

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 16-0740.01 Jane Ritter x4342

**HOUSE BILL 16-1385**

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**HOUSE SPONSORSHIP**

**Singer,**

**SENATE SPONSORSHIP**

**Newell,**

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**House Committees**

Public Health Care & Human Services  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 CONCERNING THE DEFINITION OF CHILD ABUSE OR NEGLECT IN THE  
102 "COLORADO CHILDREN'S CODE" AS IT RELATES TO THE USE OF  
103 OR EXPOSURE TO SUBSTANCES, AND, IN CONNECTION  
104 THEREWITH, MAKING AN APPROPRIATION.

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)*

The bill updates and modernizes the language in the definition of "abuse" or "child abuse or neglect" in the "Colorado Children's Code" to reflect the ways a child's welfare can be threatened or harmed by adults

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

HOUSE  
3rd Reading Unamended  
May 5, 2016

HOUSE  
Amended 2nd Reading  
May 3, 2016

through the use of or exposure to substances.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds and declares that:

4 (a) The definition of "child abuse or neglect" in the Children's  
5 Code needs to be modified to accommodate behavioral changes relating  
6 to substances; and

7 (b) The general assembly's intent behind any modifications to the  
8 definition of "child abuse or neglect" in the Children's Code as it relates  
9 to substances is to focus on guiding assessments and investigations in the  
10 child welfare system.

11 **SECTION 2.** In Colorado Revised Statutes, 19-1-103, **amend** (1)  
12 (a) (VI) and (1) (a) (VII) as follows:

13 **19-1-103. Definitions.** As used in this title or in the specified  
14 portion of this title, unless the context otherwise requires:

15 (1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of  
16 article 3 of this title, means an act or omission in one of the following  
17 categories that threatens the health or welfare of a child:

18 (VI) Any case in which ~~in the presence of a child, or on the~~  
19 ~~premises where a child is found, or where a child resides, a controlled~~  
20 ~~substance, as defined in section 18-18-102 (5), C.R.S., is manufactured~~  
21 ~~or attempted to be manufactured;~~ SUBSTANCE USE OR SUBSTANCE  
22 EXPOSURE THREATENS OR RESULTS IN HARM TO THE CHILD'S HEALTH OR  
23 WELFARE UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

24 (A) BEHAVIOR INDICATING IMPAIRMENT OF A PERSON THAT  
25 THREATENS OR RESULTS IN HARM TO THE CHILD. FOR PURPOSES OF THIS

1 SUB-SUBPARAGRAPH (A), A "PERSON" INCLUDES A PARENT, STEPPARENT,  
2 GUARDIAN, LEGAL CUSTODIAN, RELATIVE, SPOUSAL EQUIVALENT, OR ANY  
3 OTHER PERSON WHO RESIDES IN THE CHILD'S HOME OR WHO IS REGULARLY  
4 IN THE CHILD'S HOME AND HAS SOLE AUTHORITY OVER OR SOLE  
5 RESPONSIBILITY FOR THE CARE OF THE CHILD.

6 (B) THE KNOWING, RECKLESS, OR NEGLIGENT EXPOSURE TO OR  
7 INGESTION OF ANY LEGAL OR ILLEGAL SUBSTANCE BY A CHILD THAT  
8 THREATENS OR RESULTS IN HARM TO THE CHILD, UNLESS SUCH EXPOSURE  
9 OR INGESTION IS THE RESULT OF THE CHILD'S LAWFUL INTAKE OF SUCH  
10 SUBSTANCE; OR

11 (C) THE MANUFACTURE, DISTRIBUTION, PRODUCTION, OR  
12 CULTIVATION PRACTICES OF A LEGAL OR ILLEGAL SUBSTANCE THAT  
13 CREATES AN ENVIRONMENT THAT THREATENS OR RESULTS IN HARM TO  
14 THE CHILD.

15 (VII) (A) Any case in which a child tests positive at birth for  
16 ~~either a schedule I controlled substance, as defined in section 18-18-203,~~  
17 ~~C.R.S., or a schedule II controlled substance, as defined in section~~  
18 ~~18-18-204, C.R.S.~~ AN EXPOSURE TO ALCOHOL OR FOR A CONTROLLED  
19 SUBSTANCE, AS DEFINED IN SECTION 18-18-102, C.R.S., unless the child  
20 tests positive for a schedule II controlled substance as a result of the  
21 mother's lawful intake of such substance as prescribed OR RECOMMENDED  
22 BY A LICENSED HEALTH CARE PROVIDER WHO IS AWARE OF THE  
23 PREGNANCY AND THE USE OF SUCH SUBSTANCE, AND MONITORED BY THE  
24 SAME OR ANOTHER LICENSED HEALTH CARE PROVIDER WHO IS AWARE OF  
25 THE PREGNANCY AND THE USE OF SUCH SUBSTANCE.

26 (B) A COUNTY DEPARTMENT SHALL NOT DETERMINE A CHILD TO  
27 BE ABUSED OR NEGLECTED BASED SOLELY ON THE CHILD TESTING POSITIVE

1 FOR A LEGAL SUBSTANCE UNDER COLORADO LAW AT BIRTH.

2 SECTION 3. In Colorado Revised Statutes, add 19-3-308.1 as  
3 follows:

4 19-3-308.1. Implementation of the definition of abuse as it  
5 relates to use of or exposure to substances - rules - SMART report.

6 (1) ON OR BEFORE JULY 1, 2017, THE STATE DEPARTMENT SHALL  
7 PROMULGATE AND ADOPT RULES TO ENSURE THE CONSISTENT  
8 IMPLEMENTATION OF THE DEFINITION OF ABUSE SET FORTH IN SECTION  
9 19-1-103 (1) (a) (VI) AND 19-1-103 (1) (a) (VII) AS IT RELATES TO THE  
10 USE OF OR EXPOSURE TO SUBSTANCES. THE RULES MUST ADDRESS, AT A  
11 MINIMUM, ANY PROCEDURES A COUNTY DEPARTMENT MUST FOLLOW UPON  
12 RECEIVING A REPORT THAT AN INFANT HAS TESTED POSITIVE FOR A  
13 SUBSTANCE AT BIRTH.

14 (2) THE STATE DEPARTMENT SHALL COLLECT DATA ON THE USE OF  
15 THE MODIFIED DEFINITION OF "CHILD ABUSE OR NEGLECT" IN SECTION  
16 19-1-103 (1) (a) AS CREATED IN HOUSE BILL 16-1385, AS WELL AS THE  
17 USE OF THE GUIDELINES FOR THE IMPLEMENTATION OF THAT DEFINITION  
18 ESTABLISHED THROUGH RULES PROMULGATED PURSUANT TO SUBSECTION  
19 (1) OF THIS SECTION. THE STATE DEPARTMENT SHALL INCLUDE SUCH DATA  
20 AS PART OF ITS "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE,  
21 AND TRANSPARENT (SMART) GOVERNMENT ACT" HEARING REQUIRED BY  
22 SECTION 2-7-203, C.R.S. AT A MINIMUM, THE STATE DEPARTMENT SHALL  
23 COLLECT AND REPORT DATA ON THE DISPOSITION OF CHILD WELFARE  
24 ASSESSMENTS RELATED TO THE MODIFIED DEFINITION OF "CHILD ABUSE OR  
25 NEGLECT" AS IT RELATES TO SUBSTANCES AND CORRELATED WITH  
26 ECONOMIC STATUS, RACE, AND ZIP CODE. THE FOLLOWING REPORTS MUST  
27 INCLUDE DATA AS FOLLOWS:

1 (a) THE JANUARY 2018 REPORT MUST INCLUDE DATA FROM  
2 JANUARY 1, 2017, THROUGH JULY 1, 2017, OR SUCH DATE AS THE RULES  
3 PROMULGATED PURSUANT TO SUBSECTION (1) OF THIS SECTION TAKE  
4 EFFECT, AND A SEPARATE COMPARISON DATA SET FROM THE DATE THE  
5 RULES TAKE EFFECT THROUGH DECEMBER 31, 2017; AND

6 (b) THE JANUARY 2019 REPORT MUST INCLUDE DATA FROM  
7 JANUARY 1, 2018, THROUGH DECEMBER 31, 2018. THE JANUARY 2019  
8 REPORT MUST PROVIDE SEGREGATED DATA GATHERED TO ALLOW FOR A  
9 COMPARISON OF THE EFFECT BEFORE THE CHANGE IN THE DEFINITION,  
10 AFTER THE CHANGE IN THE DEFINITION BUT BEFORE THE RULES WERE  
11 IMPLEMENTED, AND AFTER THE PROMULGATION OF RULES REGARDING THE  
12 IMPLEMENTATION OF THE MODIFIED DEFINITION.

13 **SECTION 4. Appropriation.** (1) For the 2016-17 state fiscal  
14 year, \$16,000 is appropriated to the department of human services for use  
15 by the division of child welfare. This appropriation is from the general  
16 fund. To implement this act, the division may use this appropriation for  
17 training.

18 (2) For the 2016-17 state fiscal year, the general assembly  
19 anticipates that the department of human services will receive \$600 in  
20 federal funds to implement this act. The appropriation in subsection (1)  
21 of this section is based on the assumption that the department will receive  
22 this amount of federal funds, which is included for informational  
23 purposes only.

24 **SECTION 5. Safety clause.** The general assembly hereby finds,  
25 determines, and declares that this act is necessary for the immediate  
26 preservation of the public peace, health, and safety.