

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 17-0652.01 Brita Darling x2241

HOUSE BILL 17-1284

HOUSE SPONSORSHIP

Lontine,

SENATE SPONSORSHIP

Aguilar and Gardner,

House Committees

Health, Insurance, & Environment
Finance
Appropriations

Senate Committees

Judiciary
Finance
Appropriations

A BILL FOR AN ACT

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

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://leg.colorado.gov>.)

The bill establishes a state-level program (program) within the department of human services (department) for a check of the

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.

SENATE
3rd Reading Unamended
May 10, 2017

SENATE
Amended 2nd Reading
May 9, 2017

HOUSE
3rd Reading Unamended
April 26, 2017

HOUSE
Amended 2nd Reading
April 25, 2017

department's Colorado adult protective services (CAPS) data system. The CAPS check verifies whether a person is substantiated in a case of mistreatment of an at-risk adult, as defined in the bill. A person must be substantiated in a case of mistreatment of an at-risk adult, and the administrative appeals process must be concluded before the person's name is included in a CAPS check for an employer.

On and after a date stated in the bill, the bill requires certain employers at facilities or programs that serve at-risk adults to request a CAPS check prior to hiring employees who will provide direct care, as defined in the bill, to at-risk adults.

The bill grants immunity from civil liability for employers who make an employment decision based upon the information obtained in the CAPS check, unless the employer knows that the information is false.

The bill requires the department to promulgate rules relating to the investigation of reports of mistreatment of at-risk adults and the notification of perpetrators of the finding and of the right to administrative appeal to the department. The department shall provide training to county departments of human or social services relating to investigations, the accurate entry of documentation into CAPS, and confidentiality of information.

Further, the department shall promulgate rules concerning the process and procedures for the CAPS check, including rules relating to submitting a CAPS check request, the timeline for completion of a CAPS check, the employer-paid fee for each check, department personnel granted access to CAPS, information provided to an employer as part of a CAPS check, and the consequences of the improper release of the information in CAPS.

A person who improperly releases or willfully permits the release of CAPS information to persons not entitled to access to the information pursuant to the program commits a class 1 misdemeanor.

The list of employers required to request a CAPS check includes:

- ! Health facilities licensed by the department of public health and environment;
- ! An adult day care facility;
- ! A community integrated health care service agency;
- ! A community-centered board or service agency;
- ! An area agency on aging;
- ! A facility operated by the department for persons with mental illness;
- ! A facility operated by the department for persons with intellectual and developmental disabilities; and
- ! A veterans community living center.

County departments of human or social services are required to conduct a CAPS check of adult protective services employees. The department is authorized to assess a fee for each CAPS check sufficient

to cover certain expenses, including those related to the CAPS check.

The bill includes conforming amendments concerning the CAPS check requirement in statutes relating to employers subject to the requirement.

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

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

4 **26-3.1-101. Definitions.** As used in this ~~article~~ ARTICLE 3.1,
5 unless the context otherwise requires:

6 (1.7) "CAPS" MEANS THE COLORADO ADULT PROTECTIVE
7 SERVICES DATA SYSTEM THAT INCLUDES RECORDS OF REPORTS OF
8 MISTREATMENT OF AT-RISK ADULTS.

9 (1.8) "CAPS CHECK" MEANS A CHECK OF THE COLORADO ADULT
10 PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111.

11 (3.5) "DIRECT CARE" MEANS SERVICES AND SUPPORTS, INCLUDING
12 CASE MANAGEMENT SERVICES, PROTECTIVE SERVICES, PHYSICAL CARE,
13 MENTAL HEALTH SERVICES, OR ANY OTHER SERVICE NECESSARY FOR THE
14 AT-RISK ADULT'S HEALTH, SAFETY, OR WELFARE.

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

17 **26-3.1-102. Reporting requirements.** (7) (b) Disclosure of a
18 report of the mistreatment or self-neglect of an at-risk adult and
19 information relating to an investigation of such a report is permitted only
20 when authorized by a court for good cause. **A COURT ORDER IS NOT**
21 **REQUIRED, AND** such disclosure is not ~~be~~ prohibited when:

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

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

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

7 (IV) ~~Such~~ THE disclosure is necessary for purposes of an audit of
8 a county department of human or social services pursuant to section
9 26-1-114.5;

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

13 (VI) THE DISCLOSURE IS MADE BY THE STATE DEPARTMENT TO AN
14 EMPLOYER, OR TO A PERSON OR ENTITY CONDUCTING EMPLOYEE
15 SCREENING ON BEHALF OF THE EMPLOYER, AS PART OF A CAPS CHECK
16 PURSUANT TO SECTION 26-3.1-111 OR BY A COUNTY DEPARTMENT
17 PURSUANT TO SECTION 26-3.1-107.

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

20 **26-3.1-103. Evaluations - investigations - training - rules.**

21 (1.5) THE STATE DEPARTMENT SHALL PROVIDE TRAINING TO ALL CURRENT
22 COUNTY DEPARTMENT ADULT PROTECTIVE SERVICES CASEWORKERS AND
23 SUPERVISORS NO LATER THAN JULY 1, 2018, AND TO NEW COUNTY
24 DEPARTMENT ADULT PROTECTIVE SERVICES CASEWORKERS AND
25 SUPERVISORS HIRED AFTER JULY 1, 2018, TO ACHIEVE CONSISTENCY IN
26 THE PERFORMANCE OF THE FOLLOWING DUTIES:

27 (a) INVESTIGATING REPORTS OF SUSPECTED MISTREATMENT OR

1 SELF-NEGLECT OF AT-RISK ADULTS AND MAKING FINDINGS CONCERNING
2 CASES AND ALLEGED PERPETRATORS;

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

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

8 (d) DETERMINING THE APPROPRIATENESS OF CASE CLOSURE;

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

11 (f) MAINTAINING CONFIDENTIALITY IN ACCORDANCE WITH STATE
12 LAW.

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

15 **26-3.1-107. Background check - adult protective services data**
16 **system check.** (1) Each county department shall require each protective
17 services employee hired on or after May 29, 2012, to complete a
18 fingerprint-based criminal history records check utilizing the records of
19 the Colorado bureau of investigation and the federal bureau of
20 investigation. The employee shall pay the cost of the fingerprint-based
21 criminal history records check unless the county department chooses to
22 pay the cost. Upon completion of the criminal history records check, the
23 Colorado bureau of investigation shall forward the results to the county
24 department. The county department may require a name-based criminal
25 history records check for an applicant or an employee who has twice
26 submitted to a fingerprint-based criminal history records check and whose
27 fingerprints are unclassifiable.

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

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

9 **26-3.1-108. Notice of report - appeals - rules.** (1) The state
10 department shall promulgate appropriate rules for the implementation of
11 this ~~article~~ ARTICLE 3.1.

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

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

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

26 (c) A REQUIREMENT FOR AND PROCEDURES TO FACILITATE THE
27 EXPUNGEMENT OF AND PREVENTION OF THE RELEASE OF ANY

1 INFORMATION CONTAINED IN CAPS RECORDS FOR PURPOSES OF A CAPS
2 CHECK RELATED TO A PERSON WHO IS SUBSTANTIATED IN A CASE OF
3 MISTREATMENT OF AN AT-RISK ADULT THAT EXISTED PRIOR TO THE
4 EFFECTIVE DATE OF THIS SUBSECTION (2); EXCEPT THAT THE STATE
5 DEPARTMENT AND COUNTY DEPARTMENTS MAY MAINTAIN SUCH
6 INFORMATION IN CAPS TO ASSIST IN FUTURE RISK AND SAFETY
7 ASSESSMENTS.

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

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

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

17 (g) THE CONFIDENTIALITY REQUIREMENTS OF THE APPEALS
18 PROCESS.

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

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

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

1 (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT INDIVIDUALS
2 RECEIVING CARE AND SERVICES FROM PERSONS EMPLOYED IN PROGRAMS
3 OR FACILITIES DESCRIBED IN SUBSECTION (7) OF THIS SECTION ARE
4 VULNERABLE TO MISTREATMENT, INCLUDING ABUSE, NEGLECT, AND
5 EXPLOITATION. IT IS THE INTENT OF THE GENERAL ASSEMBLY TO MINIMIZE
6 THE POTENTIAL FOR EMPLOYMENT OF PERSONS WITH A HISTORY OF
7 MISTREATMENT OF AT-RISK ADULTS IN POSITIONS THAT WOULD ALLOW
8 THOSE PERSONS UNSUPERVISED ACCESS TO THESE ADULTS. AS A RESULT,
9 THE GENERAL ASSEMBLY FINDS IT NECESSARY TO STRENGTHEN
10 PROTECTIONS FOR VULNERABLE ADULTS BY REQUIRING CERTAIN
11 EMPLOYERS TO REQUEST A CAPS CHECK BY THE STATE DEPARTMENT TO
12 DETERMINE IF A PERSON WHO WILL PROVIDE DIRECT CARE TO AN AT-RISK
13 ADULT HAS BEEN SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN
14 AT-RISK ADULT.

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

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

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

26 (3) THE STATE DEPARTMENT SHALL ESTABLISH AND IMPLEMENT A
27 STATE-LEVEL PROGRAM FOR EMPLOYERS TO OBTAIN A CAPS CHECK TO

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

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

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

11 (a) THE EMPLOYER PROCESS FOR REQUESTING A CAPS CHECK FOR
12 AN ■ EMPLOYEE WHO HAS AN ACTIVE APPLICATION FOR EMPLOYMENT
13 FOR A POSITION IN WHICH THE PERSON WILL PROVIDE DIRECT CARE TO AN
14 AT-RISK ADULT;

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

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

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

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

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

26 (6) (a) (I) ON AND AFTER JANUARY 1, 2019, PRIOR TO HIRING OR
27 CONTRACTING WITH AN EMPLOYEE WHO WILL PROVIDE DIRECT CARE TO AN

1 AT-RISK ADULT, AN EMPLOYER DESCRIBED IN SUBSECTION (7) OF THIS
2 SECTION SHALL REQUEST A CAPS CHECK BY THE STATE DEPARTMENT
3 PURSUANT TO THIS SECTION TO DETERMINE IF THE PERSON IS
4 SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.
5 WITHIN TEN DAYS AFTER THE DATE OF THE EMPLOYER'S REQUEST, IF THE
6 EMPLOYEE WAS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN
7 AT-RISK ADULT, UNLESS THE FINDING WAS EXPUNGED THROUGH A
8 SUCCESSFUL APPEAL TO THE STATE DEPARTMENT, THE STATE DEPARTMENT
9 SHALL PROVIDE THE EMPLOYER WITH INFORMATION CONCERNING THE
10 MISTREATMENT THROUGH ELECTRONIC MEANS, OR OTHER MEANS IF
11 REQUESTED BY THE EMPLOYER, INCLUDING THE DATE THE MISTREATMENT
12 WAS REPORTED, THE TYPE OF MISTREATMENT REPORTED, AND THE
13 COUNTY THAT INVESTIGATED THE REPORT OF MISTREATMENT.

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

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

1 STATE DEPARTMENT FOR EACH CAPS CHECK, OR MAY REQUIRE THE
2 PERSON SEEKING EMPLOYMENT OR TO CONTRACT WITH THE EMPLOYER TO
3 PAY THE REQUIRED FEE FOR THE CAPS CHECK.

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

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

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

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

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

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

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

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

21 (e) ANY PERSON WHO IMPROPERLY RELEASES OR WHO WILLFULLY
22 PERMITS OR ENCOURAGES THE RELEASE OF DATA OR INFORMATION
23 OBTAINED THROUGH A CAPS CHECK TO PERSONS NOT PERMITTED ACCESS
24 TO THE INFORMATION PURSUANT TO THIS ARTICLE 3.1, COMMITS A CLASS
25 1 MISDEMEANOR AND IS PUNISHED AS PROVIDED IN SECTION 18-1.3-501.

26 (f) NOTHING IN THIS SECTION PROHIBITS AN EMPLOYER FROM
27 HIRING OR CONTRACTING WITH AN EMPLOYEE WHO WILL PROVIDE DIRECT

1 CARE TO AN AT-RISK ADULT PRIOR TO RECEIVING THE RESULTS OF THE
2 CAPS CHECK.

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

5 (a) A HEALTH FACILITY LICENSED PURSUANT TO SECTION
6 25-1.5-103, INCLUDING THOSE WHOLLY OWNED AND OPERATED BY ANY
7 GOVERNMENTAL UNIT;

8 (b) AN ADULT DAY CARE FACILITY, AS DEFINED IN SECTION
9 25.5-6-303 (1);

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

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

15 (e) A SINGLE ENTRY POINT AGENCY, AS DESCRIBED IN SECTION
16 25.5-6-106;

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

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

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

26 AND

27 (i) VETERANS COMMUNITY LIVING CENTERS OPERATED PURSUANT

1 TO ARTICLE 12 OF THIS TITLE 26.

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

9 (9) EXCEPT FOR THE COSTS INCURRED FOR THE DEVELOPMENT AND
10 INITIAL IMPLEMENTATION OF THE PROGRAM, DIRECT AND INDIRECT COSTS
11 INCURRED FOR THE ADMINISTRATIVE APPEALS PROCESS FOR PERSONS
12 APPEALING CLAIMS OF MISTREATMENT OF AT-RISK ADULTS AND THE
13 DIRECT AND INDIRECT COSTS OF CONDUCTING EMPLOYER-REQUESTED
14 CAPS CHECKS PURSUANT TO THIS SECTION ARE FUNDED THROUGH A FEE
15 ASSESSED ON AN EMPLOYER FOR EACH CAPS CHECK. THE STATE
16 DEPARTMENT SHALL ESTABLISH AND COLLECT THE FEE PURSUANT TO
17 PARAMETERS SET FORTH IN RULE ESTABLISHED BY THE STATE BOARD. AT
18 A MINIMUM, THE STATE BOARD'S RULES MUST INCLUDE A PROVISION
19 REQUIRING THE STATE DEPARTMENT TO PROVIDE NOTICE OF THE FEE TO
20 INTERESTED PERSONS AND THE MAXIMUM FEE AMOUNT THAT THE STATE
21 DEPARTMENT SHALL NOT EXCEED WITHOUT THE EXPRESS APPROVAL OF
22 THE STATE BOARD. THE FEE ESTABLISHED MUST NOT EXCEED DIRECT AND
23 INDIRECT COSTS INCURRED FOR THE ADMINISTRATIVE APPEALS PROCESS
24 FOR PERSONS APPEALING CLAIMS OF MISTREATMENT OF AT-RISK ADULTS
25 AND THE DIRECT AND INDIRECT COSTS OF CONDUCTING
26 EMPLOYER-REQUESTED CAPS CHECKS PURSUANT TO THIS SECTION. FEES
27 COLLECTED FOR CAPS CHECKS SHALL BE TRANSFERRED TO THE STATE

1 TREASURER AND CREDITED TO THE RECORDS AND REPORTS FUND CREATED
2 IN SECTION 19-1-307 (2.5).

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

12 **SECTION 7.** In Colorado Revised Statutes, 19-1-307, **amend**
13 (2.5) as follows:

14 **19-1-307. Dependency and neglect records and information -**
15 **access - fee - rules - records and reports fund - misuse of information**
16 **- penalty - adult protective services data system check.** (2.5) (a) **Fee**
17 **- rules - records and reports fund.** Any person or agency provided
18 information from the state department of human services pursuant to
19 ~~paragraph (i), paragraphs (k) to (o), and paragraph (t) of subsection (2)~~
20 SUBSECTIONS (2)(i), (2)(k) TO (2)(o), AND (2)(t) of this section and any
21 child placement agency shall be assessed a fee that shall be established
22 and collected by the state department of human services pursuant to
23 parameters set forth in rule established by the state board of human
24 services. At a minimum, the rules shall include a provision requiring the
25 state department of human services to provide notice of the fee to
26 interested persons and the maximum fee amount that the department shall
27 not exceed without the express approval of the state board of human

1 services. The fee established shall not exceed the direct and indirect costs
2 of administering ~~paragraph (i), paragraphs (k) to (o), and paragraph (t) of~~
3 ~~subsection (2)~~ SUBSECTIONS (2)(i), (2)(k) TO (2)(o), AND (2)(t) of this
4 section and the direct and indirect costs of administering section
5 19-3-313.5 (3) and (4).

6 (b) All fees collected in accordance with ~~this subsection (2.5)~~
7 SUBSECTION (2.5)(a) OF THIS SECTION shall be transmitted to the state
8 treasurer who shall credit the same to the records and reports fund, which
9 fund is hereby created. THE FUND ALSO CONSISTS OF FEES CREDITED TO
10 THE FUND PURSUANT TO SECTION 26-3.1-111. The ~~moneys~~ MONEY in the
11 records and reports fund shall be subject to annual appropriation by the
12 general assembly for the direct and indirect costs of administering
13 ~~paragraph (i), paragraphs (k) to (o), and paragraph (t) of subsection (2)~~
14 SUBSECTIONS (2)(i), (2)(k) TO (2)(o), AND (2)(t) of this section, ~~and~~ for
15 the direct and indirect costs of administering section 19-3-313.5 (3) and
16 (4), AND FOR THE DIRECT AND INDIRECT COSTS DESCRIBED IN SECTION
17 26-3.1-111.

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

20 **25-1-124.5. Nursing care facilities - employees - criminal**
21 **history check - adult protective services data system check.** (3) IN
22 ADDITION TO THE CRIMINAL HISTORY BACKGROUND CHECK REQUIRED
23 PURSUANT TO THIS SECTION, ON AND AFTER JANUARY 1, 2019, PRIOR TO
24 EMPLOYMENT, A NURSING CARE FACILITY SHALL SUBMIT THE NAME OF A
25 PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION
26 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION
27 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING

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

5 **SECTION 9.** In Colorado Revised Statutes, **add 25-1-124.7** as
6 follows:

7 **25-1-124.7. Health facilities - employees - adult protective**
8 **services data system check.** ON AND AFTER JANUARY 1, 2019, PRIOR TO
9 EMPLOYMENT, A HEALTH FACILITY LICENSED PURSUANT TO SECTION
10 25-1.5-103 (1)(a)(I)(A), INCLUDING HEALTH FACILITIES WHOLLY OWNED
11 AND OPERATED BY ANY GOVERNMENTAL UNIT OR AGENCY, SHALL SUBMIT
12 THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS
13 DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED
14 IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED
15 IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES
16 FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA
17 SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON
18 IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

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

21 **25-3.5-1303. Minimum standards for community integrated**
22 **health care service agencies - adult protective services data system**
23 **check - rules.** (2) ON AND AFTER JANUARY 1, 2019, PRIOR TO
24 EMPLOYMENT, A COMMUNITY INTEGRATED HEALTH CARE SERVICE AGENCY
25 SHALL SUBMIT THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT
26 CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS
27 DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED

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

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

7 **25.5-6-106. Single entry point system - authorization - phases**
8 **for implementation - services provided. (3) State certification of a**
9 **single entry point agency - quality assurance standards. (e) STATE**
10 **BOARD RULES ADOPTED PURSUANT TO THIS SECTION MUST INCLUDE THE**
11 **REQUIREMENT THAT, ON AND AFTER JANUARY 1, 2019, PRIOR TO**
12 **EMPLOYMENT, A SINGLE ENTRY POINT AGENCY SHALL SUBMIT THE NAME**
13 **OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN**
14 **SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION**
15 **26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING**
16 **INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF**
17 **THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO**
18 **SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN**
19 **A CASE OF MISTREATMENT OF AN AT-RISK ADULT.**

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

22 **25.5-10-206. Authorized services and supports - conditions of**
23 **funding - purchase of services and supports - adult protective services**
24 **data system check - boards of county commissioners - appropriation.**
25 (4) (b) (I) The state department shall only purchase services and supports
26 directly from those community-centered boards or service agencies that
27 meet established standards.

1 (II) THE STANDARDS REFERENCED IN SUBSECTION (4)(b)(I) OF THIS
2 SECTION MUST INCLUDE A REQUIREMENT THAT, ON AND AFTER JANUARY
3 1, 2019, PRIOR TO EMPLOYMENT, THE NAME OF A PERSON WHO WILL BE
4 PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN
5 AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY
6 OTHER REQUIRED IDENTIFYING INFORMATION, IS SUBMITTED TO THE
7 DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO
8 ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION
9 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF
10 MISTREATMENT OF AN AT-RISK ADULT.

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

13 **26-12-107. Standards - management - employees - adult**
14 **protective services data system check.** (4) ON AND AFTER JANUARY 1,
15 2019, PRIOR TO EMPLOYMENT, A VETERANS CENTER SHALL SUBMIT THE
16 NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN
17 SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION
18 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED IDENTIFYING
19 INFORMATION, TO THE STATE DEPARTMENT FOR A CHECK OF THE
20 COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO
21 SECTION 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN
22 A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

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

25 **27-10.5-313. Regional center - employees - adult protective**
26 **services data system check.** ON AND AFTER JANUARY 1, 2019, PRIOR TO
27 EMPLOYMENT, A REGIONAL CENTER SHALL SUBMIT THE NAME OF A PERSON

1 WHO WILL BE PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101
2 (3.5), TO AN AT-RISK ADULT, AS DEFINED IN SECTION 26-3.1-101 (1.5), AS
3 WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, TO THE
4 DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO
5 ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION
6 26-3.1-111, TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF
7 MISTREATMENT OF AN AT-RISK ADULT.

8 **SECTION 15.** In Colorado Revised Statutes, 27-93-103, **add**
9 (1.5) as follows:

10 **27-93-103. Employees - adult protective services data system**
11 **check - publications.** (1.5) ON AND AFTER JANUARY 1, 2019, THE HEAD
12 OF THE ADMINISTRATIVE DIVISION OVERSEEING THE COLORADO MENTAL
13 HEALTH INSTITUTE AT PUEBLO SHALL, PRIOR TO EMPLOYMENT, SUBMIT
14 THE NAME OF A PERSON WHO WILL BE PROVIDING DIRECT CARE, AS
15 DEFINED IN SECTION 26-3.1-101 (3.5), TO AN AT-RISK ADULT, AS DEFINED
16 IN SECTION 26-3.1-101 (1.5), AS WELL AS ANY OTHER REQUIRED
17 IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES
18 FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA
19 SYSTEM PURSUANT TO SECTION 26-3.1-111, TO DETERMINE IF THE PERSON
20 IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

21 **SECTION 16.** In Colorado Revised Statutes, 27-94-103, **add**
22 (1.5) as follows:

23 **27-94-103. Employees - adult protective services data system**
24 **check - publications.** (1.5) ON AND AFTER JANUARY 1, 2019, THE HEAD
25 OF THE ADMINISTRATIVE DIVISION OVERSEEING THE CENTER SHALL PRIOR
26 TO EMPLOYMENT, SUBMIT THE NAME OF A PERSON WHO WILL BE
27 PROVIDING DIRECT CARE, AS DEFINED IN SECTION 26-3.1-101 (3.5), TO AN

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

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

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

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

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

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

23 **SECTION 18. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.