSULT WITH THE JUVENILE, IN AN AGE-APPROPRIATE MANNER, CONCERNING THE JUVENILE'S PERMANENCY PLAN.

SECTION 3. 19-2-906.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-2-906.5. Orders - community placement - reasonable efforts required - reviews. (1.5) FOR ALL HEARINGS AND REVIEWS CONCERNING THE JUVENILE, THE COURT SHALL ENSURE THAT NOTICE IS PROVIDED TO THE JUVENILE AND TO THE FOLLOWING PERSONS WITH WHOM THE JUVENILE IS PLACED:

- (a) FOSTER PARENTS;
- (b) PRE-ADOPTIVE PARENTS; OR
- (c) RELATIVES.

SECTION 4. 19-2-921 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19-2-921. Commitment to department of human services. (5) (c) THE ENTITY CONDUCTING THE PERMANENCY HEARING SHALL CONSULT WITH THE JUVENILE, IN AN AGE-APPROPRIATE MANNER, CONCERNING THE JUVENILE'S PERMANENCY PLAN.

SECTION 5. 19-2-921, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-2-921. Commitment to department of human services. (3.5) FOR ALL HEARINGS AND REVIEWS CONCERNING A JUVENILE WHO IS COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES, THE ENTITY CONDUCTING THE HEARING OR REVIEW SHALL ENSURE THAT NOTICE IS PROVIDED TO THE JUVENILE AND TO THE FOLLOWING PERSONS WITH WHOM THE JUVENILE IS PLACED:

- (a) FOSTER PARENTS;
- (b) PRE-ADOPTIVE PARENTS; OR
- (c) RELATIVES.

SECTION 6. 19-3-406 (2), Colorado Revised Statutes, is amended to read:

19-3-406. Fingerprint-based criminal history records check - providers of emergency placement for children - use of criminal justice records. (2) A relative or other available person who is not disqualified as an emergency placement for a child pursuant to paragraph (b) of subsection (1) of this section and who authorizes a child to be placed with him or her on an emergency basis pursuant to the provisions of this part 4 shall report to a local law enforcement agency for the purpose of providing fingerprints to the law enforcement agency no later than ~~seventy-two hours~~ FIVE DAYS after the child is placed in the person's home OR NO LATER THAN FIFTEEN CALENDAR DAYS WHEN EXIGENT CIRCUMSTANCES EXIST. If the relative or other available person fails to report to the local law enforcement agency within this time period, the county department of social services or the law enforcement officer, as appropriate, ~~may~~ SHALL immediately remove the child from the physical custody of the person. ~~if such removal is in the best interests of the child.~~ The county department of social services shall contact the local law enforcement agency to verify that a relative or other available person identified by the county department reported to the local law enforcement agency for fingerprinting within the time period specified by this subsection (2).

SECTION 7. 19-3-502 (7), Colorado Revised Statutes, is amended to read:

19-3-502. Petition form and content - limitations on claims in dependency or

neglect actions. (7) In addition to notice to all parties, the court shall ~~provide notice~~ ENSURE THAT NOTICE IS PROVIDED of all hearings and reviews held regarding a child to the following persons with whom a child is placed: Foster parents; pre-adoptive parents; or relatives. Such persons shall ~~be provided the opportunity~~ HAVE THE RIGHT to be heard at such hearings and reviews. THE PERSONS WITH WHOM A CHILD IS PLACED SHALL PROVIDE PRIOR NOTICE TO THE CHILD OF ALL HEARINGS AND REVIEWS HELD REGARDING THE CHILD. The foster parent, pre-adoptive parent, or relative providing care to a child shall not be made a party to the action for purposes of any hearings or reviews solely on the basis of such notice and ~~opportunity~~ RIGHT to be heard. Notice of hearings and reviews shall not reveal to the respondent parent or other relative the address, last name, or other such identifying information regarding any person providing care to the child.

SECTION 8. 19-3-508 (7), Colorado Revised Statutes, is amended to read:

19-3-508. Neglected or dependent child - disposition - concurrent planning.

(7) Efforts to place a child for adoption or with a legal guardian or custodian, INCLUDING IDENTIFYING APPROPRIATE IN-STATE AND OUT-OF-STATE PERMANENT PLACEMENT OPTIONS, may be made concurrently with reasonable efforts to preserve and reunify the family.

SECTION 9. 19-3-702 (1) and (1.5), Colorado Revised Statutes, are amended, and the said 19-3-702 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-3-702. Permanency hearing - periodic reviews. (1) In order to provide stable permanent homes for children in as short a time as possible, a court on its own motion or upon motion brought by any party shall conduct a permanency hearing if a child cannot be returned home under section 19-1-115 (4) (b) for the purpose of making a determination regarding the future status of the child. Such permanency hearing shall be held as soon as possible following the dispositional hearing but shall be held no later than twelve months after the date the child is considered to have entered foster care and no later than every twelve months thereafter while the child remains in out-of-home placement, or more frequently as deemed necessary by the court. If the court finds that reasonable efforts to reunify the child and the parent are not required pursuant to section 19-1-115 (7), a permanency hearing THAT INCLUDES CONSIDERATION OF IN-STATE AND OUT-OF-STATE PERMANENT PLACEMENT OPTIONS FOR THE CHILD shall be held within thirty days after the finding. If the court finds that reasonable efforts to reunify the child and the parent are not required and a motion for termination has been properly filed pursuant to section 19-3-602, the permanency hearing and the hearing on the motion for termination may be combined, and all of the court determinations required at both hearings shall be made in the combined hearing. In a county designated pursuant to section 19-1-123, if the child is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2), such permanency hearing shall be held no later than three months after the decree of disposition of the child. A child shall be considered to have entered foster care on the date that the child is placed out of the home. If the court finds that an appropriate treatment plan cannot be devised at a dispositional hearing in accordance with section 19-3-508 (1) (e) (I), the permanency hearing shall be held no later than thirty days after such determination, unless a motion for termination of parental rights has been filed

within thirty days after the court's finding. Where possible, the permanency hearing shall be combined with the six-month review as provided for in section 19-1-115 (4) (c).

(1.5) Any hearing or action, such as a paper review, an ex parte hearing, or a stipulated agreement that has been made an order of the court, that is not open to the participation of the parents of a child, the child, if appropriate, and the foster parents, RELATIVE CAREGIVERS, or ~~adoptive~~ PRE-ADOPTIVE parents of a child, if any, shall not be considered a permanency hearing for purposes of this section.

(3.7) THE COURT CONDUCTING THE PERMANENCY HEARING SHALL CONSULT WITH THE CHILD IN AN AGE-APPROPRIATE MANNER REGARDING THE CHILD'S PERMANENCY PLAN.

SECTION 10. 19-5-207 (2.5) (a) (I), (2.5) (a) (IV) (C), and (2.5) (c), Colorado Revised Statutes, are amended to read:

19-5-207. Written consent and home study report for public adoptions.

(2.5) (a) (I) In all petitions for adoption, whether by the court, the county department of social services, or child placement agencies, in addition to the written home study report described in subsection (2) of this section, the court shall require the county department of social services, the designated qualified individual, or the child placement agency to conduct a criminal history records check for any prospective adoptive parent OR ANY ADULT RESIDING IN THE HOME.

(IV) A prospective adoptive parent described in subparagraph (III) of this paragraph (a) shall be responsible for presenting the results of his or her fingerprint-based criminal history record checks AND THE RESULTS OF THE FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECKS OF ANY ADULT RESIDING IN THE HOME to the court for review by the court. The county department of social services or the child placement agency, as may be appropriate, shall report to the court any case in which a fingerprint-based criminal history record check reveals that the prospective adoptive parent who is attempting to adopt a child placed for adoption by a county department of social services or child placement agency OR ANY ADULT RESIDING IN THE HOME was convicted at any time of a felony or misdemeanor in one of the following areas:

(C) Any crime against a child, INCLUDING BUT NOT LIMITED TO CHILD PORNOGRAPHY;

(c) In addition to the fingerprint-based criminal history ~~record~~ RECORDS check, the county department of social services, the individual, or the child placement agency conducting the investigation shall contact the state department of human services AND THE APPROPRIATE ENTITY IN EACH STATE IN WHICH THE PROSPECTIVE ADOPTIVE PARENT OR PARENTS OR ANY ADULT RESIDING IN THE HOME HAS RESIDED IN THE PRECEDING FIVE YEARS to determine whether the prospective adoptive parent or parents ~~have~~ OR ANY ADULT RESIDING IN THE HOME HAS been found to be responsible in a confirmed report of child abuse or neglect AND SHALL REPORT SUCH INFORMATION TO THE COURT. INFORMATION OBTAINED FROM ANY STATE RECORDS OR REPORTS OF CHILD ABUSE OR NEGLECT SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN COMPLETING THE INVESTIGATION FOR APPROVAL OF THE PROSPECTIVE

ADOPTIVE PARENT.

SECTION 11. 26-1-111 (2) (d) (II), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH to read:

26-1-111. Activities of the state department under the supervision of the executive director - study - cash fund. (2) The state department, under the supervision of the executive director, shall:

(d) (II) (E) ONE HUNDRED PERCENT OF THE FEDERAL TITLE IV-E INCENTIVE FUNDING RECEIVED BY THE STATE FOR COMPLETION OF TIMELY INTERSTATE HOME STUDIES SHALL BE DISTRIBUTED TO THE COUNTY DEPARTMENTS CONDUCTING THE HOME STUDIES. THE TITLE IV-E INCENTIVES PAID TO THE COUNTY DEPARTMENTS PURSUANT TO THIS SUB-SUBPARAGRAPH (E) SHALL BE DIVIDED AND DISTRIBUTED ACCORDING TO THE DISTRIBUTION FORMULA SET FORTH IN RULES TO BE PROMULGATED BY THE STATE BOARD NO LATER THAN JANUARY 1, 2008. A COUNTY DEPARTMENT RECEIVING AN INCENTIVE PAYMENT PURSUANT TO THIS SUB-SUBPARAGRAPH (E) SHALL EXPEND THOSE MONEYS FOR THE PROVISION OF SERVICES ALLOWED UNDER TITLE IV-B AND TITLE IV-E OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED.

SECTION 12. 26-6-107 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

(1) (a.7) FOR ALL FAMILY FOSTER CARE OR KINSHIP CARE APPLICANTS, REGARDLESS OF REIMBURSEMENT, THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY SHALL REQUIRE EACH ADULT WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND WHO RESIDES IN THE HOME TO OBTAIN A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. IN ADDITION TO THE FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK, THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY SHALL CONTACT THE APPROPRIATE ENTITY IN EACH STATE IN WHICH THE APPLICANT OR ANY ADULT RESIDING IN THE HOME HAS RESIDED WITHIN THE PRECEDING FIVE YEARS TO DETERMINE WHETHER THE ADULT HAS BEEN FOUND TO BE RESPONSIBLE IN A CONFIRMED REPORT OF CHILD ABUSE OR NEGLECT. THE SCREENING REQUEST IN COLORADO SHALL BE MADE PURSUANT TO SECTION 19-1-307 (2) (k.5), C.R.S., RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION 19-3-313.5, C.R.S., AND 42 U.S.C. 671 (a) (20). AN INVESTIGATION PURSUANT TO THIS PARAGRAPH (a.7) SHALL BE CONDUCTED FOR ANY NEW RESIDENT ADULT WHENEVER THE ADULT IS ADDED TO THE FAMILY FOSTER CARE HOME OR KINSHIP CARE HOME. INFORMATION OBTAINED FROM ANY STATE RECORDS OF ABUSE OR NEGLECT SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN CONDUCTING THE INVESTIGATION FOR PLACEMENT OR CERTIFICATION.

SECTION 13. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, to the department of public safety, Colorado bureau of investigation, for pass through fees associated with federal bureau of investigation records checks, for the fiscal year beginning July 1, 2007, the sum of seventy-nine thousand seven hundred seventy-two dollars (\$79,772), or so much thereof as may be necessary, for the implementation of this act. Said amount shall be from cash

funds exempt.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of human services, division of child welfare, for the state and local costs of federal bureau of investigation records checks and placement of children in certified foster care homes, for the fiscal year beginning July 1, 2007, the sum of one hundred forty-two thousand five hundred sixty-two dollars (\$142,562), or so much thereof as may be necessary, for the implementation of this act. Of said sum, eighty-eight thousand three hundred eighty-eight dollars (\$88,388) shall be from the general fund and is exempt from the statutory limit on state general fund appropriations pursuant to section 24-75-201.1 (1) (a) (III) (A), Colorado Revised Statutes, twenty-eight thousand five hundred twelve dollars (\$28,512) shall be from cash funds exempt, and twenty-five thousand six hundred sixty-one dollars (\$25,661) shall be from federal funds.

SECTION 14. 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, 2007