

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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
Appropriations

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 as follows:

4 **26-6-103. Application of part - study - definition. (6) On or**
5 **before July 1, 2021, and every year ONGOING thereafter, the department**
6 **shall report the number of cease-and-desist orders issued to child care**
7 **providers who are operating outside the exemptions described in this**
8 **section ON THE PORTION OF ITS STATE CHILD CARE PROVIDER WEBSITE**
9 **THAT IS ACCESSIBLE TO FAMILIES, AND IN AN ACCESSIBLE AND PROMINENT**
10 **MANNER, THE NAME AND LOCATION OF ANY CHILD CARE PROVIDER WHO**
11 **IS OPERATING OUTSIDE THE EXEMPTIONS DESCRIBED IN THIS SECTION AND**
12 **TO WHOM ONE OR MORE CEASE-AND-DESIST ORDERS HAVE BEEN ISSUED.**
13 **IF MORE THAN ONE CEASE-AND-DESIST ORDER HAS BEEN ISSUED TO THE**

1 SAME PROVIDER, THE WEBSITE MUST INCLUDE THE TOTAL NUMBER OF
2 SUCH ORDERS. THIS REQUIREMENT FOR WEBSITE POSTING FOR CHILD CARE
3 PROVIDERS WHO ARE OPERATING OUTSIDE THE EXEMPTIONS DESCRIBED IN
4 THIS SECTION MUST CONFORM WITH THE REQUIREMENTS FOR WEBSITE
5 POSTING SET FORTH IN THE FEDERAL "CHILD CARE AND DEVELOPMENT
6 BLOCK GRANT ACT OF 1990", 42 U.S.C. SEC. 9858c, FOR LICENSED CHILD
7 CARE PROVIDERS. _____

8 **SECTION 2.** In Colorado Revised Statutes, amend 26-6-111 as
9 follows:

10 **26-6-111. Injunctive proceedings.** The department, in the name
11 of the people of the state of Colorado, through the attorney general of the
12 state, ~~may~~ MUST apply for an injunction in any court of competent
13 jurisdiction to enjoin any person from operating any facility without a
14 license that is required to be licensed under this part 1. ~~An injunction may~~
15 also be requested by the appropriate county department through the
16 county attorney or retained counsel. IF THE PERSON DOES NOT HAVE A
17 VALID LICENSE PURSUANT TO THIS PART 1 OR DOES NOT MEET THE
18 LICENSING EXEMPTION CRITERIA SET FORTH IN SECTION 26-6-103, YET
19 PROVIDES CHILD CARE, AND HAS A PATTERN OF PROVIDING SUCH CHILD
20 CARE WITHOUT A VALID LICENSE AS REQUIRED BY THIS PART 1, AND
21 DESPITE HAVING RECEIVED NOTIFICATION FROM THE DEPARTMENT THAT
22 THE PERSON OR FACILITY IS IN VIOLATION OF THE LAW, THEN SUCH PERSON
23 IS PROVIDING UNLICENSED AND THEREFORE ILLEGAL CHILD CARE. AT THE
24 TIME THE DEPARTMENT APPLIES FOR AN INJUNCTION, THE DEPARTMENT
25 SHALL NOTIFY LAW ENFORCEMENT OF THE INJUNCTION PROCEEDINGS. If
26 it is established that the defendant has been or is so operating such facility
27 WITHOUT A VALID LICENSE, the court shall enter a decree enjoining said

1 THE defendant from further operating such THE facility unless and until
2 he THE PERSON obtains a license therefor. In case of violation of any
3 injunction issued under the provisions of PURSUANT TO this section, the
4 court may summarily try and punish the offender for contempt of court.
5 Such injunctive proceedings shall be ARE in addition to and not in lieu of
6 the penalty provided in section 26-6-112.

7 **SECTION 3.** In Colorado Revised Statutes, **amend** 26-6-112 as
8 follows:

9 **26-6-112. Penalty - short title.** (1) ON OR AFTER JULY 1, 2021,
10 any person violating any provision of this part 1, ~~or~~ intentionally making
11 any false statement or report to the department or to any agency delegated
12 by the department to make an investigation or inspection ~~under~~ PURSUANT
13 TO the provisions of this part 1, OR VIOLATING A CEASE-AND-DESIST
14 ORDER THAT IS NOT CURED IN THE TIME ALLOTTED, is guilty of a
15 ~~misdemeanor~~ PETTY OFFENSE and, upon conviction, ~~thereof~~; shall be
16 punished by a fine ~~of not less than three hundred dollars nor more than~~
17 ~~five hundred dollars~~ OF UP TO FIVE HUNDRED DOLLARS, A SENTENCE OF UP
18 TO TEN DAYS IN JAIL, OR BOTH.

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

21 **SECTION 4.** In Colorado Revised Statutes, 26-6-114, **amend** (1);
22 and **repeal** (2) as follows:

23 **26-6-114. Civil penalties - fines - child care cash fund -**
24 **created.** (1) In addition to any other penalty otherwise provided by law,
25 INCLUDING SECTION 26-6-112, any person violating any provision of this
26 part 1 or intentionally making any false statement or report to the
27 department or to any agency delegated by the department to make an

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

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

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

7 (c) ONE THOUSAND DOLLARS A DAY FOR THE THIRD AND
8 SUBSEQUENT OFFENSES.

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

12 **SECTION 5.** In Colorado Revised Statutes, 26-6-120, **amend** (3)
13 introductory portion and (3)(a) as follows:

14 **26-6-120. Exempt family child care home providers -**
15 **fingerprint-based criminal history record check - child care**
16 **assistance program money - temporary care - rules - definitions.**

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

23 (a) Has a pattern of misdemeanor OR PETTY OFFENSE convictions
24 occurring within the ten years preceding submission of the application, ~~A~~
25 ~~pattern of misdemeanor convictions shall be defined by rule of the state~~
26 **board** INCLUDING PETTY OFFENSE CONVICTIONS PURSUANT TO SECTION
27 26-6-112. THE STATE BOARD SHALL DEFINE BY RULE WHAT CONSTITUTES

1 A PATTERN OF MISDEMEANOR OR PETTY OFFENSE CONVICTIONS; or

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