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HOUSE BILL 17-1284

BY REPRESENTATIVE(S) Lontine, Arndt, Benavidez, Buckner, Esgar, Ginal, Hamner, Jackson, Kennedy, Kraft-Tharp, Mitsch Bush, Singer, Weissman, Young;
also SENATOR(S) Aguilar and Gardner, Court, Crowder, Fields, Garcia, Jones, Kagan, Kefalas, Kerr, Martinez Humenik, Merrifield, Moreno, Todd, Zenzinger.

CONCERNING PROTECTING AT-RISK ADULTS FROM MISTREATMENT BY ESTABLISHING A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM FOR PERSONS EMPLOYED TO PROVIDE DIRECT CARE TO AT-RISK ADULTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 26-3.1-101, **amend** the introductory portion; and **add** (1.7), (1.8), and (3.5) as follows:

26-3.1-101. Definitions. As used in this ~~article~~ ARTICLE 3.1, unless the context otherwise requires:

(1.7) "CAPS" MEANS THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM THAT INCLUDES RECORDS OF REPORTS OF MISTREATMENT OF

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

AT-RISK ADULTS.

(1.8) "CAPS CHECK" MEANS A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111.

(3.5) "DIRECT CARE" MEANS SERVICES AND SUPPORTS, INCLUDING CASE MANAGEMENT SERVICES, PROTECTIVE SERVICES, PHYSICAL CARE, MENTAL HEALTH SERVICES, OR ANY OTHER SERVICE NECESSARY FOR THE AT-RISK ADULT'S HEALTH, SAFETY, OR WELFARE.

SECTION 2. In Colorado Revised Statutes, 26-3.1-102, **amend** (7)(b) as follows:

26-3.1-102. Reporting requirements. (7) (b) Disclosure of a report of the mistreatment or self-neglect of an at-risk adult and information relating to an investigation of such a report is permitted only when authorized by a court for good cause. A COURT ORDER IS NOT REQUIRED, AND such disclosure is not ~~be~~ prohibited when:

(I) A criminal complaint, information, or indictment based on the report is filed;

(II) There is a death of a suspected at-risk adult from mistreatment or self-neglect and a law enforcement agency files a formal charge or a grand jury issues an indictment in connection with the death;

(III) ~~Such~~ THE disclosure is necessary for the coordination of multiple agencies' investigation of a report or for the provision of protective services to an at-risk adult; ~~or~~

(IV) ~~Such~~ THE disclosure is necessary for purposes of an audit of a county department of human or social services pursuant to section 26-1-114.5;

(V) THE DISCLOSURE IS MADE FOR PURPOSES OF THE APPEALS PROCESS RELATING TO A SUBSTANTIATED CASE OF MISTREATMENT OF AN AT-RISK ADULT PURSUANT TO SECTION 26-3.1-108 (2); OR

(VI) THE DISCLOSURE IS MADE BY THE STATE DEPARTMENT TO AN EMPLOYER, OR TO A PERSON OR ENTITY CONDUCTING EMPLOYEE SCREENING

ON BEHALF OF THE EMPLOYER, AS PART OF A CAPS CHECK PURSUANT TO SECTION 26-3.1-111 OR BY A COUNTY DEPARTMENT PURSUANT TO SECTION 26-3.1-107.

SECTION 3. In Colorado Revised Statutes, 26-3.1-103, **add** (1.5) as follows:

26-3.1-103. Evaluations - investigations - training - rules.

(1.5) THE STATE DEPARTMENT SHALL PROVIDE TRAINING TO ALL CURRENT COUNTY DEPARTMENT ADULT PROTECTIVE SERVICES CASEWORKERS AND SUPERVISORS NO LATER THAN JULY 1, 2018, AND TO NEW COUNTY DEPARTMENT ADULT PROTECTIVE SERVICES CASEWORKERS AND SUPERVISORS HIRED AFTER JULY 1, 2018, TO ACHIEVE CONSISTENCY IN THE PERFORMANCE OF THE FOLLOWING DUTIES:

(a) INVESTIGATING REPORTS OF SUSPECTED MISTREATMENT OR SELF-NEGLECT OF AT-RISK ADULTS AND MAKING FINDINGS CONCERNING CASES AND ALLEGED PERPETRATORS;

(b) NOTIFYING A PERSON WHO HAS BEEN SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT OF THE FINDING AND OF THE PERSON'S RIGHT TO APPEAL THE FINDING TO THE STATE DEPARTMENT;

(c) ASSESSING THE CLIENT'S STRENGTHS AND NEEDS AND DEVELOPING A PLAN FOR THE PROVISION OF PROTECTIVE SERVICES;

(d) DETERMINING THE APPROPRIATENESS OF CASE CLOSURE;

(e) ENTERING ACCURATE AND COMPLETE DOCUMENTATION OF THE REPORT AND SUBSEQUENT CASEWORK INTO CAPS; AND

(f) MAINTAINING CONFIDENTIALITY IN ACCORDANCE WITH STATE LAW.

SECTION 4. In Colorado Revised Statutes, **amend** 26-3.1-107 as follows:

26-3.1-107. Background check - adult protective services data system check. (1) Each county department shall require each protective services employee hired on or after May 29, 2012, to complete a

fingerprint-based criminal history records check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation. The employee shall pay the cost of the fingerprint-based criminal history records check unless the county department chooses to pay the cost. Upon completion of the criminal history records check, the Colorado bureau of investigation shall forward the results to the county department. The county department may require a name-based criminal history records check for an applicant or an employee who has twice submitted to a fingerprint-based criminal history records check and whose fingerprints are unclassifiable.

(2) FOR EACH ADULT PROTECTIVE SERVICES EMPLOYEE HIRED ON OR AFTER JANUARY 1, 2019, EACH COUNTY DEPARTMENT SHALL CONDUCT A CAPS CHECK TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT. THE COUNTY DEPARTMENT SHALL CONDUCT THE CAPS CHECK PURSUANT TO STATE DEPARTMENT RULES.

SECTION 5. In Colorado Revised Statutes, **amend 26-3.1-108** as follows:

26-3.1-108. Notice of report - appeals - rules. (1) The state department shall promulgate appropriate rules for the implementation of this ~~article~~ ARTICLE 3.1.

(2) IN ADDITION TO RULES PROMULGATED PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE STATE DEPARTMENT SHALL PROMULGATE RULES TO ESTABLISH A PROCESS AT THE STATE LEVEL BY WHICH A PERSON WHO IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT MAY APPEAL THE FINDING TO THE STATE DEPARTMENT. AT A MINIMUM, THE RULES PROMULGATED PURSUANT TO THIS SUBSECTION (2) SHALL ADDRESS THE FOLLOWING:

(a) THE PROCESS BY WHICH A PERSON WHO IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT RECEIVES ADEQUATE AND TIMELY WRITTEN NOTICE FROM THE COUNTY DEPARTMENT OF THAT FINDING AND OF HIS OR HER RIGHT TO APPEAL THE FINDING TO THE STATE DEPARTMENT;

(b) THE EFFECTIVE DATE OF THE NOTIFICATION OF FINDING AND APPEAL PROCESS;

(c) A REQUIREMENT FOR AND PROCEDURES TO FACILITATE THE EXPUNGEMENT OF AND PREVENTION OF THE RELEASE OF ANY INFORMATION CONTAINED IN CAPS RECORDS FOR PURPOSES OF A CAPS CHECK RELATED TO A PERSON WHO IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT THAT EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (2); EXCEPT THAT THE STATE DEPARTMENT AND COUNTY DEPARTMENTS MAY MAINTAIN SUCH INFORMATION IN CAPS TO ASSIST IN FUTURE RISK AND SAFETY ASSESSMENTS.

(d) THE TIMELINE AND PROCESS FOR APPEALING THE FINDING OF A SUBSTANTIATED CASE OF MISTREATMENT OF AN AT-RISK ADULT;

(e) DESIGNATION OF THE ENTITY OTHER THAN THE COUNTY DEPARTMENT WITH THE AUTHORITY TO ACCEPT AND RESPOND TO AN APPEAL BY A PERSON SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT AT EACH STAGE OF THE APPELLATE PROCESS;

(f) THE LEGAL STANDARDS INVOLVED IN THE APPELLATE PROCESS AND A DESIGNATION OF THE PARTY WHO BEARS THE BURDEN OF ESTABLISHING THAT EACH STANDARD IS MET; AND

(g) THE CONFIDENTIALITY REQUIREMENTS OF THE APPEALS PROCESS.

(3) A COUNTY DEPARTMENT IS NOT REQUIRED TO PROVIDE NOTICE TO A PERSON OF A FINDING OF A SUBSTANTIATED CASE OF MISTREATMENT OF AN AT-RISK ADULT UNTIL CAPS IS CAPABLE OF AUTOMATICALLY GENERATING THE NOTICE REQUIRED PURSUANT TO STATE DEPARTMENT RULES.

SECTION 6. In Colorado Revised Statutes, **add** 26-3.1-111 as follows:

26-3.1-111. Access to CAPS - employment checks - confidentiality - fees - rules - legislative declaration - definitions.

(1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT INDIVIDUALS RECEIVING CARE AND SERVICES FROM PERSONS EMPLOYED IN PROGRAMS OR FACILITIES DESCRIBED IN SUBSECTION (7) OF THIS SECTION ARE VULNERABLE TO MISTREATMENT, INCLUDING ABUSE, NEGLECT, AND EXPLOITATION. IT IS THE INTENT OF THE GENERAL ASSEMBLY TO MINIMIZE THE POTENTIAL FOR EMPLOYMENT OF PERSONS WITH A HISTORY OF

MISTREATMENT OF AT-RISK ADULTS IN POSITIONS THAT WOULD ALLOW THOSE PERSONS UNSUPERVISED ACCESS TO THESE ADULTS. AS A RESULT, THE GENERAL ASSEMBLY FINDS IT NECESSARY TO STRENGTHEN PROTECTIONS FOR VULNERABLE ADULTS BY REQUIRING CERTAIN EMPLOYERS TO REQUEST A CAPS CHECK BY THE STATE DEPARTMENT TO DETERMINE IF A PERSON WHO WILL PROVIDE DIRECT CARE TO AN AT-RISK ADULT HAS BEEN SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "EMPLOYEE" MEANS A PERSON, OTHER THAN A VOLUNTEER, WHO IS EMPLOYED BY OR CONTRACTED WITH AN EMPLOYER, AND INCLUDES A PROSPECTIVE EMPLOYEE.

(b) "EMPLOYER" MEANS A PERSON, FACILITY, ENTITY, OR AGENCY DESCRIBED IN SUBSECTION (7) OF THIS SECTION AND INCLUDES A PROSPECTIVE EMPLOYER. "EMPLOYER" ALSO INCLUDES A PERSON HIRING SOMEONE TO PROVIDE CONSUMER-DIRECTED ATTENDANT SUPPORT SERVICES PURSUANT TO ARTICLE 10 OF TITLE 25.5, IF THE PERSON REQUESTS A CAPS CHECK.

(3) THE STATE DEPARTMENT SHALL ESTABLISH AND IMPLEMENT A STATE-LEVEL PROGRAM FOR EMPLOYERS TO OBTAIN A CAPS CHECK TO DETERMINE IF A PERSON WHO WILL PROVIDE DIRECT CARE TO AN AT-RISK ADULT IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT. THE STATE DEPARTMENT'S PROGRAM SHALL BE OPERATIONAL FOR AN EMPLOYER CAPS CHECK ON AND AFTER JANUARY 1, 2019.

(4) THE STATE DEPARTMENT SHALL NOT RELEASE INFORMATION RELATING TO ANY PERSON DURING A CAPS CHECK UNLESS THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

(5) THE STATE DEPARTMENT SHALL PROMULGATE RULES FOR THE IMPLEMENTATION OF THIS SECTION, WHICH RULES MUST INCLUDE THE FOLLOWING:

(a) THE EMPLOYER PROCESS FOR REQUESTING A CAPS CHECK FOR AN EMPLOYEE WHO HAS AN ACTIVE APPLICATION FOR EMPLOYMENT FOR A

POSITION IN WHICH THE PERSON WILL PROVIDE DIRECT CARE TO AN AT-RISK ADULT;

(b) THE STATE DEPARTMENT OR COUNTY DEPARTMENT EMPLOYEES OR EMPLOYEE POSITIONS GRANTED ACCESS TO CAPS;

(c) THE PROCESS FOR COMPLETING A CAPS CHECK AND THE PARAMETERS FOR ESTABLISHING AND COLLECTING THE FEE CHARGED TO AN EMPLOYER FOR EACH CAPS CHECK;

(d) THE INFORMATION IN CAPS THAT WILL BE MADE AVAILABLE TO AN EMPLOYER REQUESTING A CAPS CHECK;

(e) THE PURPOSES FOR WHICH THE INFORMATION IN CAPS MAY BE MADE AVAILABLE; AND

(f) THE CONSEQUENCES OF THE IMPROPER RELEASE OF THE INFORMATION IN CAPS.

(6) (a) (I) ON AND AFTER JANUARY 1, 2019, PRIOR TO HIRING OR CONTRACTING WITH AN EMPLOYEE WHO WILL PROVIDE DIRECT CARE TO AN AT-RISK ADULT, AN EMPLOYER DESCRIBED IN SUBSECTION (7) OF THIS SECTION SHALL REQUEST A CAPS CHECK BY THE STATE DEPARTMENT PURSUANT TO THIS SECTION TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT. WITHIN TEN DAYS AFTER THE DATE OF THE EMPLOYER'S REQUEST, IF THE EMPLOYEE WAS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT, UNLESS THE FINDING WAS EXPUNGED THROUGH A SUCCESSFUL APPEAL TO THE STATE DEPARTMENT, THE STATE DEPARTMENT SHALL PROVIDE THE EMPLOYER WITH INFORMATION CONCERNING THE MISTREATMENT THROUGH ELECTRONIC MEANS, OR OTHER MEANS IF REQUESTED BY THE EMPLOYER, INCLUDING THE DATE THE MISTREATMENT WAS REPORTED, THE TYPE OF MISTREATMENT REPORTED, AND THE COUNTY THAT INVESTIGATED THE REPORT OF MISTREATMENT.

(II) A PERSON OR ENTITY CONDUCTING EMPLOYEE SCREENING ON BEHALF OF AN EMPLOYER MAY REQUEST A CAPS CHECK PURSUANT TO THIS SECTION AND MAY RECEIVE THE RESULTS OF THE CAPS CHECK FROM THE STATE DEPARTMENT. THE PERSON OR ENTITY CONDUCTING EMPLOYEE SCREENING ON BEHALF OF THE EMPLOYER SHALL PROVIDE THE EMPLOYER

WITH THE RESULTS OF THE CAPS CHECK.

(b) AS A CONDITION OF EMPLOYMENT OR CONTRACTING, A PERSON SEEKING EMPLOYMENT OR TO CONTRACT WITH THE EMPLOYER IN A POSITION IN WHICH THE PERSON WILL PROVIDE DIRECT CARE TO AN AT-RISK ADULT SHALL PROVIDE TO THE EMPLOYER, OR TO A PERSON OR ENTITY CONDUCTING EMPLOYEE SCREENING ON BEHALF OF THE EMPLOYER, WRITTEN AUTHORIZATION AND ANY REQUIRED IDENTIFYING INFORMATION NECESSARY TO CONDUCT A CAPS CHECK PURSUANT TO THIS SECTION. THE EMPLOYER SHALL PAY A FEE ESTABLISHED BY THE STATE DEPARTMENT FOR EACH CAPS CHECK, OR MAY REQUIRE THE PERSON SEEKING EMPLOYMENT OR TO CONTRACT WITH THE EMPLOYER TO PAY THE REQUIRED FEE FOR THE CAPS CHECK.

(c) (I) AN EMPLOYER, OR A PERSON OR ENTITY CONDUCTING EMPLOYEE SCREENING ON BEHALF OF THE EMPLOYER, THAT RELIES UPON INFORMATION OBTAINED THROUGH A CAPS CHECK IN MAKING AN EMPLOYMENT DECISION OR CONCLUDES THAT THE NATURE OF ANY INFORMATION DISQUALIFIES A PROSPECTIVE EMPLOYEE FROM EMPLOYMENT IS IMMUNE FROM CIVIL LIABILITY IN AN ACTION BROUGHT BY THE PROSPECTIVE EMPLOYEE FOR THAT CONCLUSION OR DECISION UNLESS THE CAPS INFORMATION RELIED UPON IS FALSE AND THE EMPLOYER, OR A PERSON OR ENTITY CONDUCTING EMPLOYEE SCREENING ON BEHALF OF THE EMPLOYER, KNOWS THE INFORMATION IS FALSE.

(II) NOTHING IN THIS SUBSECTION (6)(c) AMENDS, SUPERCEDES, OR OTHERWISE LIMITS THE CIVIL LIABILITY OF THE EMPLOYER, OR A PERSON OR ENTITY CONDUCTING EMPLOYEE SCREENING ON BEHALF OF THE EMPLOYER, WITH RESPECT TO ANY CLAIM OR ACTION RELATED TO THE EMPLOYMENT DECISION OTHER THAN A CLAIM OR ACTION RELATING TO THE INFORMATION RECEIVED BY THE EMPLOYER, OR A PERSON OR ENTITY CONDUCTING EMPLOYEE SCREENING ON BEHALF OF THE EMPLOYER, PURSUANT TO A CAPS CHECK.

(d) (I) EXCEPT AS PROVIDED IN SUBSECTION (6)(d)(II) OF THIS SECTION, AN EMPLOYER, OR A PERSON OR ENTITY CONDUCTING EMPLOYEE SCREENING ON BEHALF OF THE EMPLOYER, IS DEEMED TO HAVE VIOLATED SUBSECTION (6)(e) OF THIS SECTION IF THE EMPLOYER, OR A PERSON OR ENTITY CONDUCTING EMPLOYEE SCREENING ON BEHALF OF THE EMPLOYER:

(A) REQUESTS A CAPS CHECK PURSUANT TO THIS SECTION FOR A PERSON WHO IS NOT AN EXISTING EMPLOYEE OR WHO DOES NOT HAVE AN ACTIVE APPLICATION FOR OR IS NOT CONTRACTING WITH THE EMPLOYER, OR WHO DOES NOT HAVE AN ACTIVE APPLICATION TO CONTRACT WITH THE EMPLOYER, FOR A POSITION PROVIDING DIRECT CARE TO AN AT-RISK ADULT; OR

(B) RELEASES INFORMATION OBTAINED PURSUANT TO THE CAPS CHECK TO ANY PERSON OTHER THAN A PERSON DIRECTLY INVOLVED IN THE EMPLOYER'S HIRING PROCESS.

(II) AN EMPLOYER, OR A PERSON OR ENTITY CONDUCTING EMPLOYEE SCREENING ON BEHALF OF THE EMPLOYER, HAS NOT VIOLATED SUBSECTION (6)(e) OF THIS SECTION IF THE EMPLOYER, OR A PERSON OR ENTITY CONDUCTING EMPLOYEE SCREENING ON BEHALF OF THE EMPLOYER, RELEASES INFORMATION RECEIVED THROUGH A CAPS CHECK:

(A) TO A STATE AGENCY OR ITS CONTRACTOR UPON THE REQUEST OF THE AGENCY OR CONTRACTOR FOR PURPOSES OF AN EMPLOYER INSPECTION OR SURVEY; OR

(B) AT THE REQUEST OF A CURRENT OR PROSPECTIVE EMPLOYER OF A HEALTH CARE WORKER OR CAREGIVER IN ACCORDANCE WITH SECTION 8-2-111.6 OR SECTION 8-2-111.7.

(e) ANY PERSON WHO IMPROPERLY RELEASES OR WHO WILLFULLY PERMITS OR ENCOURAGES THE RELEASE OF DATA OR INFORMATION OBTAINED THROUGH A CAPS CHECK TO PERSONS NOT PERMITTED ACCESS TO THE INFORMATION PURSUANT TO THIS ARTICLE 3.1, COMMITS A CLASS 1 MISDEMEANOR AND IS PUNISHED AS PROVIDED IN SECTION 18-1.3-501.

(f) NOTHING IN THIS SECTION PROHIBITS AN EMPLOYER FROM HIRING OR CONTRACTING WITH AN EMPLOYEE WHO WILL PROVIDE DIRECT CARE TO AN AT-RISK ADULT PRIOR TO RECEIVING THE RESULTS OF THE CAPS CHECK.

(7) THE FOLLOWING EMPLOYERS SHALL REQUEST A CAPS CHECK PURSUANT TO THIS SECTION:

(a) A HEALTH FACILITY LICENSED PURSUANT TO SECTION 25-1.5-103, INCLUDING THOSE WHOLLY OWNED AND OPERATED BY ANY

GOVERNMENTAL UNIT;

(b) AN ADULT DAY CARE FACILITY, AS DEFINED IN SECTION 25.5-6-303 (1);

(c) A COMMUNITY INTEGRATED HEALTH CARE SERVICE AGENCY, AS DEFINED IN SECTION 25-3.5-1301 (1);

(d) A COMMUNITY-CENTERED BOARD OR A PROGRAM-APPROVED SERVICE AGENCY PROVIDING OR CONTRACTING FOR SERVICES AND SUPPORTS PURSUANT TO ARTICLE 10 OF TITLE 25.5;

(e) A SINGLE ENTRY POINT AGENCY, AS DESCRIBED IN SECTION 25.5-6-106;

(f) AN AREA AGENCY ON AGING, AS DEFINED IN SECTION 26-11-201 (2), AND ANY AGENCY OR PROVIDER THE AREA AGENCY ON AGING CONTRACTS WITH TO PROVIDE SERVICES;

(g) A FACILITY OPERATED BY THE STATE DEPARTMENT FOR THE CARE AND TREATMENT OF PERSONS WITH MENTAL ILLNESS PURSUANT TO ARTICLE 65 OF TITLE 27;

(h) A FACILITY OPERATED BY THE STATE DEPARTMENT FOR THE CARE AND TREATMENT OF PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PURSUANT TO ARTICLE 10.5 OF TITLE 27; AND

(i) VETERANS COMMUNITY LIVING CENTERS OPERATED PURSUANT TO ARTICLE 12 OF THIS TITLE 26.

(8) A PERSON HIRING SOMEONE TO PROVIDE CONSUMER-DIRECTED ATTENDANT SUPPORT SERVICES PURSUANT TO ARTICLE 10 OF TITLE 25.5 MAY REQUEST A CAPS CHECK PURSUANT TO THIS SECTION AT THE PERSON'S EXPENSE. THE PERSON REQUESTING THE CAPS CHECK MUST COMPLY WITH STATE DEPARTMENT RULES AND THE PROVISIONS OF SUBSECTION (6) OF THIS SECTION RELATING TO THE RELEASE OF INFORMATION OBTAINED THROUGH A CAPS CHECK.

(9) EXCEPT FOR THE COSTS INCURRED FOR THE DEVELOPMENT AND

INITIAL IMPLEMENTATION OF THE PROGRAM, DIRECT AND INDIRECT COSTS INCURRED FOR THE ADMINISTRATIVE APPEALS PROCESS FOR PERSONS APPEALING CLAIMS OF MISTREATMENT OF AT-RISK ADULTS AND THE DIRECT AND INDIRECT COSTS OF CONDUCTING EMPLOYER-REQUESTED CAPS CHECKS PURSUANT TO THIS SECTION ARE FUNDED THROUGH A FEE ASSESSED ON AN EMPLOYER FOR EACH CAPS CHECK. THE STATE DEPARTMENT SHALL ESTABLISH AND COLLECT THE FEE PURSUANT TO PARAMETERS SET FORTH IN RULE ESTABLISHED BY THE STATE BOARD. AT A MINIMUM, THE STATE BOARD'S RULES MUST INCLUDE A PROVISION REQUIRING THE STATE DEPARTMENT TO PROVIDE NOTICE OF THE FEE TO INTERESTED PERSONS AND THE MAXIMUM FEE AMOUNT THAT THE STATE DEPARTMENT SHALL NOT EXCEED WITHOUT THE EXPRESS APPROVAL OF THE STATE BOARD. THE FEE ESTABLISHED MUST NOT EXCEED DIRECT AND INDIRECT COSTS INCURRED FOR THE ADMINISTRATIVE APPEALS PROCESS FOR PERSONS APPEALING CLAIMS OF MISTREATMENT OF AT-RISK ADULTS AND THE DIRECT AND INDIRECT COSTS OF CONDUCTING EMPLOYER-REQUESTED CAPS CHECKS PURSUANT TO THIS SECTION. FEES COLLECTED FOR CAPS CHECKS SHALL BE TRANSFERRED TO THE STATE TREASURER AND CREDITED TO THE RECORDS AND REPORTS FUND CREATED IN SECTION 19-1-307 (2.5).

(10) THE STATE DEPARTMENT SHALL REVIEW THE FEASIBILITY AND COST OF INCLUDING A FEATURE IN CAPS THAT WOULD PROVIDE NOTIFICATION TO AN EMPLOYER IF A SUBSTANTIATED FINDING OF MISTREATMENT BY AN EMPLOYEE IS SUBSEQUENTLY ENTERED INTO CAPS. IF IT IS FEASIBLE TO INCLUDE A NOTIFICATION FEATURE, SUBJECT TO AVAILABLE MONEY TO IMPLEMENT ANY NECESSARY SYSTEM CHANGES AND COMPLETION OF THOSE SYSTEM CHANGES, THE STATE DEPARTMENT SHALL IMPLEMENT THE NOTIFICATION FEATURE AS PART OF A CAPS CHECK.

SECTION 7. In Colorado Revised Statutes, 19-1-307, **amend** (2.5) as follows:

19-1-307. Dependency and neglect records and information - access - fee - rules - records and reports fund - misuse of information - penalty - adult protective services data system check. (2.5) (a) **Fee - rules - records and reports fund.** Any person or agency provided information from the state department of human services pursuant to ~~paragraph (i), paragraphs (k) to (o), and paragraph (t) of subsection (2)~~ SUBSECTIONS (2)(i), (2)(k) TO (2)(o), AND (2)(t) of this section and any child placement agency shall be assessed a fee 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), paragraphs (k) to (o), and paragraph (t) of subsection (2)~~ SUBSECTIONS (2)(i), (2)(k) TO (2)(o), AND (2)(t) of this section and the direct and indirect costs of administering section 19-3-313.5 (3) and (4).

(b) All fees collected in accordance with ~~this subsection (2.5)~~ SUBSECTION (2.5)(a) OF THIS SECTION shall be transmitted to the state treasurer who shall credit the same to the records and reports fund, which fund is hereby created. THE FUND ALSO CONSISTS OF FEES CREDITED TO THE FUND PURSUANT TO SECTION 26-3.1-111. The ~~moneys~~ MONEY 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), paragraphs (k) to (o), and paragraph (t) of subsection (2)~~ SUBSECTIONS (2)(i), (2)(k) TO (2)(o), AND (2)(t) of this section, ~~and~~ for the direct and indirect costs of administering section 19-3-313.5 (3) and (4), ~~AND FOR THE DIRECT AND INDIRECT COSTS DESCRIBED IN SECTION 26-3.1-111.~~

SECTION 8. In Colorado Revised Statutes, 25-1-124.5, **add** (3) as follows:

25-1-124.5. Nursing care facilities - employees - criminal history check - adult protective services data system check. (3) IN ADDITION TO THE CRIMINAL HISTORY BACKGROUND CHECK REQUIRED PURSUANT TO THIS SECTION, ON AND AFTER JANUARY 1, 2019, PRIOR TO EMPLOYMENT, A NURSING CARE FACILITY SHALL SUBMIT THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

SECTION 9. In Colorado Revised Statutes, **add** 25-1-124.7 as

follows:

25-1-124.7. Health facilities - employees - adult protective services data system check. ON AND AFTER JANUARY 1, 2019, PRIOR TO EMPLOYMENT, A HEALTH FACILITY LICENSED PURSUANT TO SECTION 25-1.5-103 (1)(a)(I)(A), INCLUDING HEALTH FACILITIES WHOLLY OWNED AND OPERATED BY ANY GOVERNMENTAL UNIT OR AGENCY, SHALL SUBMIT THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

SECTION 10. In Colorado Revised Statutes, 25-3.5-1303, **add** (2) as follows:

25-3.5-1303. Minimum standards for community integrated health care service agencies - adult protective services data system check - rules. (2) ON AND AFTER JANUARY 1, 2019, PRIOR TO EMPLOYMENT, A COMMUNITY INTEGRATED HEALTH CARE SERVICE AGENCY SHALL SUBMIT THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM, PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

SECTION 11. In Colorado Revised Statutes, 25.5-6-106, **add** (3)(e) as follows:

25.5-6-106. Single entry point system - authorization - phases for implementation - services provided. (3) **State certification of a single entry point agency - quality assurance standards.** (e) STATE BOARD RULES ADOPTED PURSUANT TO THIS SECTION MUST INCLUDE THE REQUIREMENT THAT, ON AND AFTER JANUARY 1, 2019, PRIOR TO EMPLOYMENT, A SINGLE ENTRY POINT AGENCY SHALL SUBMIT THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION

26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

SECTION 12. In Colorado Revised Statutes, 25.5-10-206, **amend** (4)(b) as follows:

25.5-10-206. Authorized services and supports - conditions of funding - purchase of services and supports - adult protective services data system check - boards of county commissioners - appropriation.

(4) (b) (I) The state department shall only purchase services and supports directly from those community-centered boards or service agencies that meet established standards.

(II) THE STANDARDS REFERENCED IN SUBSECTION (4)(b)(I) OF THIS SECTION MUST INCLUDE A REQUIREMENT THAT, ON AND AFTER JANUARY 1, 2019, PRIOR TO EMPLOYMENT, THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, IS SUBMITTED TO THE DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

SECTION 13. In Colorado Revised Statutes, 26-12-107, **add** (4) as follows:

26-12-107. Standards - management - employees - adult protective services data system check. (4) ON AND AFTER JANUARY 1, 2019, PRIOR TO EMPLOYMENT, A VETERANS CENTER SHALL SUBMIT THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, TO THE STATE DEPARTMENT FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF

MISTREATMENT OF AN AT-RISK ADULT.

SECTION 14. In Colorado Revised Statutes, **add** 27-10.5-313 as follows:

27-10.5-313. Regional center - employees - adult protective services data system check. ON AND AFTER JANUARY 1, 2019, PRIOR TO EMPLOYMENT, A REGIONAL CENTER SHALL SUBMIT THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

SECTION 15. In Colorado Revised Statutes, 27-93-103, **add** (1.5) as follows:

27-93-103. Employees - adult protective services data system check - publications. (1.5) ON AND AFTER JANUARY 1, 2019, THE HEAD OF THE ADMINISTRATIVE DIVISION OVERSEEING THE COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO SHALL, PRIOR TO EMPLOYMENT, SUBMIT THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

SECTION 16. In Colorado Revised Statutes, 27-94-103, **add** (1.5) as follows:

27-94-103. Employees - adult protective services data system check - publications. (1.5) ON AND AFTER JANUARY 1, 2019, THE HEAD OF THE ADMINISTRATIVE DIVISION OVERSEEING THE CENTER SHALL PRIOR TO EMPLOYMENT, SUBMIT THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER

REQUIRED IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

SECTION 17. Appropriation. (1) For the 2017-18 state fiscal year, \$428,779 is appropriated to the department of human services. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$180,706 for the state administration of adult protective services, which amount is based on an assumption that the department will require an additional 0.4 FTE;

(b) \$205,300 for the adult protective services data system; and

(c) \$42,773 for the purchase of legal services.

(2) For the 2017-18 state fiscal year, \$42,773 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of human services under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 0.3 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of human services.

SECTION 18. 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.

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO