HB1160 L.002

HOUSE COMMITTEE OF REFERENCE AMENDMENT Committee on <u>Public & Behavioral Health & Human Services</u>. HB23-1160 be amended as follows:

- 1 Amend printed bill, page 3, strike line 1 and substitute "- written notice
- 2 definitions.".
- 3 Page 3, strike line 2.
- 4 Page 3, strike line 8 and substitute "FOUND RESPONSIBLE FOR AN INCIDENT
- 5 OF CHILD ABUSE OR NEGLECT BY A COUNTY DEPARTMENT.".
- 6 Page 3, strike lines 9 through 11 and substitute:
- 7 "(2) Written notice of opportunity for appeal. A".
- 8 Page 3, line 12, strike "STATE" and substitute "COUNTY".
- 9 Page 3, line 12, after "NOTICE" insert "PURSUANT TO SECTION 19-3-313.5
- 10 (3)".
- Page 3, strike lines 13 through 15 and substitute "THE OPPORTUNITY TO
- 12 APPEAL AND HAVE A HEARING. THE WRITTEN NOTICE MUST BE SENT".
- Page 3, line 18, strike "STATE DEPARTMENT ISSUED ITS FINDINGS." and
- 14 substitute "COUNTY DEPARTMENT ENTERED ITS FINDINGS. IF THE PERSON
- 15 IS A MINOR, THE WRITTEN NOTICE MUST BE SENT TO THE MINOR, THE
- 16 MINOR'S PARENT OR LEGAL GUARDIAN, AND ANY GUARDIAN AD LITEM OR
- 17 COUNSEL FOR YOUTH, AS DEFINED IN SECTION 13-91-103, APPOINTED IN A
- 18 DEPENDENCY AND NEGLECT, CRIMINAL, OR DELINQUENCY CASE. IF THE
- 19 PERSON IS ENROLLED IN THE FOSTER YOUTH IN TRANSITION PROGRAM
- 20 PURSUANT TO PART 3 OF ARTICLE 7 OF TITLE 19, THE WRITTEN NOTICE
- 21 MUST BE SENT TO ANY GUARDIAN AD LITEM OR COUNSEL FOR YOUTH
- 22 ASSIGNED TO THE YOUTH.".
- Page 3, line 20, strike "(I)" and substitute "(a)".
- Page 3, line 21, strike "(A)" and substitute "(I)".
- 25 Page 3, line 22, strike "(B)" and substitute "(II)".
- Page 3, line 24, strike "(C)" and substitute "(III)".
- Page 3, line 27, strike "(D)" and substitute "(IV)".

- 1 Page 4, line 3, strike "(E)" and substitute "(V)".
- 2 Page 4, line 5, strike "(F)" and substitute "(VI)".
- 3 Page 4, line 8, strike "(G)" and substitute "(VII)".
- 4 Page 4, line 10, strike "(H)" and substitute "(VIII)".
- 5 Page 4, line 12, strike "(I)" and substitute "(IX)".
- 6 Page 4, line 14, strike "(J)" and substitute "(X)".
- Page 4, line 20, strike "(K)" and substitute "(XI)".
- 8 Page 4, strike lines 22 through 25.
- 9 Page 4, line 26, strike "(III)" and substitute "(b)".
- 10 Page 5, line 1, strike "SYSTEM;" and substitute "SYSTEM, SUBJECT TO ANY
- 11 REDACTIONS REQUIRED BY LAW;".
- Page 5, line 2, strike "(IV) A" and substitute "(c) INFORMATION ABOUT
- 13 HOW THE PERSON MAY OBTAIN A".
- 14 Page 5, line 3, strike "AND".
- Page 5, strike lines 4 through 6 and substitute:
- 16 "(d) Information about the office of the child".
- 17 Page 5, line 7, strike "19-3.3-102." and substitute "19-3.3-102; AND
- 18 (e) Information about the office of respondent parents'
- 19 COUNSEL CREATED IN SECTION 13-92-103.".
- 20 Page 5, strike lines 8 through 17 and substitute:
- 21 "(3) **Background checks.** FOR EMPLOYMENT AND VOLUNTEER
- 22 PURPOSES, A BACKGROUND CHECK THROUGH THE AUTOMATED CHILD
- 23 WELFARE SYSTEM MAY ONLY BE CONDUCTED AND RELEASED PURSUANT
- 24 TO SECTIONS 19-1-307, 26.5-5-316, AND 26-6-705 FOR A PERSON SEEKING
- 25 EMPLOYMENT OR VOLUNTEERING IN A ROLE THAT REQUIRES THE CARE,
- 26 TREATMENT, OR SUPERVISION OF CHILDREN, OR UNSUPERVISED CONTACT
- 27 WITH CHILDREN.".

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- Page 6, line 6, strike "COUNSEL." and substitute "COUNSEL, IF DESIRED.
- 2 COUNSEL IS ONLY APPOINTED PURSUANT TO THIS SECTION.".
- Page 6, strike line 12 and substitute "COUNSEL. IF COUNSEL FOR YOUTH
- 4 HAS BEEN APPOINTED TO REPRESENT THE YOUTH IN A DEPENDENCY AND
- 5 NEGLECT OR FOSTER YOUTH IN TRANSITION PROGRAM CASE THROUGH THE
- 6 OFFICE OF THE CHILD'S REPRESENTATIVE ESTABLISHED IN SECTION
- 7 13-91-102, THE YOUTH'S COUNSEL FOR YOUTH MAY CONTINUE
- 8 REPRESENTING THE YOUTH THROUGHOUT THE HEARING REQUESTED
- 9 PURSUANT TO SUBSECTION (2) OF THIS SECTION IF APPROVED BY THE
- 10 OFFICE OF THE CHILD'S REPRESENTATIVE. IF A GUARDIAN AD LITEM IS
- 11 APPOINTED TO REPRESENT THE BEST INTERESTS OF THE PERSON IN A
- 12 DEPENDENCY AND NEGLECT, CRIMINAL, OR DELINQUENCY CASE THROUGH
- 13 THE OFFICE OF THE CHILD'S REPRESENTATIVE, THE PERSON'S GUARDIAN AD
- 14 LITEM MAY CONTINUE REPRESENTING THE BEST INTERESTS OF THE PERSON
- 15 THROUGHOUT THE HEARING REQUESTED PURSUANT TO SUBSECTION (2) OF
- 16 THIS SECTION IF APPROVED BY THE OFFICE OF THE CHILD'S
- 17 REPRESENTATIVE.".
- Page 6, line 22, strike "UPON, AT A MINIMUM," and substitute "UPON".
- 19 Page 6, strike lines 23 through 27.
- 20 Page 7, strike lines 1 through 17.
- 21 Reletter succeeding paragraphs accordingly.
- Page 7, line 19, strike "AGE." and substitute "AGE, OR AGAINST A PERSON
- WHO IS THIRTEEN TO EIGHTEEN YEARS OF AGE UNLESS THE PERSON IS A
- 24 PARENT OF THE ALLEGED VICTIM OR THE LEVEL OF THE FINDING IS SEVERE,
- 25 EGREGIOUS, NEAR-FATAL, OR FATAL.".
- 26 Page 7, strike lines 20 through 27.
- 27 Page 8, strike lines 1 through 16 and substitute:
- 28 "(5) Rules. No later than July 1, 2024, the state board, in
- 29 COLLABORATION WITH COUNTY DEPARTMENTS, THE OFFICE OF THE CHILD'S
- 30 REPRESENTATIVE, AND THE OFFICE OF RESPONDENT PARENTS' COUNSEL,
- 31 SHALL PROMULGATE RULES NECESSARY FOR THE IMPLEMENTATION OF THIS
- 32 SECTION AND TO PROMOTE FAIRNESS AND EFFICIENCY IN THE APPEALS
- 33 PROCESS.
- **SECTION 2.** In Colorado Revised Statutes, **add** 19-3-313.7 as

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follows:

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19-3-313.7. Automated child welfare system task force - membership - recommendations - legislative declaration - repeal.
(1) Legislative declaration. (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

- (I) THE COLORADO AUTOMATED CHILD WELFARE SYSTEM, KNOWN AS THE "TRAILS SYSTEM", IS A CASE MANAGEMENT SYSTEM USED BY TRAINED CHILD WELFARE CASEWORKERS TO MANAGE INFORMATION IN ORDER TO PROTECT CHILDREN FROM ABUSE AND NEGLECT;
- (II) When a person in Colorado is found responsible for child abuse or neglect by a county department of human or social services, a finding is entered into the TRAILS system, which occurs separately from any court process;
- (III) A TRAILS SYSTEM BACKGROUND CHECK CAN ONLY BE CONDUCTED AND RELEASED FOR A PERSON SEEKING EMPLOYMENT OR VOLUNTEERING IN A ROLE THAT REQUIRES THE CARE, TREATMENT, OR SUPERVISION OF CHILDREN, OR UNSUPERVISED CONTACT WITH CHILDREN;
- (IV) CHILD ABUSE RECORDS AND REPORTS PROVIDE PROTECTION TO CHILDREN AND FAMILIES IN COLORADO; HOWEVER, WHEN A PERSON HAS NOT HAD THE OPPORTUNITY TO CONTEST A FINDING OF CHILD ABUSE OR NEGLECT, IT CAN SIGNIFICANTLY IMPACT CHILDREN AND FAMILIES; AND
- (V) EQUITABLE ACCESS, INCLUDING ACCESS TO LEGAL COUNSEL, AND UNDERSTANDING OF THE APPEALS PROCESS IS A PRIORITY TO THOSE PROVIDING AND RECEIVING CHILD WELFARE SERVICES.
- (b) Therefore, the general assembly declares that it is necessary to create a task force that consists of people with experience in or knowledge of child welfare policies and procedures to examine current rules and statutes governing findings of abuse and neglect and to make recommendations to the executive branch and to the general assembly on potential administrative and legislative changes to support due process, fairness, and transparency in the appeals process.
- (2) **Definitions.** As used in this section, unless the context otherwise requires:
- (a) "AUTOMATED CHILD WELFARE SYSTEM" MEANS THE STATE DEPARTMENT OF HUMAN SERVICES AUTOMATED CHILD WELFARE SYSTEM AS DEFINED IN SECTION 19-3-313.3, KNOWN AS THE "TRAILS SYSTEM".
- (b) "BACKGROUND CHECK" MEANS ANY CHECK OF THE AUTOMATED CHILD WELFARE SYSTEM FOR EMPLOYMENT AND VOLUNTEER PURPOSES PURSUANT TO SECTIONS 19-1-307, 26.5-5-316, AND 26-6-705.
- (c) "PERSON" MEANS A PERSON, INCLUDING A CHILD OR YOUTH, SUSPECTED OF CHILD ABUSE OR NEGLECT.
 - (d) "TASK FORCE" MEANS THE AUTOMATED CHILD WELFARE

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SYSTEM TASK FORCE CREATED IN SUBSECTION (3) OF THIS SECTION.

- (3) **Automated child welfare system task force.** (a) There is created in the office of the child protection ombudsman, established pursuant to section 19-3.3-102, the automated child welfare system task force to analyze current statutes, rules, and procedures for entering, releasing, and appealing a finding of child abuse and neglect.
- (b) The task force shall focus on serving under-resourced communities, communities of color, and persons with disabilities who are disproportionately impacted by administrative findings of child abuse and neglect. The task force may make findings and recommendations to the general assembly, the governor, and the state department on administrative and legislative changes to update the procedures for entering, releasing, and appealing findings of child abuse or neglect in order to create an equitable system for all Colorado families and children, including how to determine the effectiveness of findings of child abuse and neglect in protecting children and how to mitigate the impact of child abuse and neglect findings on under-resourced communities, communities of color, and persons with disabilities.
- (4) **Membership.** (a) The task force consists of the following members:
- (I) THE CHILD PROTECTION OMBUDSMAN, AS DESCRIBED IN SECTION 19-3.3-102, OR THE OMBUDSMAN'S DESIGNEE;
- (II) TWO MEMBERS REPRESENTING THE DEPARTMENT OF HUMAN SERVICES, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES;
- (III) ONE MEMBER REPRESENTING THE OFFICE OF THE CHILD'S REPRESENTATIVE CREATED IN SECTION 13-91-104, APPOINTED BY THE DIRECTOR OF THE OFFICE OF THE CHILD'S REPRESENTATIVE;
- (IV) ONE MEMBER REPRESENTING THE OFFICE OF THE RESPONDENT PARENTS' COUNSEL CREATED IN SECTION 13-92-103, APPOINTED BY THE DIRECTOR OF THE OFFICE OF THE RESPONDENT PARENTS' COUNSEL;
- (V) ONE MEMBER REPRESENTING COUNTY DEPARTMENTS, APPOINTED BY THE DIRECTOR OF A STATEWIDE ASSOCIATION REPRESENTING COUNTY DEPARTMENTS;
- (VI) ONE MEMBER REPRESENTING THE DEPARTMENT OF EARLY CHILDHOOD, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF EARLY CHILDHOOD;
- (VII) ONE MEMBER REPRESENTING THE OFFICE OF THE ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE

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DEPARTMENT OF PERSONNEL AND ADMINISTRATION;

(VIII) THE FOLLOWING MEMBERS APPOINTED BY THE CHILD PROTECTION OMBUDSMAN:

- (A) TWO MEMBERS WHO REPRESENT A COUNTY DEPARTMENT, ONE FROM AN URBAN COUNTY AND ONE FROM A RURAL COUNTY;
- (B) ONE MEMBER WHO IS A COUNTY ATTORNEY REPRESENTING COUNTY DEPARTMENTS;
- (C) ONE MEMBER WITH EXPERIENCE PROVIDING KINSHIP CARE OR AS A FOSTER PARENT;
- (D) ONE MEMBER FROM A STATEWIDE ORGANIZATION REPRESENTING PEOPLE WITH DISABILITIES;
- (E) THREE MEMBERS REPRESENTING INDIVIDUALS WITH LIVED EXPERIENCE WITH THE STATE'S ADMINISTRATIVE APPEALS PROCESS;
- (F) ONE MEMBER REPRESENTING A STATEWIDE ORGANIZATION SERVING OR REPRESENTING VICTIMS AND SURVIVORS;
- (G) ONE MEMBER WHO IS A LICENSED CHILD CARE PROVIDER, AS DEFINED IN SECTION 26.5-5-303 (4);
- (H) ONE MEMBER WHO IS AN ATTORNEY WITH EXPERIENCE REPRESENTING CLIENTS IN APPEALS BEFORE AN ADMINISTRATIVE LAW JUDGE; AND
- (I) ONE MEMBER WHO IS A CURRENT OR FORMER LICENSED SOCIAL WORKER WITH EXPERIENCE CONDUCTING CHILD WELFARE ASSESSMENTS.
- (b) THE APPOINTING AUTHORITIES SHALL APPOINT MEMBERS WHO REPRESENT DIVERSE GEOGRAPHIC LOCATIONS, RACE AND ETHNICITY, GENDER, RELIGION, LIVED EXPERIENCE WITH THE CHILD WELFARE SYSTEM, AND SOCIOECONOMIC STATUS.
- (c) The appointing authorities shall make the appointments no later than July 1, 2023. The term of the appointment is for the duration of the task force. The appointing authorities shall fill any vacancy subject to the same qualifications as the initial appointment.
- (d) The Child Protection ombudsman, or the ombudsman's designee, is the chair of the task force. At the task force's first meeting, the task force shall select a vice-chair from among its members. The chair and the vice-chair serve for the duration of the task force.
- (e) The child protection ombudsman shall convene the first meeting of the task force no later than September 1, 2023. The task force shall meet at least once every month until the task force submits its final report and at the call of the chair as necessary to complete the task force's duties. The task force may meet electronically. The office of the child protection ombudsman shall provide staff support as necessary for the

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TASK FORCE TO CARRY OUT ITS DUTIES.

- (5) **Task force recommendations.** (a) THE TASK FORCE SHALL, AT A MINIMUM, ANALYZE:
- (I) WHETHER A STUDY SHOULD BE CONDUCTED TO DETERMINE THE EFFECTIVENESS OF THE CURRENT PROCESS FOR MAKING, ENTERING, APPEALING, AND RELEASING CHILD ABUSE AND NEGLECT FINDINGS AND DETERMINE THE NECESSARY FUNDING FOR SUCH A STUDY;
- (II) THE SUFFICIENCY OF STATEWIDE DATA THAT MEASURES QUANTITATIVE AND QUALITATIVE EXPERIENCES OF PERSONS FOUND RESPONSIBLE BY COUNTY DEPARTMENTS FOR CHILD ABUSE OR NEGLECT;
- (III) THE COMPREHENSIVENESS AND EFFECTIVENESS OF EXISTING RULES AND STATUTES IN ENSURING TIMELINESS AND DUE PROCESS UNDER THE CURRENT PROCESS FOR APPEALING CHILD ABUSE AND NEGLECT FINDINGS;
 - (IV) NATIONAL BEST PRACTICES; AND
- (V) IN CONSULTATION WITH ADDITIONAL STAKEHOLDERS AS NEEDED, ADDRESS ALL ADDITIONAL QUESTIONS NECESSARY TO FINALIZE THE TASK FORCE'S FINDINGS AND RECOMMENDATIONS.
- (b) THE TASK FORCE SHALL DEVELOP RECOMMENDATIONS REGARDING:
 - (I) OPTIONS TO PROVIDE REPRESENTATION TO ALL INDIGENT PERSONS FOR ADMINISTRATIVE APPEALS OF CHILD ABUSE AND NEGLECT FINDINGS;
 - (II) OPTIONS TO IMPROVE ACCESS, EDUCATION, AND ACCESSIBILITY TO APPEALS RELATED TO CHILD ABUSE AND; AND
 - (III) WHEN A FINDING SHOULD BE REPORTED TO THE AUTOMATED CHILD WELFARE SYSTEM OR RELEASED DURING A BACKGROUND CHECK OF A PERSON.
 - (c) THE TASK FORCE MAY DEVELOP RECOMMENDATIONS AT ITS DISCRETION CONCERNING:
 - (I) STATEWIDE AND NATIONAL BEST PRACTICES FOR ENSURING DUE PROCESS IN APPEALS OR REVIEW OF CHILD ABUSE AND NEGLECT FINDINGS AND THE USE OF SUCH FINDINGS FOR BACKGROUND CHECK PURPOSES;
 - (II) RESOURCES NECESSARY TO IMPROVE OR FACILITATE COMMUNICATION EFFORTS OF COUNTY DEPARTMENTS AND THE STATE DEPARTMENT WITH PERSONS FOUND RESPONSIBLE FOR ABUSE AND NEGLECT;
 - (III) WHETHER CERTAIN LEVELS OF SEVERITY OR TYPES OF FINDINGS SHOULD NOT BE REPORTED ON BACKGROUND CHECKS FOR PERSONS BEING CONSIDERED FOR EMPLOYMENT OR VOLUNTEER OPPORTUNITIES WORKING WITH CHILDREN; AND
- (IV) BARRIERS TO IMPLEMENTING BEST PRACTICES, AND LEGISLATIVE AND REGULATORY CHANGES.

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- (d) IN CARRYING OUT THIS SUBSECTION (5), THE TASK FORCE SHALL CONSIDER:
- (I) THE UNITED STATES CONSTITUTION AND THE STATE CONSTITUTION, CASE LAW, STATUTES, RULES, PRACTICES, AND STANDARDS THAT GOVERN THE DETERMINATION OF CHILD ABUSE AND NEGLECT FINDINGS;
- (II) BEST PRACTICES FOLLOWED IN OTHER STATES OR RECOMMENDED BY NATIONAL CHILD WELFARE EXPERTS TO PROMOTE DUE PROCESS, POSITIVE OUTCOMES FOR FAMILIES, TRANSPARENCY, AND SAFETY FOR CHILDREN;
 - (III) FEDERAL GUIDANCE; AND

- (IV) JUVENILE CODES AND RULES FROM OTHER STATES IMPLEMENTING BEST PRACTICES.
- (e) THE STATE DEPARTMENT SHALL PROVIDE THE TASK FORCE WITH COMPREHENSIVE INFORMATION ON THE CURRENT PROCESS FOR ASSESSMENTS, APPEALS, AND THE RELEASE OF RECORDS, INCLUDING A GLOSSARY OF SPECIFIC TERMS TO AIDE IN THE MUTUAL UNDERSTANDING OF THE PROCESSES.
- (6) **Report.** (a) On or before November 30, 2023, the task force shall submit a first-year status report addressing, at a minimum, recommendations on how to ensure access to counsel for indigent persons to the house of representatives public and behavioral health and human services committee and the senate health and human services committee, or their successor committees. The first-year status report must include a summary of the task force's work and the task force's initial findings and recommendations, if available.
- (b) On or before December 1, 2024, the task force shall submit a final report to the house of representatives public and behavioral health and human services committee and the senate health and human services committee, or their successor committees, that includes a summary of the task force's work and the task force's recommendations, if applicable.
- (7) **Repeal.** This Section is Repealed, Effective June 30, 2025. **SECTION 3. 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.".

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