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SENATE BILL 19-177

BY SENATOR(S) Ginal and Hisey, Court, Crowder, Danielson, Fields, Lee, Priola, Rankin, Smallwood, Story, Tate, Todd, Williams A., Winter, Woodward;

also REPRESENTATIVE(S) Singer, Bird, Bockenfeld, Buckner, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Galindo, Garnett, Gonzales-Gutierrez, Hansen, Herod, Hooton, Jackson, Jaquez Lewis, Kipp, Lontine, McCluskie, McLachlan, Michaelson Jenet, Mullica, Sandridge, Sirota, Snyder, Soper, Tipper, Titone, Valdez A., Valdez D., Van Winkle, Will, Wilson.

CONCERNING MATTERS RELATED TO BACKGROUND CHECKS FOR PERSONS WHO HAVE CONTACT WITH CHILDREN.

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

SECTION 1. In Colorado Revised Statutes, 19-1-307, **amend** (2)(w) and (2.5); and **add** (2)(y) 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) Records and reports - access to certain persons - agencies. Except as otherwise

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.

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

(w) The designated authorities at the military base of assignment or installation for a member of the armed forces or a spouse, or a significant other or family member residing in the home of the member of the armed forces who is the individual responsible for the abused or neglected child. The authorities may be designated in a memorandum of understanding as described and authorized in section 19-1-303 (2.6); AND

(y) THE STATE DEPARTMENT OF HUMAN SERVICES, WHEN REQUESTED IN WRITING BY AN INDIVIDUAL TO CHECK RECORDS OR REPORTS OF CHILD ABUSE OR NEGLECT FOR THE PURPOSE OF SCREENING THAT INDIVIDUAL WHEN SUCH INDIVIDUAL'S RESPONSIBILITIES INCLUDE CARE OF CHILDREN, TREATMENT OF CHILDREN, SUPERVISION OF CHILDREN, OR UNSUPERVISED CONTACT WITH CHILDREN.

(2.5) (a) **Fee - rules - records and reports fund.** Any person or agency provided information from the state department of human services pursuant to subsections (2)(i), (2)(k) to (2)(o), ~~and~~ (2)(t), AND (2)(y) of this section and any child placement agency ~~shall~~ MUST be assessed a fee that ~~shall be~~ IS 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~~ MUST 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~~ MUST not exceed the direct and indirect costs of administering subsections (2)(i), (2)(k) to (2)(o), ~~and~~ (2)(t), AND (2)(y) 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 subsection (2.5)(a) of this section ~~shall~~ MUST 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 money in the records and reports fund ~~shall be~~ IS subject to annual appropriation by the general assembly for the direct and indirect costs of administering subsections (2)(i), (2)(k) to (2)(o), ~~and~~ (2)(t), AND (2)(y) of this section, 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 2. In Colorado Revised Statutes, 26-6-107, **amend** (1)(a)(I)(A), (1)(a)(I)(B), and (1)(a)(I)(C) as follows:

26-6-107. Investigations and inspections - local authority - reports - rules. (1) (a) (I) (A) The state department shall investigate and pass on each original application for a license, each application for a permanent or time-limited license following the issuance of a probationary or provisional license, and ~~on and after July 1, 2002,~~ each application for renewal, to operate a facility or an agency prior to granting such license or renewal. As part of such investigation, the state department shall require each ~~adult who is eighteen years of age and older~~ INDIVIDUAL, including but not limited to the applicant, any owner, employee, newly hired employee, licensee, and any adult who is eighteen years of age and older who resides in the licensed facility to obtain a fingerprint-based criminal history ~~records~~ RECORD check by reviewing any record that ~~shall be~~ IS used to assist the state department in ascertaining whether the person being investigated has been convicted of any of the criminal offenses specified in section 26-6-104 (7) or any other felony. The state board shall promulgate rules that define and identify what the criminal history ~~records~~ RECORD check ~~shall entail~~ ENTAILS.

(B) Rules promulgated by the state board pursuant to this ~~subparagraph (I) shall~~ SUBSECTION (1)(a)(I) MUST allow an exemption from the FINGERPRINT-BASED criminal history ~~records investigation~~ RECORD CHECK and the check of the records and reports of child abuse or neglect maintained by the state department for those out-of-state employees working in Colorado at a children's resident camp ~~or school-age child care center~~ in a temporary capacity for a camp ~~or center~~ that is in operation for fewer than ninety days. Each person so exempted from fingerprinting and the check of the records and reports of child abuse or neglect maintained by the state department shall sign a statement that affirmatively states that he or she has not been convicted of any charge of child abuse, unlawful sexual offense, or any felony. Prospective employers of such exempted persons shall conduct reference checks of the prospective employees in order to verify previous work history and shall conduct personal interviews with each such prospective employee.

(C) Rules promulgated by the state board pursuant to this ~~subparagraph (F) shall~~ SUBSECTION (1)(a)(I) MUST require the fingerprint-based criminal history ~~records~~ RECORD check in all circumstances, other than those identified in ~~sub-subparagraph (B) or (C.7) of this subparagraph (F)~~ SUBSECTION (1)(a)(I)(B) OR (1)(a)(I)(C.7) OF THIS SECTION, to include a fingerprint-based criminal history ~~records~~ RECORD check utilizing the records of the Colorado bureau of investigation and ~~as of August 10, 2011~~ THE FEDERAL BUREAU OF INVESTIGATION AND, for any new owner, new applicant, newly hired employee, new licensee, or individual who begins residing in the licensed facility. ~~on or after August 11, 2011, the federal bureau of investigation.~~ As part of the investigation, the records and reports of child abuse or neglect maintained by the state department ~~shall~~ MUST be accessed to determine whether the owner, applicant, employee, newly hired employee, licensee, or individual who resides in the licensed facility being investigated has been found to be responsible in a confirmed report of child abuse or neglect. Information ~~shall be~~ IS made available pursuant to section 19-1-307 (2)(j) ~~C.R.S.~~; and rules promulgated by the state board pursuant to section 19-3-313.5 (4). ~~C.R.S.~~ Except as provided for in ~~sub-subparagraph (C.7) of this subparagraph (F)~~ SUBSECTION (1)(a)(I)(C.7) OF THIS SECTION, any change in ownership of a licensed facility or the addition of a new resident adult or newly hired employee to the licensed facility ~~shall require~~ REQUIRES a new investigation as provided for in this section.

SECTION 3. In Colorado Revised Statutes, **add** 13-5-142.8 as follows:

13-5-142.8. Notice by professional persons. UNDER SECTIONS 13-9-123 (1), 13-9-124 (2), 13-5-142 (1), AND 13-5-142.5 (2), AN ORDER FOR INVOLUNTARY CERTIFICATION FOR SHORT-TERM TREATMENT OF A MENTAL HEALTH DISORDER PURSUANT TO SECTION 27-65-107 SHALL ALSO INCLUDE A NOTICE FILED BY A PROFESSIONAL PERSON PURSUANT TO SECTION 27-65-107, AND AN ORDER FOR EXTENDED CERTIFICATION FOR TREATMENT OF MENTAL HEALTH DISORDER PURSUANT TO SECTION 27-65-108 SHALL ALSO INCLUDE A NOTICE FILED BY A PROFESSIONAL PERSON PURSUANT TO SECTION 27-65-108.

SECTION 4. 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 (August

2, 2019, if adjournment sine die is on May 3, 2019); 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO