

CHAPTER 20

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 23-1043

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AN ACT

CONCERNING THE SAFETY OF CHILDREN AND YOUTH THROUGH REQUIRED BACKGROUND CHECKS ON ADULTS WHEN A CHILD OR YOUTH IS PLACED OUT OF THE HOME WITH KIN, INCLUDING RELATIVES.

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

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments, 19-3-406** as follows:

19-3-406. Relatives or kin as providers of emergency, nonemergency, or continued placement for children or youth - initial criminal history record check - fingerprint-based criminal history record check - criteria for disqualification - use of criminal justice records - rules - definitions.

(1) (a) (I) ANY TIME A CHILD OR YOUTH IS TAKEN INTO TEMPORARY CUSTODY BY A LAW ENFORCEMENT OFFICER AND ANY TIME THE COURT PLACES TEMPORARY CUSTODY OF A CHILD OR YOUTH WITH A COUNTY DEPARTMENT, OR THE COUNTY DEPARTMENT HAS THE LEGAL AUTHORITY FOR PLACEMENT PURSUANT TO THIS PART 4, AND A RELATIVE OR KIN, AS DEFINED IN SECTION 19-1-103, IS IDENTIFIED AS A POTENTIAL EMERGENCY PLACEMENT FOR THE CHILD OR YOUTH, THE COUNTY DEPARTMENT OR A LOCAL LAW ENFORCEMENT AGENCY SHALL IMMEDIATELY CONDUCT AN INITIAL CRIMINAL HISTORY RECORD CHECK OF THE RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT THE HOME PRIOR TO THE COUNTY DEPARTMENT OR THE LAW ENFORCEMENT OFFICER PLACING THE CHILD OR YOUTH IN THE EMERGENCY PLACEMENT.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(II) A COUNTY DEPARTMENT MAY PERFORM INITIAL CRIMINAL HISTORY RECORD CHECKS THROUGH ITS STAFF OR MAY COLLABORATE WITH LOCAL LAW ENFORCEMENT AGENCIES TO PERFORM THE INITIAL CRIMINAL HISTORY RECORD CHECKS. WHEN A COUNTY DEPARTMENT HAS TEMPORARY CUSTODY OF A CHILD OR YOUTH PURSUANT TO THIS PART 4 AND CONTACTS THE LOCAL LAW ENFORCEMENT AGENCY FOR AN INITIAL CRIMINAL HISTORY RECORD CHECK OF THE RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT THE HOME PURSUANT TO THIS SECTION, THE LOCAL LAW ENFORCEMENT AGENCY SHALL IMMEDIATELY PROVIDE THE COUNTY DEPARTMENT WITH A VERBAL RESPONSE REGARDING THE RELATIVE'S OR KIN'S AND ANY ADULT WHO RESIDES AT THE HOME'S CRIMINAL HISTORY AND SHALL NOT PROVIDE THE COUNTY DEPARTMENT WITH DOCUMENTATION OF THE RELATIVE'S OR KIN'S AND ANY ADULT WHO RESIDES AT THE HOME'S CRIMINAL HISTORY, CONSISTENT WITH FEDERAL PUBLIC LAW 92-544, AND ITS REGULATIONS PROMULGATED, AS AMENDED.

(b) THE CHILD OR YOUTH MAY NOT BE PLACED WITH THE RELATIVE OR KIN IF THE INITIAL CRIMINAL HISTORY RECORD CHECK CONDUCTED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION REFLECTS A CRIMINAL HISTORY, AS DESCRIBED IN SUBSECTION (5) OF THIS SECTION.

(c) THE CHILD OR YOUTH MAY BE PLACED WITH THE RELATIVE OR KIN IF THE INITIAL CRIMINAL HISTORY RECORD CHECK DOES NOT REFLECT A CRIMINAL HISTORY, AS DESCRIBED IN SUBSECTION (5) OF THIS SECTION. AFTER PLACEMENT, THE RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT THE HOME WHO ARE NOT DISQUALIFIED BASED UPON THE RESULTS OF THE INITIAL CRIMINAL HISTORY RECORD CHECK CONDUCTED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION SHALL COMPLETE A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

(2)(a) A RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT THE HOME WHO ARE NOT DISQUALIFIED AS AN EMERGENCY PLACEMENT FOR A CHILD OR YOUTH PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION AND WHO ARE AUTHORIZED FOR PLACEMENT OF A CHILD OR YOUTH ON AN EMERGENCY BASIS PURSUANT TO THIS PART 4 SHALL SUBMIT A COMPLETE SET OF FINGERPRINTS TO THE COUNTY DEPARTMENT OR THROUGH ANOTHER DESIGNATED THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION NO LATER THAN SEVEN CALENDAR DAYS AFTER THE CHILD OR YOUTH IS PLACED IN THE RELATIVE'S OR KIN'S HOME OR NO LATER THAN FOURTEEN CALENDAR DAYS WHEN EXIGENT CIRCUMSTANCES EXIST. THE COUNTY DEPARTMENT OR COLORADO BUREAU OF INVESTIGATION-APPROVED DESIGNATED THIRD PARTY SHALL FORWARD THE COMPLETE SET OF FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION TO PERFORM THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK PURSUANT TO SUBSECTION (4) OF THIS SECTION.

(b) IF THE RELATIVE OR KIN OR ANY ADULT WHO RESIDES AT THE HOME FAIL TO SUBMIT A COMPLETE SET OF FINGERPRINTS, THE COUNTY DEPARTMENT SHALL NOTIFY THE PARTIES TO THE CASE. WITHIN SEVENTY-TWO HOURS OF NOTIFICATION, ANY PARTY WANTING THE CHILD OR YOUTH TO REMAIN IN THAT PLACEMENT SHALL FILE A MOTION WITH THE COURT REGARDING PLACEMENT OF THE CHILD OR YOUTH. THE COUNTY DEPARTMENT OR A LAW ENFORCEMENT OFFICER, AS APPROPRIATE, SHALL REMOVE THE CHILD OR YOUTH FROM THE PHYSICAL CUSTODY OF THE RELATIVE OR KIN IF NO PARTY, WITH PROPER NOTIFICATION, HAS FILED A MOTION TO MAINTAIN

THE CHILD OR YOUTH IN THE PLACEMENT WITHIN SEVENTY-TWO HOURS. THE COUNTY DEPARTMENT SHALL CONFIRM WITHIN FOURTEEN CALENDAR DAYS AFTER THE CHILD OR YOUTH HAS BEEN PLACED WITH THE RELATIVE OR KIN THAT THE RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT THE HOME SUBMITTED A COMPLETE SET OF FINGERPRINTS WITHIN THE TIME PERIOD SPECIFIED BY THIS SUBSECTION (2).

(3) A COUNTY DEPARTMENT SHALL INITIATE OR REQUEST THAT A LOCAL LAW ENFORCEMENT AGENCY INITIATE A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OF THE RELATIVES OR KIN AND ANY ADULT WHO RESIDES AT THE HOME PRIOR TO PLACING A CHILD OR YOUTH WITH A RELATIVE OR KIN ON A NON-EMERGENCY BASIS, WHEN THE CHILD OR YOUTH IS PLACED ON A NON-COURT-INVOLVED BASIS, WHEN THE COUNTY DEPARTMENT HAS TEMPORARY LEGAL CUSTODY, OR WHEN THE COUNTY HAS THE LEGAL AUTHORITY FOR PLACEMENT OF A CHILD OR YOUTH.

(4)(a) A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK, AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, MUST BE COMPLETED BY LOCAL LAW ENFORCEMENT; THE COUNTY DEPARTMENT; OR ANOTHER DESIGNATED THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION. THE COUNTY DEPARTMENT SHALL CONDUCT ALL OF THE OTHER REQUIRED BACKGROUND CHECKS DESCRIBED IN THIS SECTION. IF AN APPROVED THIRD PARTY TAKES THE FINGERPRINTS, THE FINGERPRINTS MAY BE ELECTRONICALLY CAPTURED USING COLORADO BUREAU OF INVESTIGATION-APPROVED LIVESCAN EQUIPMENT. THIRD-PARTY VENDORS SHALL NOT KEEP THE INFORMATION FOR MORE THAN THIRTY DAYS, UNLESS REQUESTED TO DO SO BY THE RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT THE HOME.

(b) WHEN A RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT THE HOME SUBMIT A COMPLETE SET OF FINGERPRINTS TO THE COUNTY DEPARTMENT, THE COUNTY DEPARTMENT SHALL IMMEDIATELY FORWARD THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. UPON RECEIPT OF FINGERPRINTS AND PAYMENT FOR THE COSTS, THE COLORADO BUREAU OF INVESTIGATION SHALL CONDUCT A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. THE COLORADO BUREAU OF INVESTIGATION SHALL IMMEDIATELY FORWARD THE RESULTS OF THE STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS CONDUCTED PURSUANT TO THIS SECTION TO THE COUNTY DEPARTMENT OR LOCAL LAW ENFORCEMENT AGENCY AUTHORIZED TO RECEIVE THE INFORMATION. IF THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK INDICATES THAT THE RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT THE HOME HAVE A CRIMINAL HISTORY DESCRIBED IN SUBSECTION (5) OF THIS SECTION, THE COUNTY DEPARTMENT OR THE LOCAL LAW ENFORCEMENT OFFICER, WHICHEVER IS APPROPRIATE, SHALL REMOVE THE CHILD OR YOUTH FROM THE PLACEMENT, UNLESS THERE IS A MOTION REGARDING PLACEMENT PENDING BEFORE THE COURT, OR IF NO PARTY, WITH PROPER NOTIFICATION, HAS FILED A MOTION TO MAINTAIN THE CHILD OR YOUTH IN THE PLACEMENT WITHIN SEVENTY-TWO HOURS, AND SHALL NOT PLACE A CHILD OR YOUTH IN THE HOME WHERE A PERSON WITH THE CRIMINAL CONVICTION RESIDES WITHOUT A COURT ORDER AFFIRMING PLACEMENT OF THE CHILD OR YOUTH IN THE HOME OR PURSUANT TO STATE BOARD RULES. THE COURT MAY ORDER THE REPORTS

OF FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS FROM THE COLORADO BUREAU OF INVESTIGATION OR FROM THE FEDERAL BUREAU OF INVESTIGATION THAT WERE RELIED UPON BY THE COUNTY TO EVALUATE THE PLACEMENT TO BE RELEASED BY THE COUNTY DEPARTMENT AFTER PROVIDING AN OPPORTUNITY FOR THE INDIVIDUAL WHOSE RESULTS WOULD BE RELEASED TO OBJECT OR REQUEST APPROPRIATE PROTECTIONS OR REDACTIONS.

(5) A COUNTY DEPARTMENT OR A LOCAL LAW ENFORCEMENT AGENCY SHALL NOT PLACE OR CONTINUE THE PLACEMENT OF A CHILD OR YOUTH IN A HOME WHERE A PERSON HAS A CRIMINAL HISTORY OF ONE OR MORE OF THE FOLLOWING CONVICTIONS, AS "CONVICTION" IS DEFINED IN SUBSECTION (12) OF THIS SECTION:

(a) FELONY CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401;

(b) MURDER IN THE FIRST DEGREE, AS DESCRIBED IN SECTION 18-3-102; MURDER IN THE SECOND DEGREE, AS DESCRIBED IN SECTION 18-3-103; MANSLAUGHTER, AS DESCRIBED IN SECTION 18-3-104; CRIMINALLY NEGLIGENT HOMICIDE, AS DESCRIBED IN SECTION 18-3-105; AND VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106;

(c) KIDNAPPING IN THE FIRST OR SECOND DEGREE, AS DESCRIBED IN SECTIONS 18-3-301 AND 18-3-302; OR FELONY FALSE IMPRISONMENT, AS DESCRIBED IN SECTION 18-3-303;

(d) A FELONY CRIME OF VIOLENCE ENHANCER, AS DEFINED IN SECTION 18-1.3-406 (2)(a)(I), EXCLUDING THE CONVICTION OF ESCAPE;

(e) AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9), INCLUDING SEXUAL EXPLOITATION OF A CHILD, HUMAN TRAFFICKING FOR SEXUAL SERVITUDE, AND HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE;

(f) A FELONY, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3, WITHIN THE PRECEDING FIVE YEARS;

(g) A FELONY INVOLVING PHYSICAL ASSAULT, AS DESCRIBED IN SECTION 18-3-202 OR 18-3-203, WITHIN THE PRECEDING FIVE YEARS;

(h) A FELONY DRUG-RELATED OFFENSE WITHIN THE PRECEDING THREE YEARS. IF THE RELATIVE OR KIN HAS A FELONY DRUG-RELATED CONVICTION LESS THAN FIVE YEARS PRIOR, ANY KINSHIP OR GUARDIANSHIP ASSISTANCE PAYMENTS ON BEHALF OF THE CHILD OR YOUTH MUST NOT BE MADE WITH FEDERAL MONEY PROVIDED PURSUANT TO TITLE IV-E OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED.

(i) A PATTERN OF MISDEMEANOR CONVICTIONS RELATED TO DOMESTIC VIOLENCE, AS DEFINED BY RULE OF THE STATE BOARD, WITHIN THE PRECEDING FIVE YEARS; OR

(j) AN OFFENSE IN ANY OTHER STATE, THE ELEMENTS OF WHICH ARE SUBSTANTIALLY SIMILAR TO THE ELEMENTS OF ANY ONE OF THE OFFENSES DESCRIBED IN SUBSECTIONS (5)(a) TO (5)(i) OF THIS SECTION.

(6) IF A RELATIVE OR KIN WAS NOT DISQUALIFIED AS A PLACEMENT BASED UPON THE INITIAL CRIMINAL HISTORY RECORD CHECK OR THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS OF ANY ADULT WHO RESIDES AT THE HOME, THE COUNTY DEPARTMENT SHALL PERFORM THE FOLLOWING ADDITIONAL BACKGROUND CHECKS OF THE RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT THE HOME PRIOR TO PLACEMENT:

(a) A CHECK OF THE COLORADO COURTS DATA ACCESS SYSTEM TO DETERMINE THE STATUS OR DISPOSITION OF ANY CRIMINAL CHARGES;

(b) A CHECK OF THE STATE DEPARTMENT'S CHILD WELFARE INFORMATION SYSTEM AND THE EQUIVALENT REGISTRIES AND DATABASES IN OTHER STATES IF THE INDIVIDUAL HAS RESIDED IN ANOTHER STATE IN THE PRIOR FIVE YEARS, AS PRESCRIBED BY RULE, FOR INFORMATION TO INFORM DECISIONS ABOUT PLACEMENT TO DETERMINE IF THE RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT THE HOME HAVE BEEN IDENTIFIED AS HAVING A FINDING OF CHILD ABUSE OR NEGLECT; AND

(c) A CHECK AGAINST THE STATE'S SEX OFFENDER REGISTRY AND AGAINST THE NATIONAL SEX OFFENDER PUBLIC REGISTRY OPERATED BY THE UNITED STATES DEPARTMENT OF JUSTICE THAT CHECKS NAMES AND ADDRESSES AGAINST THE KNOWN NAMES AND ADDRESSES IN THE REGISTRIES AND THE INTERACTIVE DATABASE SYSTEM FOR COLORADO AND THE EQUIVALENT REGISTRIES AND DATABASES IN OTHER STATES IF THE INDIVIDUAL HAS RESIDED IN ANOTHER STATE IN THE PRIOR FIVE YEARS, AS PRESCRIBED IN RULE, TO DETERMINE IF A RELATIVE OR KIN OR ANY ADULT WHO RESIDES IN THE HOME IS A REGISTERED SEX OFFENDER.

(7) A COUNTY DEPARTMENT SHALL NOT LEAVE A CHILD OR YOUTH IN PLACEMENT OR PLACE A CHILD OR YOUTH WITH A RELATIVE OR KIN IF THE RELATIVE OR KIN OR ANY ADULT WHO RESIDES IN THE HOME:

(a) HAS BEEN CONVICTED OF ANY OF THE CRIMES LISTED IN SUBSECTION (5) OF THIS SECTION; OR

(b) HAS BEEN IDENTIFIED AS HAVING A CHILD ABUSE OR NEGLECT FOUNDED FINDING THROUGH A CHECK OF THE CHILD WELFARE INFORMATION SYSTEM WITHIN THE PRECEDING FIVE YEARS AND THAT FINDING HAS BEEN DETERMINED TO PRESENT AN UNSAFE PLACEMENT FOR THE CHILD OR YOUTH, UNLESS THERE IS AN APPEAL PENDING FOR THE FOUNDED FINDING; OR

(c) IS A REGISTERED SEX OFFENDER IN THE SEX OFFENDER REGISTRY CREATED PURSUANT TO SECTION 16-22-110, OR IS A REGISTERED SEX OFFENDER AS DETERMINED BY A CHECK OF THE NATIONAL SEX OFFENDER REGISTRY OPERATED BY THE UNITED STATES DEPARTMENT OF JUSTICE.

(8) A COUNTY DEPARTMENT MAY MAKE A PLACEMENT WITH OR ALLOW CONTINUED PLACEMENT WITH A RELATIVE OR KIN WHO WOULD OTHERWISE BE DISQUALIFIED PURSUANT TO SUBSECTION (7) OF THIS SECTION IF SUCH PLACEMENT OCCURS ACCORDING TO THE RULES PROMULGATED BY THE STATE BOARD OR IF THERE IS A COURT ORDER AFFIRMING PLACEMENT OF THE CHILD OR YOUTH WITH THE RELATIVE OR KIN. WHEN ANOTHER CHILD OR YOUTH SUBSEQUENTLY NEEDS PLACEMENT IN THE SAME HOME, THE COUNTY DEPARTMENT MAY PLACE THAT CHILD

OR YOUTH WITH A RELATIVE OR KIN WHO WOULD OTHERWISE BE DISQUALIFIED PURSUANT TO SUBSECTION (7) OF THIS SECTION BASED ON THE PREVIOUS DETERMINATION WITH REGARD TO THE BACKGROUND CHECK. THE RELATIVE OR KIN SHALL STILL COMPLY WITH THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION, AND THE COUNTY DEPARTMENT OR THE COURT SHALL AFFIRM PLACEMENT OF THE SUBSEQUENT CHILD OR YOUTH.

(9) THE STATE BOARD SHALL PROMULGATE RULES RELATED TO BACKGROUND CHECKS OF RELATIVES OR KIN AND PLACEMENT OF CHILDREN OR YOUTH WITH RELATIVES OR KIN, CONSISTENT WITH THE PROVISIONS CONTAINED IN PART 3 OF ARTICLE 72 OF TITLE 24.

(10) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IF THE COUNTY DEPARTMENT VERIFIES AND DOCUMENTS THAT ALL OF THE CRIMINAL HISTORY RECORD CHECKS AND OTHER BACKGROUND CHECKS DESCRIBED IN THIS SECTION HAVE BEEN COMPLETED IN THE PRECEDING THREE MONTHS FOR A RELATIVE OR KIN AND ANY ADULT WHO RESIDES IN THE HOME, THE COUNTY DEPARTMENT DOES NOT NEED TO REPEAT THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OF THAT RELATIVE OR KIN AND ANY ADULT WHO RESIDES IN THE HOME; EXCEPT THAT THE COUNTY DEPARTMENT SHALL REPEAT THE OTHER BACKGROUND CHECKS DESCRIBED IN THIS SECTION AND CONTACT LOCAL LAW ENFORCEMENT TO DETERMINE IF THERE WERE ANY NEW CHARGES FOR OFFENSES FILED AGAINST THAT RELATIVE OR KIN AND ANY ADULT WHO RESIDES IN THE HOME DURING THE PRECEDING THREE MONTHS SINCE THE LAST FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

(11) (a) THE COLORADO BUREAU OF INVESTIGATION SHALL FLAG THE FINGERPRINTS OF AND NOTIFY THE APPLICABLE COUNTY DEPARTMENT OF ANY NEW ARRESTS OF AN INDIVIDUAL WHOSE FINGERPRINTS THE COUNTY DEPARTMENT SUBMITS TO A LOCAL LAW ENFORCEMENT AGENCY THAT THE COUNTY DEPARTMENT ALSO INTENDS TO BE SUBSEQUENTLY USED FOR FOSTER CARE CERTIFICATION.

(b) THE COUNTY DEPARTMENT SHALL NOTIFY THE COLORADO BUREAU OF INVESTIGATION WITHIN FIVE CALENDAR DAYS AFTER SUBMITTING THE REQUEST FOR A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK WHEN THE COUNTY DEPARTMENT INTENDS TO ACCEPT AN APPLICATION FOR FOSTER CARE CERTIFICATION FROM THAT PERSON SO THAT THE FLAGGING AND AUTOMATIC NOTIFICATION TO THE COUNTY DEPARTMENT OF NEW ARRESTS PURSUANT TO SUBSECTION (11)(a) OF THIS SECTION OCCURS FOR THAT PERSON AND CONTINUES THROUGH THE DURATION OF THE INDIVIDUAL'S FOSTER CARE CERTIFICATION. THE COUNTY DEPARTMENT SHALL USE THE SAME FINGERPRINTS RECEIVED PURSUANT TO THIS SUBSECTION (11) AND ANY UPDATED FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK RESULTS FROM THE AUTOMATIC NOTIFICATION AS A SUBSTITUTE FOR MEETING THE FINGERPRINT REQUIREMENTS FOR A PERSON WHO IS APPLYING FOR FOSTER CARE CERTIFICATION PURSUANT TO SECTION 26-6-910.

(12) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONVICTION" MEANS A CONVICTION BY A JURY OR COURT AND INCLUDES A DEFERRED JUDGMENT AND SENTENCE AGREEMENT, OR A PLEA OF GUILTY OR NOLO

CONTENDERE DETERMINED THROUGH THE RECORDS OF THE COLORADO BUREAU OF INVESTIGATION OR THE FEDERAL BUREAU OF INVESTIGATION AND THE COLORADO COURTS DATA ACCESS SYSTEM IN THE STATE JUDICIAL DEPARTMENT. "CONVICTION" DOES NOT INCLUDE A DIVERSION OR DEFERRAL OR PLEA FOR A PERSON WHO PARTICIPATED IN AND SUCCESSFULLY COMPLETED THE CHILD ABUSE AND CHILD NEGLECT DIVERSION PROGRAM ESTABLISHED PURSUANT TO SECTION 19-3-310. A CONVICTION DOES NOT INCLUDE JUVENILE DEFERRED JUDGMENT OR ADJUDICATION AGREEMENTS, ADJUDICATIONS, DIVERSION, DEFERRAL, OR PLEA AGREEMENTS. THE CONVICTIONS IDENTIFIED IN THIS SUBSECTION (12)(a) AND SUBSECTION (5) OF THIS SECTION MUST BE DETERMINED ACCORDING TO THE RECORDS OF THE COLORADO BUREAU OF INVESTIGATION OR THE FEDERAL BUREAU OF INVESTIGATION AND THE COLORADO COURTS DATA ACCESS SYSTEM AT THE STATE JUDICIAL SYSTEM. A SCREENING REQUEST IN COLORADO MUST BE MADE PURSUANT TO SECTION 19-1-307 (2)(k), RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION 19-3-313.5, AND 42 U.S.C. SEC. 671 (a)(2). A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF THE CONVICTION OR A DEFERRED ADJUDICATION AGREEMENT IS PRIMA FACIE EVIDENCE OF A CONVICTION OR AGREEMENT.

(b) "INITIAL CRIMINAL HISTORY RECORD CHECK" MEANS A COLORADO CRIME INFORMATION CENTER OR NATIONAL CRIME INFORMATION CENTER CHECK.

SECTION 2. In Colorado Revised Statutes, **repeal** 19-3-407.

SECTION 3. In Colorado Revised Statutes, 19-3-508, **amend** (8) as follows:

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

(8) When entering a decree placing the child OR YOUTH in the legal custody of a relative or placing the child OR YOUTH in the legal custody of a county department for placement in a foster care home, the court shall ensure that the child's OR YOUTH's placement at the time of the hearing is in the best interests of the child OR YOUTH and shall inquire about documentation that the county department or a licensed child placement agency has adequately screened the foster care provider or the family member who is seeking to care for the child OR YOUTH and any adult residing in that home and that all of the criminal history record checks and other background checks have been completed as required pursuant to ~~section 26-6-910 or 19-3-407~~ SECTION 26-6-910 OR 19-3-406.

SECTION 4. In Colorado Revised Statutes, 19-3-605, **amend** (3) introductory portion and (3)(b) as follows:

19-3-605. Request for placement with family members. (3) In making placement determinations concerning a child OR YOUTH following the order of termination of the parent-child legal relationship pursuant to the provisions of this section, the court shall consider all pertinent information related to modifying the placement of the child OR YOUTH prior to removing the child OR YOUTH from ~~his or her~~ THE CHILD'S OR YOUTH'S placement, including: ~~the following:~~

(b) Whether the child's OR YOUTH'S placement at the time of the hearing is a safe and potentially permanent placement for the child OR YOUTH, including documentation that a county department or a licensed child placement agency has

adequately screened the family member who is seeking to care for the child OR YOUTH and any adult residing in the home and that all of the criminal history record checks and other background checks have been completed as required pursuant to ~~section 26-6-910 or 19-3-407~~ SECTION 26-6-910 OR 19-3-406;

SECTION 5. In Colorado Revised Statutes, 26-6-911, **amend** (2)(d) as follows:

26-6-911. Foster care - kinship care - rules applying generally - rule-making.

(2) At a minimum, the rules described in subsection (1) of this section must include the following:

(d) A list of actions a county department or child placement agency shall take if a disqualifying factor is found during any of the background checks specified in ~~section~~ SECTIONS 26-6-910 (5) and (6) and ~~section 19-3-406 (4) and (4.5)~~ 19-3-406 (6) AND (7);

SECTION 6. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 17, 2023