

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 23-0221.02 Jane Ritter x4342

HOUSE BILL 23-1043

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House Committees

Public & Behavioral Health & Human Services

Senate Committees

Health & Human Services

SENATE
3rd Reading Unamended
March 1, 2023

A BILL FOR AN ACT

101 **CONCERNING THE SAFETY OF CHILDREN AND YOUTH THROUGH**
102 **REQUIRED BACKGROUND CHECKS ON ADULTS WHEN A CHILD OR**
103 **YOUTH IS PLACED OUT OF THE HOME WITH KIN, INCLUDING**
104 **RELATIVES.**

SENATE
Amended 2nd Reading
February 28, 2023

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>.)

HOUSE
3rd Reading Unamended
January 31, 2023

The bill clarifies the procedures for emergency and nonemergency continuing placement of a child or youth that a county department of human or social services (county department) or a local law enforcement

HOUSE
Amended 2nd Reading
January 30, 2023

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

agency (law enforcement) with custody of the child or youth shall follow before making the emergency or nonemergency continuing placement of a child or youth with a relative or kin.

For emergency placements, the county department or law enforcement shall perform an initial criminal history record check (initial check) on the relative or kin and any adult who resides at the home (adults) using Colorado and federal databases. If the initial check reveals certain criminal convictions, the county department or law enforcement shall not place the child or youth in that home on an emergency basis. If the initial check does not reflect certain criminal convictions on the part of the adults, the child or youth may be placed in the home on an emergency basis.

If the child or youth has been placed with a relative or kin on an emergency basis, the adults shall, no more than 5 days after the placement, submit a complete set of fingerprints to the county department or another designated third party to conduct a state and national fingerprint-based criminal history record check. If the results of the fingerprint-based criminal history record check reveal a felony conviction, the child or youth must be immediately removed from the placement unless there is a motion regarding placement pending before the court. A court may review the placement and affirm or deny placement of the child or youth with the relative or kin.

The bill sets forth the criminal offenses or other matters that qualify for the denial of placement of a child or youth with the relative or kin.

A county department may make a placement with a relative or kin who would otherwise be disqualified if such placement conforms with rules promulgated by the state board of human services or if a court affirms the placement.

The state board of human services is granted authority to promulgate rules concerning emergency and nonemergency, continuing placement of children and youth with relatives or kin.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** 19-3-406 as follows:

4 **19-3-406. Relatives or kin as providers of emergency,**
5 **nonemergency, or continued placement for children or youth - initial**
6 **criminal history record check - fingerprint-based criminal history**
7 **record check - criteria for disqualification - use of criminal justice**

1 **records - rules - definitions.** (1) (a) (I) ANY TIME A CHILD OR YOUTH IS
2 TAKEN INTO TEMPORARY CUSTODY BY A LAW ENFORCEMENT OFFICER AND
3 ANY TIME THE COURT PLACES TEMPORARY CUSTODY OF A CHILD OR YOUTH
4 WITH A COUNTY DEPARTMENT, OR THE COUNTY DEPARTMENT HAS THE
5 LEGAL AUTHORITY FOR PLACEMENT PURSUANT TO THIS PART 4, AND A
6 RELATIVE OR KIN, AS DEFINED IN SECTION 19-1-103, IS IDENTIFIED AS A
7 POTENTIAL EMERGENCY PLACEMENT FOR THE CHILD OR YOUTH, THE
8 COUNTY DEPARTMENT OR A LOCAL LAW ENFORCEMENT AGENCY SHALL
9 IMMEDIATELY CONDUCT AN INITIAL CRIMINAL HISTORY RECORD CHECK OF
10 THE RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT THE HOME PRIOR
11 TO THE COUNTY DEPARTMENT OR THE LAW ENFORCEMENT OFFICER
12 PLACING THE CHILD OR YOUTH IN THE EMERGENCY PLACEMENT.

13 (II) A COUNTY DEPARTMENT MAY PERFORM INITIAL CRIMINAL
14 HISTORY RECORD CHECKS THROUGH ITS STAFF OR MAY COLLABORATE
15 WITH LOCAL LAW ENFORCEMENT AGENCIES TO PERFORM THE INITIAL
16 CRIMINAL HISTORY RECORD CHECKS. WHEN A COUNTY DEPARTMENT HAS
17 TEMPORARY CUSTODY OF A CHILD OR YOUTH PURSUANT TO THIS PART 4
18 AND CONTACTS THE LOCAL LAW ENFORCEMENT AGENCY FOR AN INITIAL
19 CRIMINAL HISTORY RECORD CHECK OF THE RELATIVE OR KIN AND ANY
20 ADULT WHO RESIDES AT THE HOME PURSUANT TO THIS SECTION, THE
21 LOCAL LAW ENFORCEMENT AGENCY SHALL IMMEDIATELY PROVIDE THE
22 COUNTY DEPARTMENT WITH A VERBAL RESPONSE REGARDING THE
23 RELATIVE'S OR KIN'S AND ANY ADULT WHO RESIDES AT THE HOME'S
24 CRIMINAL HISTORY AND SHALL NOT PROVIDE THE COUNTY DEPARTMENT
25 WITH DOCUMENTATION OF THE RELATIVE'S OR KIN'S AND ANY ADULT WHO
26 RESIDES AT THE HOME'S CRIMINAL HISTORY, CONSISTENT WITH FEDERAL
27 PUBLIC LAW 92-544, AND ITS REGULATIONS PROMULGATED, AS AMENDED.

1 (b) THE CHILD OR YOUTH MAY NOT BE PLACED WITH THE RELATIVE
2 OR KIN IF THE INITIAL CRIMINAL HISTORY RECORD CHECK CONDUCTED
3 PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION REFLECTS A CRIMINAL
4 HISTORY, AS DESCRIBED IN SUBSECTION (5) OF THIS SECTION.

5 (c) THE CHILD OR YOUTH MAY BE PLACED WITH THE RELATIVE OR
6 KIN IF THE INITIAL CRIMINAL HISTORY RECORD CHECK DOES NOT REFLECT
7 A CRIMINAL HISTORY, AS DESCRIBED IN SUBSECTION (5) OF THIS SECTION.
8 AFTER PLACEMENT, THE RELATIVE OR KIN AND ANY ADULT WHO RESIDES
9 AT THE HOME WHO ARE NOT DISQUALIFIED BASED UPON THE RESULTS OF
10 THE INITIAL CRIMINAL HISTORY RECORD CHECK CONDUCTED PURSUANT TO
11 SUBSECTION (1)(a) OF THIS SECTION SHALL COMPLETE A
12 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AS DESCRIBED IN
13 SUBSECTION (2) OF THIS SECTION.

14 (2) (a) A RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT THE
15 HOME WHO ARE NOT DISQUALIFIED AS AN EMERGENCY PLACEMENT FOR A
16 CHILD OR YOUTH PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION AND
17 WHO ARE AUTHORIZED FOR PLACEMENT OF A CHILD OR YOUTH ON AN
18 EMERGENCY BASIS PURSUANT TO THIS PART 4 SHALL SUBMIT A COMPLETE
19 SET OF FINGERPRINTS TO THE COUNTY DEPARTMENT OR THROUGH
20 ANOTHER DESIGNATED THIRD PARTY APPROVED BY THE COLORADO
21 BUREAU OF INVESTIGATION NO LATER THAN SEVEN CALENDAR DAYS
22 AFTER THE CHILD OR YOUTH IS PLACED IN THE RELATIVE'S OR KIN'S HOME
23 OR NO LATER THAN FOURTEEN CALENDAR DAYS WHEN EXIGENT
24 CIRCUMSTANCES EXIST. THE COUNTY DEPARTMENT OR COLORADO
25 BUREAU OF INVESTIGATION-APPROVED DESIGNATED THIRD PARTY SHALL
26 FORWARD THE COMPLETE SET OF FINGERPRINTS TO THE COLORADO
27 BUREAU OF INVESTIGATION TO PERFORM THE FINGERPRINT-BASED

1 CRIMINAL HISTORY RECORD CHECK PURSUANT TO SUBSECTION (4) OF THIS
2 SECTION.

3 (b) IF THE RELATIVE OR KIN OR ANY ADULT WHO RESIDES AT THE
4 HOME FAIL TO SUBMIT A COMPLETE SET OF FINGERPRINTS, THE COUNTY
5 DEPARTMENT SHALL NOTIFY THE PARTIES TO THE CASE. WITHIN
6 SEVENTY-TWO HOURS OF NOTIFICATION, ANY PARTY WANTING THE CHILD
7 OR YOUTH TO REMAIN IN THAT PLACEMENT SHALL FILE A MOTION WITH
8 THE COURT REGARDING PLACEMENT OF THE CHILD OR YOUTH. THE
9 COUNTY DEPARTMENT OR A LAW ENFORCEMENT OFFICER, AS
10 APPROPRIATE, SHALL REMOVE THE CHILD OR YOUTH FROM THE
11 PHYSICAL CUSTODY OF THE RELATIVE OR KIN IF NO PARTY, WITH PROPER
12 NOTIFICATION, HAS FILED A MOTION TO MAINTAIN THE CHILD OR YOUTH IN
13 THE PLACEMENT WITHIN SEVENTY-TWO HOURS. THE COUNTY DEPARTMENT
14 SHALL CONFIRM WITHIN FOURTEEN CALENDAR DAYS AFTER THE CHILD OR
15 YOUTH HAS BEEN PLACED WITH THE RELATIVE OR KIN THAT THE RELATIVE
16 OR KIN AND ANY ADULT WHO RESIDES AT THE HOME SUBMITTED A
17 COMPLETE SET OF FINGERPRINTS WITHIN THE TIME PERIOD SPECIFIED BY
18 THIS SUBSECTION (2).

19 (3) A COUNTY DEPARTMENT SHALL INITIATE OR REQUEST THAT A
20 LOCAL LAW ENFORCEMENT AGENCY INITIATE A FINGERPRINT-BASED
21 CRIMINAL HISTORY RECORD CHECK OF THE RELATIVES OR KIN AND ANY
22 ADULT WHO RESIDES AT THE HOME PRIOR TO PLACING A CHILD OR YOUTH
23 WITH A RELATIVE OR KIN ON A NON-EMERGENCY BASIS, WHEN THE CHILD
24 OR YOUTH IS PLACED ON A NON-COURT-INVOLVED BASIS, WHEN THE
25 COUNTY DEPARTMENT HAS TEMPORARY LEGAL CUSTODY, OR WHEN THE
26 COUNTY HAS THE LEGAL AUTHORITY FOR PLACEMENT OF A CHILD OR
27 YOUTH.

1 (4) (a) A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK,
2 AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, MUST BE COMPLETED
3 BY LOCAL LAW ENFORCEMENT; THE COUNTY DEPARTMENT; OR ANOTHER
4 DESIGNATED THIRD PARTY APPROVED BY THE COLORADO BUREAU OF
5 INVESTIGATION. THE COUNTY DEPARTMENT SHALL CONDUCT ALL OF THE
6 OTHER REQUIRED BACKGROUND CHECKS DESCRIBED IN THIS SECTION. IF
7 AN APPROVED THIRD PARTY TAKES THE FINGERPRINTS, THE FINGERPRINTS
8 MAY BE ELECTRONICALLY CAPTURED USING COLORADO BUREAU OF
9 INVESTIGATION-APPROVED LIVESCAN EQUIPMENT. THIRD-PARTY VENDORS
10 SHALL NOT KEEP THE INFORMATION FOR MORE THAN THIRTY DAYS, UNLESS
11 REQUESTED TO DO SO BY THE RELATIVE OR KIN AND ANY ADULT WHO
12 RESIDES AT THE HOME.

13 (b) WHEN A RELATIVE OR KIN AND ANY ADULT WHO RESIDES AT
14 THE HOME SUBMIT A COMPLETE SET OF FINGERPRINTS TO THE COUNTY
15 DEPARTMENT, THE COUNTY DEPARTMENT SHALL IMMEDIATELY FORWARD
16 THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE
17 PURPOSE OF OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD
18 CHECK. UPON RECEIPT OF FINGERPRINTS AND PAYMENT FOR THE COSTS,
19 THE COLORADO BUREAU OF INVESTIGATION SHALL CONDUCT A STATE AND
20 NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
21 UTILIZING RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND
22 THE FEDERAL BUREAU OF INVESTIGATION. THE COLORADO BUREAU OF
23 INVESTIGATION SHALL IMMEDIATELY FORWARD THE RESULTS OF THE
24 STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD
25 CHECKS CONDUCTED PURSUANT TO THIS SECTION TO THE COUNTY
26 DEPARTMENT OR LOCAL LAW ENFORCEMENT AGENCY AUTHORIZED TO
27 RECEIVE THE INFORMATION. IF THE FINGERPRINT-BASED CRIMINAL

1 HISTORY RECORD CHECK INDICATES THAT THE RELATIVE OR KIN AND ANY
2 ADULT WHO RESIDES AT THE HOME HAVE A CRIMINAL HISTORY DESCRIBED
3 IN SUBSECTION (5) OF THIS SECTION, THE COUNTY DEPARTMENT OR THE
4 LOCAL LAW ENFORCEMENT OFFICER, WHICHEVER IS APPROPRIATE, SHALL
5 REMOVE THE CHILD OR YOUTH FROM THE PLACEMENT, UNLESS THERE
6 IS A MOTION REGARDING PLACEMENT PENDING BEFORE THE COURT, OR IF
7 NO PARTY, WITH PROPER NOTIFICATION, HAS FILED A MOTION TO MAINTAIN
8 THE CHILD OR YOUTH IN THE PLACEMENT WITHIN SEVENTY-TWO HOURS,
9 AND SHALL NOT PLACE A CHILD OR YOUTH IN THE HOME WHERE A PERSON
10 WITH THE CRIMINAL CONVICTION RESIDES WITHOUT A COURT ORDER
11 AFFIRMING PLACEMENT OF THE CHILD OR YOUTH IN THE HOME OR
12 PURSUANT TO STATE BOARD RULES. THE COURT MAY ORDER THE REPORTS
13 OF FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS FROM THE
14 COLORADO BUREAU OF INVESTIGATION OR FROM THE FEDERAL BUREAU OF
15 INVESTIGATION THAT WERE RELIED UPON BY THE COUNTY TO EVALUATE
16 THE PLACEMENT TO BE RELEASED BY THE COUNTY DEPARTMENT AFTER
17 PROVIDING AN OPPORTUNITY FOR THE INDIVIDUAL WHOSE RESULTS WOULD
18 BE RELEASED TO OBJECT OR REQUEST APPROPRIATE PROTECTIONS OR
19 REDACTIONS.

20 (5) A COUNTY DEPARTMENT OR A LOCAL LAW ENFORCEMENT
21 AGENCY SHALL NOT PLACE OR CONTINUE THE PLACEMENT OF A CHILD OR
22 YOUTH IN A HOME WHERE A PERSON HAS A CRIMINAL HISTORY OF ONE OR
23 MORE OF THE FOLLOWING CONVICTIONS, AS "CONVICTION" IS DEFINED IN
24 SUBSECTION (12) OF THIS SECTION:

- 25 (a) FELONY CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401;
26 (b) MURDER IN THE FIRST DEGREE, AS DESCRIBED IN SECTION
27 18-3-102; MURDER IN THE SECOND DEGREE, AS DESCRIBED IN SECTION

1 18-3-103; MANSLAUGHTER, AS DESCRIBED IN SECTION 18-3-104;
2 CRIMINALLY NEGLIGENT HOMICIDE, AS DESCRIBED IN SECTION 18-3-105;
3 AND VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106;

4 (c) KIDNAPPING IN THE FIRST OR SECOND DEGREE, AS DESCRIBED
5 IN SECTIONS 18-3-301 AND 18-3-302; OR FELONY FALSE IMPRISONMENT,
6 AS DESCRIBED IN SECTION 18-3-303;

7 (d) A FELONY CRIME OF VIOLENCE ENHANCER, AS DEFINED IN
8 SECTION 18-1.3-406 (2)(a)(I), EXCLUDING THE CONVICTION OF ESCAPE;

9 (e) AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS
10 DEFINED IN SECTION 16-22-102 (9), INCLUDING SEXUAL EXPLOITATION OF
11 A CHILD, HUMAN TRAFFICKING FOR SEXUAL SERVITUDE, AND HUMAN
12 TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE;

13 (f) A FELONY, THE UNDERLYING FACTUAL BASIS OF WHICH HAS
14 BEEN FOUND BY THE COURT TO INCLUDE AN ACT OF DOMESTIC VIOLENCE,
15 AS DEFINED IN SECTION 18-6-800.3, WITHIN THE PRECEDING FIVE YEARS;

16 (g) A FELONY INVOLVING PHYSICAL ASSAULT, AS DESCRIBED IN
17 SECTION 18-3-202 OR 18-3-203, WITHIN THE PRECEDING FIVE YEARS;

18 (h) A FELONY DRUG-RELATED OFFENSE WITHIN THE PRECEDING
19 THREE YEARS. IF THE RELATIVE OR KIN HAS A FELONY DRUG-RELATED
20 CONVICTION LESS THAN FIVE YEARS PRIOR, ANY KINSHIP OR GUARDIANSHIP
21 ASSISTANCE PAYMENTS ON BEHALF OF THE CHILD OR YOUTH MUST NOT BE
22 MADE WITH FEDERAL MONEY PROVIDED PURSUANT TO TITLE IV-E OF THE
23 FEDERAL "SOCIAL SECURITY ACT", AS AMENDED.

24 (i) A PATTERN OF MISDEMEANOR CONVICTIONS RELATED TO
25 DOMESTIC VIOLENCE, AS DEFINED BY RULE OF THE STATE BOARD, WITHIN
26 THE PRECEDING FIVE YEARS; OR

27 (j) AN OFFENSE IN ANY OTHER STATE, THE ELEMENTS OF WHICH

1 ARE SUBSTANTIALLY SIMILAR TO THE ELEMENTS OF ANY ONE OF THE
2 OFFENSES DESCRIBED IN SUBSECTIONS (5)(a) TO (5)(i) OF THIS SECTION.

3 (6) IF A RELATIVE OR KIN WAS NOT DISQUALIFIED AS A PLACEMENT
4 BASED UPON THE INITIAL CRIMINAL HISTORY RECORD CHECK OR THE
5 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS OF ANY ADULT
6 WHO RESIDES AT THE HOME, THE COUNTY DEPARTMENT SHALL PERFORM
7 THE FOLLOWING ADDITIONAL BACKGROUND CHECKS OF THE RELATIVE OR
8 KIN AND ANY ADULT WHO RESIDES AT THE HOME PRIOR TO PLACEMENT:

9 (a) A CHECK OF THE COLORADO COURTS DATA ACCESS SYSTEM TO
10 DETERMINE THE STATUS OR DISPOSITION OF ANY CRIMINAL CHARGES;

11 (b) A CHECK OF THE STATE DEPARTMENT'S CHILD WELFARE
12 INFORMATION SYSTEM AND THE EQUIVALENT REGISTRIES AND DATABASES
13 IN OTHER STATES IF THE INDIVIDUAL HAS RESIDED IN ANOTHER STATE IN
14 THE PRIOR FIVE YEARS, AS PRESCRIBED BY RULE, FOR INFORMATION TO
15 INFORM DECISIONS ABOUT PLACEMENT TO DETERMINE IF THE RELATIVE OR
16 KIN AND ANY ADULT WHO RESIDES AT THE HOME HAVE BEEN IDENTIFIED
17 AS HAVING A FINDING OF CHILD ABUSE OR NEGLECT; AND

18 (c) A CHECK AGAINST THE STATE'S SEX OFFENDER REGISTRY AND
19 AGAINST THE NATIONAL SEX OFFENDER PUBLIC REGISTRY OPERATED BY
20 THE UNITED STATES DEPARTMENT OF JUSTICE THAT CHECKS NAMES AND
21 ADDRESSES AGAINST THE KNOWN NAMES AND ADDRESSES IN THE
22 REGISTRIES AND THE INTERACTIVE DATABASE SYSTEM FOR COLORADO
23 AND THE EQUIVALENT REGISTRIES AND DATABASES IN OTHER STATES IF
24 THE INDIVIDUAL HAS RESIDED IN ANOTHER STATE IN THE PRIOR FIVE
25 YEARS, AS PRESCRIBED IN RULE, TO DETERMINE IF A RELATIVE OR KIN OR
26 ANY ADULT WHO RESIDES IN THE HOME IS A REGISTERED SEX OFFENDER.

27 (7) A COUNTY DEPARTMENT SHALL NOT LEAVE A CHILD OR YOUTH

1 IN PLACEMENT OR PLACE A CHILD OR YOUTH WITH A RELATIVE OR KIN IF
2 THE RELATIVE OR KIN OR ANY ADULT WHO RESIDES IN THE HOME:

3 (a) HAS BEEN CONVICTED OF ANY OF THE CRIMES LISTED IN
4 SUBSECTION (5) OF THIS SECTION; OR

5 (b) HAS BEEN IDENTIFIED AS HAVING A CHILD ABUSE OR NEGLECT
6 FOUNDED FINDING THROUGH A CHECK OF THE CHILD WELFARE
7 INFORMATION SYSTEM WITHIN THE PRECEDING FIVE YEARS AND THAT
8 FINDING HAS BEEN DETERMINED TO PRESENT AN UNSAFE PLACEMENT FOR
9 THE CHILD OR YOUTH, UNLESS THERE IS AN APPEAL PENDING FOR THE
10 FOUNDED FINDING; OR

11 (c) IS A REGISTERED SEX OFFENDER IN THE SEX OFFENDER
12 REGISTRY CREATED PURSUANT TO SECTION 16-22-110, OR IS A REGISTERED
13 SEX OFFENDER AS DETERMINED BY A CHECK OF THE NATIONAL SEX
14 OFFENDER REGISTRY OPERATED BY THE UNITED STATES DEPARTMENT OF
15 JUSTICE.

16 (8) A COUNTY DEPARTMENT MAY MAKE A PLACEMENT WITH OR
17 ALLOW CONTINUED PLACEMENT WITH A RELATIVE OR KIN WHO WOULD
18 OTHERWISE BE DISQUALIFIED PURSUANT TO SUBSECTION (7) OF THIS
19 SECTION IF SUCH PLACEMENT OCCURS ACCORDING TO THE RULES
20 PROMULGATED BY THE STATE BOARD OR IF THERE IS A COURT ORDER
21 AFFIRMING PLACEMENT OF THE CHILD OR YOUTH WITH THE RELATIVE OR
22 KIN. WHEN ANOTHER CHILD OR YOUTH SUBSEQUENTLY NEEDS PLACEMENT
23 IN THE SAME HOME, THE COUNTY DEPARTMENT MAY PLACE THAT CHILD OR
24 YOUTH WITH A RELATIVE OR KIN WHO WOULD OTHERWISE BE
25 DISQUALIFIED PURSUANT TO SUBSECTION (7) OF THIS SECTION BASED ON
26 THE PREVIOUS DETERMINATION WITH REGARD TO THE BACKGROUND
27 CHECK. THE RELATIVE OR KIN SHALL STILL COMPLY WITH THE

1 REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION, AND THE COUNTY
2 DEPARTMENT OR THE COURT SHALL AFFIRM PLACEMENT OF THE
3 SUBSEQUENT CHILD OR YOUTH.

4 (9) THE STATE BOARD SHALL PROMULGATE RULES RELATED TO
5 BACKGROUND CHECKS OF RELATIVES OR KIN AND PLACEMENT OF
6 CHILDREN OR YOUTH WITH RELATIVES OR KIN, CONSISTENT WITH THE
7 PROVISIONS CONTAINED IN PART 3 OF ARTICLE 72 OF TITLE 24.

8 (10) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
9 IF THE COUNTY DEPARTMENT VERIFIES AND DOCUMENTS THAT ALL OF THE
10 CRIMINAL HISTORY RECORD CHECKS AND OTHER BACKGROUND CHECKS
11 DESCRIBED IN THIS SECTION HAVE BEEN COMPLETED IN THE PRECEDING
12 THREE MONTHS FOR A RELATIVE OR KIN AND ANY ADULT WHO RESIDES IN
13 THE HOME, THE COUNTY DEPARTMENT DOES NOT NEED TO REPEAT THE
14 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OF THAT
15 RELATIVE OR KIN AND ANY ADULT WHO RESIDES IN THE HOME; EXCEPT
16 THAT THE COUNTY DEPARTMENT SHALL REPEAT THE OTHER BACKGROUND
17 CHECKS DESCRIBED IN THIS SECTION AND CONTACT LOCAL LAW
18 ENFORCEMENT TO DETERMINE IF THERE WERE ANY NEW CHARGES FOR
19 OFFENSES FILED AGAINST THAT RELATIVE OR KIN AND ANY ADULT WHO
20 RESIDES IN THE HOME DURING THE PRECEDING THREE MONTHS SINCE THE
21 LAST FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

22 (11) (a) THE COLORADO BUREAU OF INVESTIGATION SHALL FLAG
23 THE FINGERPRINTS OF AND NOTIFY THE APPLICABLE COUNTY DEPARTMENT
24 OF ANY NEW ARRESTS OF AN INDIVIDUAL WHOSE FINGERPRINTS THE
25 COUNTY DEPARTMENT SUBMITS TO A LOCAL LAW ENFORCEMENT AGENCY
26 THAT THE COUNTY DEPARTMENT ALSO INTENDS TO BE SUBSEQUENTLY
27 USED FOR FOSTER CARE CERTIFICATION.

1 (b) THE COUNTY DEPARTMENT SHALL NOTIFY THE COLORADO
2 BUREAU OF INVESTIGATION WITHIN FIVE CALENDAR DAYS AFTER
3 SUBMITTING THE REQUEST FOR A FINGERPRINT-BASED CRIMINAL HISTORY
4 RECORD CHECK WHEN THE COUNTY DEPARTMENT INTENDS TO ACCEPT AN
5 APPLICATION FOR FOSTER CARE CERTIFICATION FROM THAT PERSON SO
6 THAT THE FLAGGING AND AUTOMATIC NOTIFICATION TO THE COUNTY
7 DEPARTMENT OF NEW ARRESTS PURSUANT TO SUBSECTION (11)(a) OF THIS
8 SECTION OCCURS FOR THAT PERSON AND CONTINUES THROUGH THE
9 DURATION OF THE INDIVIDUAL'S FOSTER CARE CERTIFICATION. THE
10 COUNTY DEPARTMENT SHALL USE THE SAME FINGERPRINTS RECEIVED
11 PURSUANT TO THIS SUBSECTION (11) AND ANY UPDATED
12 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK RESULTS FROM
13 THE AUTOMATIC NOTIFICATION AS A SUBSTITUTE FOR MEETING THE
14 FINGERPRINT REQUIREMENTS FOR A PERSON WHO IS APPLYING FOR FOSTER
15 CARE CERTIFICATION PURSUANT TO SECTION 26-6-910.

16 (12) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
17 OTHERWISE REQUIRES:

18 (a) "CONVICTION" MEANS A CONVICTION BY A JURY OR COURT AND
19 INCLUDES A DEFERRED JUDGMENT AND SENTENCE AGREEMENT, ■ OR A
20 PLEA OF GUILTY OR NOLO CONTENDERE DETERMINED THROUGH THE
21 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION OR THE FEDERAL
22 BUREAU OF INVESTIGATION AND THE COLORADO COURTS DATA ACCESS
23 SYSTEM IN THE STATE JUDICIAL DEPARTMENT. "CONVICTION" DOES NOT
24 INCLUDE A DIVERSION OR DEFERRAL OR PLEA FOR A PERSON WHO
25 PARTICIPATED IN AND SUCCESSFULLY COMPLETED THE CHILD ABUSE AND
26 CHILD NEGLECT DIVERSION PROGRAM ESTABLISHED PURSUANT TO SECTION
27 19-3-310. A CONVICTION DOES NOT INCLUDE JUVENILE DEFERRED

1 JUDGMENT OR ADJUDICATION AGREEMENTS, ADJUDICATIONS, DIVERSION,
2 DEFERRAL, OR PLEA AGREEMENTS. THE CONVICTIONS IDENTIFIED IN THIS
3 SUBSECTION (12)(a) AND SUBSECTION (5) OF THIS SECTION MUST BE
4 DETERMINED ACCORDING TO THE RECORDS OF THE COLORADO BUREAU OF
5 INVESTIGATION OR THE FEDERAL BUREAU OF INVESTIGATION AND THE
6 COLORADO COURTS DATA ACCESS SYSTEM AT THE STATE JUDICIAL
7 SYSTEM. A SCREENING REQUEST IN COLORADO MUST BE MADE PURSUANT
8 TO SECTION 19-1-307 (2)(k), RULES PROMULGATED BY THE STATE BOARD
9 PURSUANT TO SECTION 19-3-313.5, AND 42 U.S.C. SEC. 671 (a)(2). A
10 CERTIFIED COPY OF THE JUDGMENT OF A COURT OF COMPETENT
11 JURISDICTION OF THE CONVICTION OR A DEFERRED ADJUDICATION
12 AGREEMENT IS PRIMA FACIE EVIDENCE OF A CONVICTION OR AGREEMENT.

13 (b) "INITIAL CRIMINAL HISTORY RECORD CHECK" MEANS A
14 COLORADO CRIME INFORMATION CENTER OR NATIONAL CRIME
15 INFORMATION CENTER CHECK.

16 **SECTION 2.** In Colorado Revised Statutes, **repeal** 19-3-407.

17 **SECTION 3.** In Colorado Revised Statutes, 19-3-508, **amend** (8)
18 as follows:

19 **19-3-508. Neglected or dependent child - disposition -**
20 **concurrent planning.** (8) When entering a decree placing the child OR
21 YOUTH in the legal custody of a relative or placing the child OR YOUTH in
22 the legal custody of a county department for placement in a foster care
23 home, the court shall ensure that the child's OR YOUTH'S placement at the
24 time of the hearing is in the best interests of the child OR YOUTH and shall
25 inquire about documentation that the county department or a licensed
26 child placement agency has adequately screened the foster care provider
27 or the family member who is seeking to care for the child OR YOUTH and

1 any adult residing in that home and that all of the criminal history record
2 checks and other background checks have been completed as required
3 pursuant to ~~section 26-6-910 or 19-3-407~~ SECTION 26-6-910 OR 19-3-406.

4 **SECTION 4.** In Colorado Revised Statutes, 19-3-605, **amend** (3)
5 introductory portion and (3)(b) as follows:

6 **19-3-605. Request for placement with family members.** (3) In
7 making placement determinations concerning a child OR YOUTH following
8 the order of termination of the parent-child legal relationship pursuant to
9 the provisions of this section, the court shall consider all pertinent
10 information related to modifying the placement of the child OR YOUTH
11 prior to removing the child OR YOUTH from ~~his or her~~ THE CHILD'S OR
12 YOUTH'S placement, including: ~~the following:~~

13 (b) Whether the child's OR YOUTH'S placement at the time of the
14 hearing is a safe and potentially permanent placement for the child OR
15 YOUTH, including documentation that a county department or a licensed
16 child placement agency has adequately screened the family member who
17 is seeking to care for the child OR YOUTH and any adult residing in the
18 home and that all of the criminal history record checks and other
19 background checks have been completed as required pursuant to ~~section~~
20 ~~26-6-910 or 19-3-407~~ SECTION 26-6-910 OR 19-3-406;

21 **SECTION 5.** In Colorado Revised Statutes, 26-6-911, **amend**
22 (2)(d) as follows:

23 **26-6-911. Foster care - kinship care - rules applying generally**
24 **- rule-making.** (2) At a minimum, the rules described in subsection (1)
25 of this section must include the following:

26 (d) A list of actions a county department or child placement
27 agency shall take if a disqualifying factor is found during any of the

1 background checks specified in ~~section~~ SECTIONS 26-6-910 (5) and (6)
2 and ~~section 19-3-406 (4) and (4.5)~~ 19-3-406 (6) AND (7);

3 **SECTION 6. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly; except
6 that, if a referendum petition is filed pursuant to section 1 (3) of article V
7 of the state constitution against this act or an item, section, or part of this
8 act within such period, then the act, item, section, or part will not take
9 effect unless approved by the people at the general election to be held in
10 November 2024 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.