

CHAPTER 244

HUMAN SERVICES - SOCIAL SERVICES

SENATE BILL 21-201

BY SENATOR(S) Danielson and Pettersen, Bridges, Buckner, Fields, Ginal, Gonzales, Jaquez Lewis, Moreno, Priola, Simpson, Story, Winter, Garcia;
 also REPRESENTATIVE(S) Young and Boesenecker, Bacon, Bennett, Bird, Cutter, Froelich, Hooton, Jodeh, Lontine, McLachlan, Mullica, Ricks, Sirota, Snyder, Sullivan.

AN ACT

CONCERNING STRICTER ENFORCEMENT FOR CHILD CARE FACILITIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 26-6-103, **amend** (6) as follows:

26-6-103. Application of part - study - definition. (6) On or before ~~July 1~~ **DECEMBER 31, 2021**, and ~~every year~~ **ONGOING** thereafter, the department shall report ~~the number of cease-and-desist orders issued to child care providers who are operating outside the exemptions described in this section~~ ON THE PORTION OF ITS STATE CHILD CARE PROVIDER WEBSITE THAT IS ACCESSIBLE TO FAMILIES, AND IN AN ACCESSIBLE AND PROMINENT MANNER, THE NAME AND LOCATION OF ANY CHILD CARE PROVIDER WHO IS OPERATING OUTSIDE THE EXEMPTIONS DESCRIBED IN THIS SECTION AND TO WHOM ONE OR MORE CEASE-AND-DESIST ORDERS HAVE BEEN ISSUED. IF MORE THAN ONE CEASE-AND-DESIST ORDER HAS BEEN ISSUED TO THE SAME PROVIDER, THE WEBSITE MUST INCLUDE THE TOTAL NUMBER OF SUCH ORDERS. THIS REQUIREMENT FOR WEBSITE POSTING FOR CHILD CARE PROVIDERS WHO ARE OPERATING OUTSIDE THE EXEMPTIONS DESCRIBED IN THIS SECTION MUST BE MADE PUBLIC BY ELECTRONIC MEANS, IN A CONSUMER-FRIENDLY AND EASILY ACCESSIBLE FORMAT, ORGANIZED BY PROVIDER, AND INCLUDE THE DATE OR DATES OF THE CEASE-AND-DESIST ORDER OR ORDERS.

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

26-6-111. Injunctive proceedings. The department, in the name of the people of the state of Colorado, through the attorney general of the state, ~~may~~ **MUST** apply

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.

for an injunction in any court of competent jurisdiction to enjoin any person from operating any facility without a license that is required to be licensed under this part 1. ~~An injunction may also be requested by the appropriate county department through the county attorney or retained counsel.~~ IF THE PERSON DOES NOT HAVE A VALID LICENSE PURSUANT TO THIS PART 1, THE PERSON'S LICENSE HAS BEEN REVOKED PURSUANT TO SECTION 26-6-108, OR THE PERSON DOES NOT MEET THE LICENSING EXEMPTION CRITERIA SET FORTH IN SECTION 26-6-103, YET PROVIDES CHILD CARE, AND HAS A PATTERN OF PROVIDING SUCH CHILD CARE WITHOUT A VALID LICENSE AS REQUIRED BY THIS PART 1, AND DESPITE HAVING RECEIVED NOTIFICATION FROM THE DEPARTMENT THAT THE PERSON OR FACILITY IS IN VIOLATION OF THE LAW, THEN SUCH PERSON IS PROVIDING UNLICENSED AND ILLEGAL CHILD CARE. AT THE TIME THE DEPARTMENT APPLIES FOR AN INJUNCTION, THE DEPARTMENT SHALL NOTIFY LAW ENFORCEMENT OF THE INJUNCTION PROCEEDINGS. If it is established that the defendant has been or is so operating such facility WITHOUT A VALID LICENSE, the court shall enter a decree enjoining ~~said~~ THE defendant from further operating ~~such~~ THE facility unless and until ~~he~~ THE PERSON obtains a license therefor. In case of violation of any injunction issued ~~under the provisions of~~ PURSUANT TO this section, the court may summarily try and punish the offender for contempt of court. Such injunctive proceedings ~~shall be~~ ARE in addition to and not in lieu of the penalty provided in section 26-6-112.

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

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

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

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

26-6-114. Civil penalties - fines - child care cash fund - created. (1) In addition to any other penalty otherwise provided by law, INCLUDING SECTION 26-6-112, any person violating any provision of this part 1 or intentionally making any false statement or report to the department or to any agency delegated by the department to make an investigation or inspection under the provisions of this part 1 may be assessed a civil penalty of ~~not more than one hundred dollars a day~~ UP TO a maximum of ten thousand dollars AS FOLLOWS:

- (a) TWO HUNDRED AND FIFTY DOLLARS A DAY FOR THE FIRST DAY;
- (b) FIVE HUNDRED DOLLARS A DAY FOR THE SECOND DAY; AND
- (c) ONE THOUSAND DOLLARS A DAY FOR THE THIRD AND SUBSEQUENT DAYS.

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

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

26-6-120. Exempt family child care home providers - fingerprint-based criminal history record check - child care assistance program money - temporary care - rules - definitions. (3) ~~THE STATE DEPARTMENT OR A COUNTY DEPARTMENT SHALL NOT ISSUE OR RENEW a contract to provide moneys under MONEY PURSUANT TO the Colorado child care assistance program pursuant to part 8 of article 2 of this title shall not be issued or renewed by the state department or a county department~~ TITLE 26 to a qualified provider if the qualified provider or a qualified adult:

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

SECTION 6. Appropriation. For the 2021-22 state fiscal year, \$83,375 is appropriated to the department of human services for use by the office of early childhood. This appropriation is from federal child care development funds. To implement this act, the office may use the appropriation for child care licensing and administration.

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

Approved: June 16, 2021