

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

INTRODUCED

LLS NO. 21-0328.01 Jane Ritter x4342

SENATE BILL 21-201

SENATE SPONSORSHIP

Danielson and Pettersen,

HOUSE SPONSORSHIP

(None),

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING STRICTER ENFORCEMENT FOR CHILD CARE FACILITIES.**

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 addresses concerns related to child care facilities that are operating without a valid license or are exempt from licensure, including:

- Adding a requirement for the state department of human services (department) to include complaints and cease-and-desist orders that have been issued against a child care facility (facility) on the department's child care provider website that is accessible to the public;
- Allowing the department or a county department of human

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.

or social services (county department) to apply for an injunction if a person is operating a facility that is either required to be licensed but is in violation of any of the requirements of such license or is exempt from licensure but has received one or more cease-and-desist orders from the department or a county department;

- Establishing that a person operating a facility, whether licensed or exempt from licensure, that has received a cease-and-desist order from the department or a county department and who fails to cure the violation cited by the department or a county department in the allotted period is guilty of a petty offense;
- Revising and increasing the language related to civil penalties and fines for persons operating a facility, whether licensed or exempt from licensure; and
- Clarifying that those petty offenses count toward the withholding of Colorado child care assistance program money for family child care home providers.

In honor and memory of Elle Matthews, the bill names section 26-6-112 of the Colorado Revised Statutes the "Elle Matthews Act for Increased Safety in Child Care".

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

2 **SECTION 1.** In Colorado Revised Statutes, 26-6-103, **amend** (6);
3 and **repeal** (1)(i)(I.7) and (1)(i)(II) as follows:

4 **26-6-103. Application of part - study - definitions.** (1) This part
5 does not apply to:

6 (i) ~~(I.7) On or before July 1, 2021, and every year thereafter, the~~
7 ~~department shall report the number of complaints filed against child care~~
8 ~~providers who are claiming an exemption from licensing pursuant to~~
9 ~~subsection (1)(i)(I)(B) of this section.~~

10 (II) ~~This subsection (1)(i) is repealed, effective September 1,~~
11 ~~2026.~~

12 (6) On or before July 1, 2021, and ~~every year~~ ONGOING thereafter,
13 the department shall report, ON THE PORTION OF ITS STATE CHILD CARE

1 PROVIDER WEBSITE THAT IS ACCESSIBLE TO FAMILIES, AND IN AN
2 ACCESSIBLE AND PROMINENT MANNER, the number AND LOCATION of:

3 (a) Cease-and-desist orders issued to child care providers who are
4 operating outside the exemptions described in this section AND THE
5 CURRENT STATUS OF SUCH CEASE-AND-DESIST ORDERS;

6 (b) COMPLAINTS FILED AGAINST CHILD CARE PROVIDERS WHO ARE
7 CLAIMING AN EXEMPTION FROM LICENSING PURSUANT TO THIS SECTION
8 AND THE CURRENT STATUS OF SUCH COMPLAINTS; AND

9 (c) THE NAMES OF CHILD CARE PROVIDERS AGAINST WHOM THE
10 DEPARTMENT HAS FILED A MOTION FOR A PERMANENT INJUNCTION,
11 PURSUANT TO SECTION 26-6-111, FOR AN ALLEGED VIOLATION OF THIS
12 PART 1 AND THE CURRENT STATUS OF THE CASE.

13 **SECTION 2.** In Colorado Revised Statutes, 26-6-108.5, **amend**
14 (3) as follows:

15 **26-6-108.5. Notice of negative licensing action - filing of**
16 **complaints.** (3) The department shall track and record complaints made
17 to the department that are brought against family child care homes and
18 ~~shall~~ identify which complaints were brought against licensed family
19 child care homes, as defined in section 26-6-102 (13), unlicensed family
20 child care homes, or legally exempt family child care homes, as defined
21 in section 26-6-102 (12). THE DEPARTMENT SHALL POST ALL COMPLAINTS
22 ON ITS CHILD CARE PROVIDER WEBSITE AS REQUIRED BY SECTION 26-6-103
23 (6).

24 **SECTION 3.** In Colorado Revised Statutes, **amend** 26-6-111 as
25 follows:

26 **26-6-111. Injunctive proceedings.** (1) The department, in the
27 name of the people of the state of Colorado, through the attorney general

1 of the state, may apply for an injunction in any court of competent
2 jurisdiction to enjoin any person from operating any facility THAT:

3 (a) IS OPERATING without a license ~~that is required to be licensed~~
4 ~~under~~ PURSUANT TO this part 1. AT THE TIME THE DEPARTMENT APPLIES
5 FOR AN INJUNCTION, THE DEPARTMENT SHALL NOTIFY LAW ENFORCEMENT
6 OF THE INJUNCTION PROCEEDINGS. An injunction may also be requested
7 by the appropriate county department through the county attorney or
8 retained counsel. If it is established that ~~the~~ AN UNLICENSED defendant
9 has been or is ~~so~~ operating such facility WITHOUT A VALID LICENSE, the
10 court shall enter a decree enjoining ~~said~~ THE defendant from further
11 operating ~~such~~ THE facility unless and until ~~he obtains a license therefor~~
12 THE DEFENDANT COMPLIES WITH THIS PART 1. In case of violation of any
13 injunction issued ~~under the provisions of~~ PURSUANT TO this section, the
14 court may summarily try and punish the offender for contempt of court.
15 Such injunctive proceedings ~~shall be~~ ARE in addition to and not in lieu of
16 the penalty provided in section 26-6-112.

17 (b) IS OPERATING A FACILITY THAT IS EITHER REQUIRED TO BE
18 LICENSED PURSUANT TO THIS PART 1 BUT IS IN VIOLATION OF ANY OF THE
19 REQUIREMENTS OF SUCH LICENSE OR IS EXEMPT FROM LICENSURE
20 PURSUANT TO SECTION 26-6-103 BUT HAS RECEIVED ONE OR MORE
21 CEASE-AND-DESIST ORDERS FROM THE DEPARTMENT OR A COUNTY
22 DEPARTMENT. AN INJUNCTION MAY ALSO BE REQUESTED BY THE
23 APPROPRIATE COUNTY DEPARTMENT THROUGH THE COUNTY ATTORNEY
24 OR RETAINED COUNSEL. IF IT IS ESTABLISHED THAT THE DEFENDANT HAS
25 BEEN OR IS SO OPERATING SUCH FACILITY IN VIOLATION OF ANY OF THE
26 REQUIREMENTS OF THE LICENSE, OR HAS FAILED TO CURE DEFECTS SET
27 FORTH IN A CEASE-AND-DESIST ORDER IN A TIMELY FASHION, THE COURT

1 SHALL ENTER A DECREE ENJOINING THE DEFENDANT FROM FURTHER
2 OPERATING THE FACILITY UNLESS AND UNTIL THE DEFENDANT CURES ALL
3 DEFECTS. IN CASE OF VIOLATION OF ANY INJUNCTION ISSUED PURSUANT
4 TO THIS SECTION, THE COURT MAY SUMMARILY TRY AND PUNISH THE
5 OFFENDER FOR CONTEMPT OF COURT. SUCH INJUNCTIVE PROCEEDINGS ARE
6 IN ADDITION TO AND NOT IN LIEU OF THE PENALTY PROVIDED IN SECTION
7 26-6-112.

8 **SECTION 4.** In Colorado Revised Statutes, **amend** 26-6-112 as
9 follows:

10 **26-6-112. Penalty - short title.** (1) ON OR AFTER JULY 1, 2021,
11 any person violating any provision of this part 1, ~~or~~ intentionally making
12 any false statement or report to the department or to any agency delegated
13 by the department to make an investigation or inspection ~~under~~
14 PURSUANT TO the provisions of this part 1, OR VIOLATING A
15 CEASE-AND-DESIST ORDER THAT IS NOT CURED IN THE TIME ALLOTTED, is
16 guilty of a ~~misdemeanor~~ PETTY OFFENSE and, upon conviction, ~~thereof,~~
17 shall be punished by a fine ~~of not less than three hundred dollars nor~~
18 ~~more than five hundred dollars~~ OF UP TO FIVE HUNDRED DOLLARS, A
19 SENTENCE OF UP TO TEN DAYS IN JAIL, OR BOTH.

20 (2) THE SHORT TITLE OF THIS SECTION IS THE "ELLE MATTHEWS
21 ACT FOR INCREASED SAFETY IN CHILD CARE".

22 **SECTION 5.** In Colorado Revised Statutes, 26-6-114, **amend**
23 (1); and **repeal** (2) as follows:

24 **26-6-114. Civil penalties - fines - child care cash fund -**
25 **created.** (1) In addition to any other penalty otherwise provided by law,
26 INCLUDING SECTION 26-6-112, any person violating any provision of this
27 part 1 or intentionally making any false statement or report to the

1 department or to any agency delegated by the department to make an
2 investigation or inspection under the provisions of this part 1 may be
3 assessed a civil penalty ~~of not more than one hundred dollars a day~~ UP to
4 a maximum of ten thousand dollars AS FOLLOWS:

5 (a) TWO HUNDRED AND FIFTY DOLLARS A DAY FOR THE FIRST
6 OFFENSE;

7 (b) FIVE HUNDRED DOLLARS A DAY FOR THE SECOND OFFENSE;

8 AND

9 (c) ONE THOUSAND DOLLARS A DAY FOR THE THIRD AND
10 SUBSEQUENT OFFENSES.

11 (2) ~~The amount of the civil penalties to be assessed pursuant to~~
12 ~~subsection (1) of this section shall be set in rules and regulations~~
13 ~~promulgated by the department.~~

14 **SECTION 6.** In Colorado Revised Statutes, 26-6-120, **amend** (3)
15 introductory portion and (3)(a) as follows:

16 **26-6-120. Exempt family child care home providers -**
17 **fingerprint-based criminal history record check - child care**
18 **assistance program money - temporary care - rules - definitions.**

19 (3) THE STATE DEPARTMENT OR A COUNTY DEPARTMENT SHALL NOT
20 ISSUE OR RENEW a contract to provide ~~moneys under~~ MONEY PURSUANT
21 TO the Colorado child care assistance program pursuant to part 8 of
22 article 2 of this ~~title shall not be issued or renewed by the state~~
23 ~~department or a county department~~ TITLE 26 to a qualified provider if the
24 qualified provider or a qualified adult:

25 (a) Has a pattern of misdemeanor OR PETTY OFFENSE convictions
26 occurring within the ten years preceding submission of the application,
27 ~~A pattern of misdemeanor convictions shall be defined by rule of the~~

1 ~~state board~~ INCLUDING PETTY OFFENSE CONVICTIONS PURSUANT TO
2 SECTION 26-6-112. THE STATE BOARD SHALL DEFINE BY RULE WHAT
3 CONSTITUTES A PATTERN OF MISDEMEANOR OR PETTY OFFENSE
4 CONVICTIONS; or

5 **SECTION 7. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, or safety.