

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REENGROSSED

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

LLS NO. 19-0040.02 Conrad Imel x2313

HOUSE BILL 19-1142

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A BILL FOR AN ACT

101 **CONCERNING CREATING AN OPTION FOR PARENTS WHO SEEK TO**
102 **VOLUNTARILY DELEGATE CERTAIN PARENTAL RESPONSIBILITIES**
103 **TO A SAFE FAMILY FOR A LIMITED PERIOD OF TIME WITHOUT**
104 **RELINQUISHING LEGAL CUSTODY OF THEIR CHILD, AND, IN**
105 **CONNECTION 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>.)

Under current law, a parent or guardian of a minor or incapacitated person may delegate to another person power regarding care, custody, or

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

HOUSE
Amended 3rd Reading
April 26, 2019

HOUSE
Amended 2nd Reading
April 25, 2019

1 TEMPORARY CARE ASSISTANCE PROGRAM

2 **26-6-701. Short title.** THE SHORT TITLE OF THIS PART 7 IS THE
3 "KYLE FORTI ACT".

4 **26-6-702. Definitions.** AS USED IN THIS PART 7, UNLESS THE
5 CONTEXT OTHERWISE REQUIRES:

6 (1) "APPROVED TEMPORARY CAREGIVER" MEANS A PERSON
7 APPROVED BY A TEMPORARY CARE ASSISTANCE PROGRAM PURSUANT TO
8 THIS PART 7 WHO IS DELEGATED TEMPORARY CARE RESPONSIBILITY OF A
9 MINOR BY A PARENT OR GUARDIAN THROUGH A POWER OF ATTORNEY, AS
10 DESCRIBED IN SECTION 15-14-105.

11
12 (2) "TEMPORARY CARE ASSISTANCE PROGRAM" MEANS A PROGRAM
13 OPERATED BY A CHILD PLACEMENT AGENCY THAT ASSISTS A PARENT OR
14 GUARDIAN WITH RECRUITING AND IDENTIFYING AN APPROPRIATE AND SAFE
15 APPROVED TEMPORARY CAREGIVER TO WHOM THE PARENT OR GUARDIAN
16 CAN CHOOSE TO DELEGATE TEMPORARY CARE RESPONSIBILITY OF A MINOR
17 THROUGH A POWER OF ATTORNEY PURSUANT TO SECTION 15-14-105.

18 **26-6-703. Temporary care assistance program permitted.**

19 (1) A CHILD PLACEMENT AGENCY MAY OPERATE A TEMPORARY CARE
20 ASSISTANCE PROGRAM; EXCEPT THAT, PRIOR TO JULY 1, 2021, ONLY A
21 CHILD PLACEMENT AGENCY THAT IS A NONPROFIT ORGANIZATION, AND
22 THAT OPERATES A PROGRAM SIMILAR TO A TEMPORARY CARE ASSISTANCE
23 PROGRAM IN THIRTY OR MORE STATES, MAY OPERATE A TEMPORARY CARE
24 ASSISTANCE PROGRAM.

25 (2) THE ACTIVITIES OF A TEMPORARY CARE ASSISTANCE PROGRAM
26 PERFORMED PURSUANT TO THIS PART 7 DO NOT CONSTITUTE PLACING A
27 CHILD PURSUANT TO THIS ARTICLE 6.

1 **26-6-704. Temporary care assistance program - limitations on**
2 **duration of delegation - approved temporary caregiver.** (1) (a) (I) A
3 PARENT OR GUARDIAN OF A MINOR MAY USE THE ASSISTANCE OF A
4 TEMPORARY CARE ASSISTANCE PROGRAM TO IDENTIFY AN APPROVED
5 TEMPORARY CAREGIVER TO DELEGATE ANY POWER REGARDING CARE,
6 CUSTODY, OR PROPERTY OF THE MINOR, EXCEPT THE POWER TO CONSENT
7 TO MARRIAGE OR ADOPTION, BY A POWER OF ATTORNEY, AS DESCRIBED IN
8 SECTION 15-14-105.

9 (II) A TEMPORARY CARE ASSISTANCE PROGRAM MUST MAKE
10 DILIGENT EFFORTS TO NOTIFY ANY PARENT OR GUARDIAN IDENTIFIED BY
11 THE DELEGATING PARENT AS HAVING PARENTAL RIGHTS OR LEGAL
12 DECISION-MAKING AUTHORITY REGARDING THE MINOR'S CARE.

13 (III) A PARENT WHO IS NAMED AS A RESPONDENT IN AN OPEN
14 DEPENDENCY AND NEGLECT CASE MAY NOT USE THE ASSISTANCE OF A
15 TEMPORARY CARE ASSISTANCE PROGRAM, AS DESCRIBED IN THIS PART 7.

16 (b) (I) NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, A
17 POWER OF ATTORNEY THAT DELEGATES TEMPORARY CARE RESPONSIBILITY
18 OF A MINOR TO AN APPROVED TEMPORARY CAREGIVER MUST NOT EXCEED
19 SIX MONTHS, EXCEPT AS PROVIDED IN SUBSECTION (1)(b)(II) OF THIS
20 SECTION.

21 (II) A PERSON WHO IS DEPLOYED BY OR CALLED TO ACTIVE DUTY
22 IN THE UNITED STATES MILITARY MAY EXCEED THE TIME LIMIT
23 DESCRIBED IN SUBSECTION (1)(b)(I) OF THIS SECTION; EXCEPT THAT THE
24 TOTAL LENGTH OF A DELEGATION OF POWER MADE TO AN APPROVED
25 TEMPORARY CAREGIVER BY A PERSON WHO IS DEPLOYED BY OR CALLED TO
26 ACTIVE DUTY IN THE UNITED STATES MILITARY MUST NOT BE LONGER
27 THAN THE END OF THE MEMBER'S DEPLOYMENT OR CALL TO ACTIVE DUTY,

1 PLUS THIRTY DAYS.

2 (c) THE PARENT OR GUARDIAN OF THE MINOR HAS THE AUTHORITY
3 TO REVOKE A POWER OF ATTORNEY THAT DELEGATES TEMPORARY CARE
4 RESPONSIBILITY OF A MINOR TO AN APPROVED TEMPORARY CAREGIVER AT
5 ANY TIME. UPON EXPIRATION OR REVOCATION OF THE POWER OF
6 ATTORNEY, THE MINOR MUST BE RETURNED TO THE CUSTODY OF THE
7 PARENT OR GUARDIAN AS SOON AS REASONABLY POSSIBLE, BUT NO LATER
8 THAN FORTY-EIGHT HOURS AFTER SUCH EXPIRATION, REVOCATION, OR
9 OTHER TERMINATION.

10 (d) A POWER OF ATTORNEY THAT DELEGATES TEMPORARY CARE
11 RESPONSIBILITY OF A MINOR TO AN APPROVED TEMPORARY CAREGIVER
12 DOES NOT:

13 (I) CHANGE PARENTAL RIGHTS, LEGAL RIGHTS, OBLIGATIONS, OR
14 OTHER AUTHORITY ESTABLISHED BY AN EXISTING COURT ORDER AND DOES
15 NOT DEPRIVE A PARENT OR GUARDIAN OF RIGHTS, OBLIGATIONS, OR OTHER
16 AUTHORITY RELATING TO THE CUSTODY, VISITATION, OR SUPPORT OF A
17 MINOR;

18 (II) CONSTITUTE CHILD ABUSE OR NEGLECT, AS DEFINED IN
19 SECTION 19-1-103 (1); OR

20 (III) RESULT IN A CHILD BEING NEGLECTED OR DEPENDENT, AS
21 DESCRIBED IN SECTION 19-3-102, UNLESS THE PARENT OR GUARDIAN FAILS
22 TO MAKE CONTACT, EXECUTE A NEW POWER OF ATTORNEY, OR RETAKE
23 CUSTODY WITHIN SEVENTY-TWO HOURS AFTER AN EXPIRED POWER OF
24 ATTORNEY, OR AFTER THE TOTAL TIME LIMIT DESCRIBED IN SUBSECTION
25 (1)(b) OF THIS SECTION HAS ELAPSED.

26 (2) (a) AN APPROVED TEMPORARY CAREGIVER SHALL EXERCISE
27 PARENTAL OR LEGAL AUTHORITY ON A CONTINUOUS BASIS AND WITHOUT

1 COMPENSATION FOR THE INTENDED DURATION OF THE POWER OF
2 ATTORNEY.

3 (b) (I) A MINOR SUBJECT TO THE POWER OF ATTORNEY THAT
4 DELEGATES TEMPORARY CARE RESPONSIBILITY OF THE MINOR TO AN
5 APPROVED TEMPORARY CAREGIVER IS NOT DEEMED PLACED IN A FOSTER
6 CARE HOME, AS DEFINED IN SECTION 26-6-102 (14), AND THE APPROVED
7 TEMPORARY CAREGIVER IS NOT DEEMED TO BE PROVIDING FOSTER CARE
8 NOR BE SUBJECT TO THE LICENSING REQUIREMENTS OF FOSTER CARE.

9 (II) NOTHING IN THIS SECTION DISQUALIFIES AN APPROVED
10 TEMPORARY CAREGIVER FROM BEING OR BECOMING A FOSTER CARE HOME
11 CERTIFIED BY A COUNTY DEPARTMENT OR PRIVATE AGENCY PURSUANT TO
12 SECTION 26-6-106.3.

13 (c) ANY PERIOD OF TIME DURING WHICH A MINOR RESIDES WITH AN
14 APPROVED TEMPORARY CAREGIVER PURSUANT TO AN UNEXPIRED AND
15 VALID POWER OF ATTORNEY IS NOT INCLUDED IN DETERMINING WHETHER
16 THE MINOR HAS RESIDED WITH THE APPROVED TEMPORARY CAREGIVER
17 FOR THE MINIMUM PERIOD REQUIRED FOR A PERSON TO BE CONSIDERED A
18 PERSON OTHER THAN A PARENT WHO HAS HAD THE PHYSICAL CARE OF A
19 CHILD FOR THE PURPOSES OF SECTION 14-10-123.

20 **26-6-705. Approval of temporary caregiver - background**
21 **check - training.** (1) A CHILD PLACEMENT AGENCY OPERATING A
22 TEMPORARY CARE ASSISTANCE PROGRAM MAY APPROVE AS A TEMPORARY
23 CAREGIVER ANY PERSON WHO MEETS THE STANDARDS PRESCRIBED BY THE
24 TEMPORARY CARE ASSISTANCE PROGRAM AND WHO COMPLIES WITH THE
25 REQUIREMENTS ESTABLISHED PURSUANT TO THIS SECTION.

26 (2) (a) A CHILD PLACEMENT AGENCY OPERATING A TEMPORARY
27 CARE ASSISTANCE PROGRAM SHALL REQUIRE AN APPLICANT TO BECOME AN

1 APPROVED TEMPORARY CAREGIVER AND ANY OTHER PERSON WHO RESIDES
2 IN THE APPLICANT'S HOME AND IS EIGHTEEN YEARS OF AGE OR OLDER TO
3 SUBMIT TO THE FOLLOWING BACKGROUND CHECKS:

4 (I) A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
5 THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL
6 BUREAU OF INVESTIGATION IN THE SAME MANNER AS DESCRIBED IN
7 SECTION 26-6-107 (1)(a)(I)(C).

8 (II) A CHILD ABUSE AND NEGLECT BACKGROUND CHECK PURSUANT
9 TO SECTION 19-1-307; AND

10 (III) A CHECK AGAINST THE STATE'S SEX OFFENDER REGISTRY AND
11 AGAINST THE NATIONAL SEX OFFENDER PUBLIC WEBSITE OPERATED BY THE
12 UNITED STATES DEPARTMENT OF JUSTICE THAT CHECKS NAMES AND
13 ADDRESSES IN THE REGISTRIES AND THE INTERACTIVE DATABASE SYSTEM
14 FOR COLORADO TO DETERMINE IF A PERSON IS A REGISTERED SEX
15 OFFENDER.

16 (b) A CHILD PLACEMENT AGENCY OPERATING A TEMPORARY CARE
17 ASSISTANCE PROGRAM IS RESPONSIBLE FOR THE COSTS ARISING FROM ANY
18 BACKGROUND CHECK PERFORMED PURSUANT TO THIS SECTION. THE CHILD
19 PLACEMENT AGENCY MAY COLLECT THE COSTS FROM ANY PERSON
20 SUBJECT TO A BACKGROUND CHECK.

21 (c) THE CHILD PLACEMENT AGENCY OPERATING A TEMPORARY
22 CARE ASSISTANCE PROGRAM SHALL MAINTAIN RECORDS OF A
23 BACKGROUND CHECK PERFORMED PURSUANT TO THIS SECTION, INCLUDING
24 THE FULL TRANSCRIPTS OF THE BACKGROUND CHECK, FOR A PERIOD OF
25 NOT LESS THAN FIVE YEARS. THE CHILD PLACEMENT AGENCY SHALL MAKE
26 THE RECORDS AVAILABLE TO A PARENT OR GUARDIAN EXECUTING A
27 POWER OF ATTORNEY, AND ANY LOCAL, STATE, OR FEDERAL AUTHORITY

1 CONDUCTING AN INVESTIGATION INVOLVING THE APPROVED TEMPORARY
2 CAREGIVER, THE PARENT OR GUARDIAN, OR THE MINOR.

3 (d) A CHILD PLACEMENT AGENCY OPERATING A TEMPORARY CARE
4 ASSISTANCE PROGRAM SHALL NOT APPROVE AN APPLICANT AS AN
5 APPROVED TEMPORARY CAREGIVER IF A BACKGROUND CHECK CONDUCTED
6 PURSUANT TO THIS SECTION DISCLOSES A SUBSTANTIATED ALLEGATION OF
7 CHILD ABUSE, NEGLECT, OR EXPLOITATION, OR ANY CRIME THAT WOULD
8 DISQUALIFY THE APPLICANT OR ANY OTHER PERSON WHO RESIDES IN THE
9 APPLICANT'S HOME AND IS EIGHTEEN YEARS OF AGE OR OLDER FROM
10 BECOMING CERTIFIED OR LICENSED TO OPERATE A FOSTER CARE HOME IN
11 THE STATE.

12 (3) A CHILD PLACEMENT AGENCY OPERATING A TEMPORARY CARE
13 ASSISTANCE PROGRAM SHALL TRAIN AN APPROVED TEMPORARY
14 CAREGIVER IN THE RIGHTS, DUTIES, AND LIMITATIONS ASSOCIATED WITH
15 PROVIDING CARE FOR A MINOR PURSUANT TO THIS PART 7.

16 **26-6-706. Rules.** (1) A TEMPORARY CARE ASSISTANCE PROGRAM
17 AND A TEMPORARY CARE PROVIDER ARE SUBJECT TO ANY RULE
18 PROMULGATED BY THE DEPARTMENT THAT IS APPLICABLE TO
19 NONCERTIFIED KINSHIP CARE, DEFINED IN SECTION 19-1-103 (78.7);
20 EXCEPT THAT A TEMPORARY CARE ASSISTANCE PROGRAM AND A
21 TEMPORARY CARE PROVIDER ARE NOT SUBJECT TO SUCH A RULE THAT IS
22 INCONSISTENT WITH THIS PART 7.

23 (2) EXCEPT AS PROVIDED IN SUBSECTION (1) OF THIS SECTION, A
24 TEMPORARY CARE ASSISTANCE PROGRAM AND A TEMPORARY CAREGIVER
25 ARE NOT SUBJECT TO ANY RULE PROMULGATED BY THE DEPARTMENT FOR
26 AN ACTIVITY PERFORMED PURSUANT TO THIS PART 7.

27

1 **26-6-707. Application of part.** (1) THIS PART 7 APPLIES ONLY
2 WHEN A PARENT OR GUARDIAN OF A MINOR DELEGATES ANY POWER
3 REGARDING CARE, CUSTODY, OR PROPERTY OF THE MINOR TO AN
4 APPROVED TEMPORARY CAREGIVER WITH THE ASSISTANCE OF A
5 TEMPORARY CARE ASSISTANCE PROGRAM PURSUANT TO THIS PART 7.
6 NOTHING IN THIS PART 7 RESTRICTS, ABRIDGES, OR ALTERS THE RIGHT OF
7 A MINOR'S PARENT OR GUARDIAN TO PROVIDE FOR THE CARE OF THE MINOR
8 BY POWER OF ATTORNEY PURSUANT TO ANY OTHER PROVISION OF LAW.

9 (2) NOTHING IN THIS PART 7:

10 (a) RELIEVES THE PARENT OF ANY OBLIGATION TO SUPPORT THE
11 MINOR AS OTHERWISE PROVIDED BY LAW;

12 (b) LIMITS THE AUTHORITY OF THE COURT TO ORDER A PARENT TO
13 MAKE SUPPORT PAYMENTS OR REIMBURSEMENTS FOR MEDICAL,
14 BEHAVIORAL, HEALTH, OR OTHER CARE OR TREATMENT;

15 (c) ABROGATES THE RIGHT OF THE MINOR TO ANY BENEFITS
16 PROVIDED THROUGH PUBLIC FUNDS FOR WHICH THE MINOR IS OTHERWISE
17 ENTITLED; OR

18 (d) LIMITS OR PREVENTS THE ABILITY OF LAW ENFORCEMENT OR
19 COUNTY CHILD WELFARE AGENCIES TO INVESTIGATE A REPORT OF
20 SUSPECTED ABUSE OR NEGLECT OF A CHILD PURSUANT TO SECTION
21 19-3-308.

22 **SECTION 2.** In Colorado Revised Statutes, 19-1-307, **add**
23 (2)(j.8) as follows:

24 **19-1-307. Dependency and neglect records and information -**
25 **access - fee - rules - records and reports fund - misuse of information**
26 **- penalty - adult protective services data system check. (2) Records**
27 **and reports - access to certain persons - agencies.** Except as otherwise

1 provided in section 19-1-303, only the following persons or agencies shall
2 have access to child abuse or neglect records and reports:

3 (j.8) THE STATE DEPARTMENT OF HUMAN SERVICES INVESTIGATING
4 ANY PERSON REQUIRED TO SUBMIT TO A BACKGROUND CHECK PURSUANT
5 TO SECTION 26-6-705 (2), WHEN THE [REDACTED] PERSON HAS GIVEN WRITTEN
6 AUTHORIZATION TO THE STATE DEPARTMENT OF HUMAN SERVICES TO
7 CHECK RECORDS OR REPORTS OF CHILD ABUSE OR NEGLECT;

8 [REDACTED]

9 **SECTION 3. Appropriation.** For the 2019-20 state fiscal year,
10 \$14,093 is appropriated to the department of human services for use by
11 the division of child welfare. This appropriation is from the general fund
12 and is based on an assumption that the division will require an additional
13 0.3 FTE. To implement this act, the division may use this appropriation
14 for administration.

15 **SECTION 4. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2020 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.