

CHAPTER 345

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**SOCIAL SERVICES**

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**HOUSE BILL 94-1029**

BY REPRESENTATIVES Anderson, Friednash, Lawrence, Lyle, Martin, Morrison, Ratterree, and Schauer;  
also SENATORS Rizzuto, Casey, Mares, Pastore and Traylor.

**AN ACT**

**CONCERNING THE RESTRUCTURING OF THE HEALTH AND HUMAN SERVICES DELIVERY SYSTEMS IN COLORADO, AND, IN CONNECTION THEREWITH, MAKING CONFORMING AMENDMENTS.**

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

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) H.B. 93-1317, enacted at the First Regular Session of the Fifty-ninth General Assembly, began the restructuring of the health and human services delivery systems in Colorado;

(b) H.B. 93-1317 abolished the department of social services and the department of institutions, created the new department of human services and the department of health care policy and financing, and renamed the department of health the department of public health and environment;

(c) H.B. 93-1317 provided that the departmental changes were effective on July 1, 1994, and included only the substantive conforming amendments necessary to accomplish these changes;

(d) Additional substantive and conforming amendments are necessary to complete the changes related to the restructuring of human services delivery systems that originated in H.B. 93-1317;

(e) The draft of the conforming amendments to existing law is approximately two hundred pages in length, and additional conforming amendments will need to be prepared to make necessary changes to bills going through the legislative process

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

during the 1994 legislative session; and

(f) As long as copies of the conforming amendments are available to anyone who wishes to review them and as long as the members of the general assembly receive a complete version of the amendments prior to final passage of the bill, it is not necessary for the conforming amendments to be included in the original bill but only a representation of the types of amendments which will be made.

(2) It is the intent of the general assembly that this bill will be the vehicle for passage of the amendments necessary to complete the changes related to the restructuring of human services delivery systems that originated in H.B. 93-1317.

### CONFORMING AMENDMENTS

**SECTION 2.** 10-16-104 (9) (a) (I), (9) (b) (II), and (9) (c), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended to read:

**10-16-104. Mandatory coverage provisions. (9) Availability of coverage for alcoholism.** (a) Any other provision of law to the contrary notwithstanding, no hospitalization or medical benefits contract on a group basis issued by an insurer subject to the provisions of part 2 of this article or an entity subject to the provisions of part 3 of this article shall be sold in this state unless the policyholder under such contract or persons holding the master contract under such contract are offered the opportunity to purchase coverage for benefits for the treatment of and for conditions arising from alcoholism, which benefits are at least equal to the following minimum requirements:

(I) In the case of benefits based upon confinement as an inpatient in an accredited or licensed hospital or in any other public or private facility or portion thereof providing services especially for the treatment of alcoholics, which is licensed by the department of ~~health~~ HUMAN SERVICES for those services, such benefits shall be not less than forty-five days in any calendar year.

(b) Outpatient benefits shall cover, to the extent of five hundred dollars over a twelve-month period, services furnished by:

(II) Any public or private facility or portion thereof providing services especially for the treatment of alcoholics, which is licensed by the department of ~~health~~ HUMAN SERVICES for those purposes; or

(c) Such entity subject to the provisions of part 3 of this article shall enter into participating agreements with licensed hospitals and licensed alcoholism treatment centers to provide benefits for the treatment of alcoholism rendered in such facilities. Such entities may require provider standards developed in cooperation with the department of ~~health~~ HUMAN SERVICES as a part of any such agreement.

**SECTION 3.** 16-11.5-102 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-11.5-102. Substance abuse assessment - standardized procedure.** (3) The judicial department, the department of corrections, the division of criminal justice of

the department of public safety, and the department of ~~health~~ HUMAN SERVICES shall cooperate to develop a plan for the allocation of moneys deposited in the drug offender surcharge fund created pursuant to section 18-19-103 (4), C.R.S., among the judicial department, the department of corrections, the division of criminal justice of the department of public safety, and the department of ~~health~~ HUMAN SERVICES. The plan developed pursuant to this subsection (3) shall be submitted to the general assembly on or before January 1, 1992. For the fiscal year beginning July 1, 1992, the general assembly shall appropriate moneys only from the drug offender surcharge fund in accordance with such plan.

**SECTION 4.** 18-18-302 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-18-302. Registration requirements.** (1) Every person who manufactures, distributes, or dispenses any controlled substance within this state, or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain annually or biannually, if applicable, a registration, issued by the respective licensing board or the department in accordance with rules adopted by such board or by the department. For purposes of this section and this article, "registration" or "registered" means the licensing of manufacturers, pharmacists, pharmacies, and humane societies located in this state, and distributors located in or doing business in this state, by the state board of pharmacy as set forth in parts 1 and 3 of article 22 of title 12, C.R.S., the licensing of physicians by the state board of medical examiners, as set forth in article 36 of title 12, C.R.S., the licensing of podiatrists by the Colorado podiatry board, as set forth in article 32 of title 12, C.R.S., the licensing of dentists by the state board of dental examiners, as set forth in article 35 of title 12, C.R.S., the licensing of optometrists by the state board of optometric examiners, as set forth in article 40 of title 12, C.R.S., the licensing of veterinarians by the state board of veterinary medicine, as set forth in article 64 of title 12, C.R.S., and the licensing of researchers and addiction programs by the department of ~~health~~ HUMAN SERVICES, as set forth in part 3 of article 22 of title 12, C.R.S.

**SECTION 5.** 18-19-103 (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-19-103. Source of revenues - allocation of moneys.** (4) There is hereby created in the state treasury a drug offender surcharge fund which shall consist of moneys received by the state treasurer pursuant to paragraph (d) of subsection (3) of this section. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any moneys not appropriated by the general assembly shall remain in the drug offender surcharge fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year. All moneys in the fund shall be subject to annual appropriation by the general assembly to the judicial department, the department of corrections, the division of criminal justice of the department of public safety, and the department of ~~health~~ HUMAN SERVICES, after consideration of the plan developed pursuant to section 16-11.5-102 (3), C.R.S., to cover the costs associated with substance abuse assessment, testing, education, and treatment.

**SECTION 6.** 24-1-120 (4), Colorado Revised Statutes, 1988 Repl. Vol., as

amended, as it will become effective July 1, 1994, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-1-120. Department of human services - creation.** (4) Unless otherwise transferred to the department of health care policy and financing or the department of public health and environment, the department of human services shall exercise the following powers and perform the following duties:

(c) POWERS, DUTIES, AND FUNCTIONS RELATING TO THE FAMILY DEVELOPMENT CENTER PILOT PROGRAM, CREATED IN ARTICLE 18 OF TITLE 16, C.R.S., WHICH ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF HUMAN SERVICES.

**SECTION 7.** 25-1-107 (1)(I)(II.5), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-1-107. Powers and duties of the department.** (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(I)(II.5) ~~To promulgate rules and regulations concerning adult foster care facilities and the certification of adult foster care facilities as set forth in section 26-2-122.3, C.R.S.~~

**SECTION 8.** Part 1 of article 1.7 of title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**24-1.7-107. Benchmarks for restructuring - savings.** (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE PURPOSE OF STATE LEVEL RESTRUCTURING OF THE DEPARTMENTS OF SOCIAL SERVICES, INSTITUTIONS, AND HEALTH INTO THE DEPARTMENTS OF HUMAN SERVICES, HEALTH CARE POLICY AND FINANCING, AND PUBLIC HEALTH AND ENVIRONMENT INCLUDES BOTH THE GOAL OF IMPROVING THE DELIVERY OF SERVICES TO PERSONS RECEIVING SERVICES THROUGH THE DEPARTMENTS AND THE GOAL OF REALIZING SAVINGS FOR THE STATE. THE GENERAL ASSEMBLY RECOGNIZES THAT THE DEPARTMENTS OF HUMAN SERVICES AND HEALTH CARE POLICY AND FINANCING HAVE UNDERTAKEN THE PROCESS OF CLARIFYING THE POLICIES, BUDGETS, AND PROGRAM RESPONSIBILITIES OF THESE DEPARTMENTS AND THAT ADDITIONAL CLARIFICATION AND COORDINATION IS NECESSARY. IN ENACTING THIS SECTION, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO DIRECT THE STATE LEVEL RESTRUCTURING PROCESS AND TO ESTABLISH SPECIFIC GOALS TO BE MET BY THE DEPARTMENTS OF HUMAN SERVICES AND HEALTH CARE POLICY AND FINANCING IN FURTHER STATE LEVEL RESTRUCTURING.

(2) ON OR BEFORE JULY 30, 1995, THE DEPARTMENTS OF HUMAN SERVICES AND HEALTH CARE POLICY AND FINANCING SHALL PROVIDE EVIDENCE TO THE JOINT BUDGET COMMITTEE AND THE GENERAL ASSEMBLY THAT THE DEPARTMENTS WILL ACCOMPLISH, IN FISCAL YEAR 1995-96, A TOTAL REDUCTION OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS FROM THEIR FISCAL YEAR 1994-95 BUDGETS AS A RESULT OF RESTRUCTURING. AS AN ONGOING UPDATE OF THE PROGRESS MADE TOWARD THIS GOAL, THE DEPARTMENTS SHALL COMPLETE THE FOLLOWING:

(a) ON OR BEFORE JANUARY 1, 1995, THE DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE A REPORT TO THE GENERAL ASSEMBLY SPECIFICALLY SETTING FORTH THE PROGRESS OF THE DEPARTMENT AND RECOMMENDING LEGISLATION FOR IMPLEMENTATION AS NECESSARY IN EACH OF THE FOLLOWING AREAS:

(I) REENGINEERING THE ADMINISTRATIVE FUNCTIONS OF THE DEPARTMENT IN AN ATTEMPT TO REDUCE LAYERS OF SUPERVISION AND ELIMINATE DUPLICATIVE PROGRAMS AND OVERLAPPING FUNCTIONS, INCLUDING, BUT NOT LIMITED TO, HUMAN RESOURCES, PROCUREMENT, ACCOUNTING, BUDGET, INFORMATION SYSTEMS, AND FACILITIES MANAGEMENT. REENGINEERING APPROACHES SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(A) ORGANIZING SO THAT DECISION MAKING IS ACCOMPLISHED AS CLOSE AS POSSIBLE TO THE POINT OF SERVICE DELIVERY;

(B) CENTRALLY LOCATING MANAGEMENT MECHANISMS;

(C) REGIONALIZING HUMAN RESOURCES;

(D) ESTABLISHING REGIONAL PROCUREMENT OFFICES AND WAREHOUSES;

(E) CENTRALIZING ACCOUNTING OVERSIGHT AND CERTAIN ACCOUNTING FUNCTIONS;

(F) REGIONALIZING FACILITIES MANAGEMENT TO ACHIEVE GREATER EFFICIENCIES THROUGH THE UTILIZATION OF SKILLED STAFF ACROSS PROGRAM LINES, THE IMPLEMENTATION OF COMMON PRACTICES AND PROCEDURES, AND THE PROVISION OF TRAINING IN MORE EFFICIENT PROCEDURES;

(G) EXAMINING STATE AND FEDERAL RULES AND REGULATIONS; AND

(H) STANDARDIZING PROVIDER CONTRACT PROVISIONS AND MINIMIZING THE NUMBER OF CONTRACTS REQUIRED BY LOCAL AGENCIES CONTRACTING WITH THE STATE;

(II) COORDINATING AND SIMPLIFYING PROGRAMS AND SERVICES, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(A) INTEGRATING SERVICE DELIVERY AND REDUCING SPECIALIZATION;

(B) COORDINATING AND UNIFYING RATE SETTINGS THROUGHOUT THE DEPARTMENT, INCLUDING, BUT NOT LIMITED TO, RATE SETTINGS IN THE DIVISION OF CHILD WELFARE AND THE DIVISION OF YOUTH SERVICES;

(C) STREAMLINING AND CONSOLIDATING RULES AND REGULATIONS WITHIN THE DEPARTMENT; AND

(D) UTILIZING AUTOMATED SYSTEMS TO MINIMIZE PAPER FLOW AND IMPROVE EFFICIENCIES;

(III) COORDINATING WITH LOCAL LEVEL RESTRUCTURING EFFORTS, INCLUDING,

BUT NOT LIMITED TO, THE FOLLOWING:

(A) ESTABLISHING A METHOD FOR REVIEW, DISCUSSION, AND STATE LEVEL IMPLEMENTATION OF LOCAL HUMAN SERVICE DELIVERY PLANS CREATED PURSUANT TO SECTION 24-1.7-407 AS THEY ARE PROVIDED TO THE DEPARTMENT; AND

(B) ESTABLISHING A METHOD OF COORDINATING THE EXCHANGE OF INFORMATION BETWEEN THE DEPARTMENT AND LOCAL PLANNING COMMITTEES ESTABLISHED PURSUANT TO SECTION 24-1.7-404.

(b) ON OR BEFORE JANUARY 1, 1995, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING SHALL PROVIDE A WRITTEN REPORT TO THE GENERAL ASSEMBLY SPECIFICALLY SETTING FORTH THE PROGRESS OF THE DEPARTMENT AND RECOMMENDING LEGISLATION FOR IMPLEMENTATION AS NECESSARY IN EACH OF THE FOLLOWING AREAS:

(I) THE COORDINATION OF MEDICAID POLICY DEVELOPMENT WITH THE DEPARTMENT OF HUMAN SERVICES;

(II) THE FEASIBILITY OF CONSOLIDATING THE PURCHASE OF HEALTH BENEFITS FOR STATE EMPLOYEES WITH THE PURCHASE OF HEALTH BENEFITS FOR MEDICAID RECIPIENTS; AND

(III) THE COORDINATION OF RULE-MAKING WITH THE DEPARTMENT OF HUMAN SERVICES TO ELIMINATE DUPLICATION OF RULES ON MEDICAID.

(3) ON OR BEFORE JULY 30, 1996, THE DEPARTMENTS OF HUMAN SERVICES AND HEALTH CARE POLICY AND FINANCING SHALL PROVIDE EVIDENCE TO THE JOINT BUDGET COMMITTEE AND THE GENERAL ASSEMBLY THAT THE DEPARTMENTS WILL ACCOMPLISH IN FISCAL YEAR 1996-97 AN ADDITIONAL TOTAL REDUCTION OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS FROM THEIR FISCAL YEAR 1994-95 BUDGETS AS A RESULT OF RESTRUCTURING, REPRESENTING A TOTAL REDUCTION OVER TWO YEARS OF FIVE MILLION DOLLARS. AS AN ONGOING UPDATE OF THE PROGRESS MADE TOWARD THIS GOAL, THE DEPARTMENTS SHALL COMPLETE THE FOLLOWING:

(a) ON OR BEFORE JANUARY 1, 1996, THE DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE A REPORT TO THE GENERAL ASSEMBLY SPECIFICALLY SETTING FORTH THE PROGRESS OF THE DEPARTMENT AND RECOMMENDING LEGISLATION FOR IMPLEMENTATION AS NECESSARY IN EACH OF THE FOLLOWING AREAS:

(I) UPDATING ANY OF THE GOALS ESTABLISHED IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION WHICH WERE NOT COMPLETED PRIOR TO THE JANUARY 1, 1995, REPORT;

(II) FURTHER COORDINATING AND SIMPLIFYING OF PROGRAMS AND SERVICES, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(A) REVIEWING CURRENT PROGRAMS TO ASSURE APPROPRIATE BENEFIT LEVELS AND ENTITLEMENT TIME FRAMES;

(B) DEVELOPING A RATE STANDARDIZATION METHOD TO ASSURE REIMBURSEMENT

AND FINANCE CONSISTENCIES IN ALL PROGRAMS;

(C) MODIFYING PROGRAMS TO MINIMIZE THE PAYMENT OF DUPLICATE BENEFITS;  
AND

(D) MODIFYING PROCEDURES TO INCREASE RECOVERIES OF INAPPROPRIATE  
PAYMENT TO RECIPIENTS OR VENDORS;

(III) FURTHER COORDINATION WITH LOCAL LEVEL RESTRUCTURING EFFORTS,  
INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(A) REVIEW AND RECOMMENDATIONS CONCERNING LOCAL HUMAN SERVICE  
DELIVERY PLANS;

(B) COMPLETION OF A STATEWIDE IMPLEMENTATION PROGRAM; AND

(C) COMPLETION OF THE REVIEW AND RECOMMENDATIONS REQUIRED BY SECTION  
24-1.7-408 (2).

(b) ON OR BEFORE JANUARY 1, 1996, THE DEPARTMENT OF HEALTH CARE POLICY  
AND FINANCING SHALL PROVIDE A WRITTEN REPORT TO THE GENERAL ASSEMBLY  
SPECIFICALLY SETTING FORTH THE PROGRESS OF THE DEPARTMENT AND  
RECOMMENDING LEGISLATION FOR IMPLEMENTATION AS NECESSARY IN EACH OF THE  
FOLLOWING AREAS:

(I) EXAMINING THE CURRENT METHODS OF LICENSING AND REGULATING HEALTH  
CARE PLANS AND PROVIDERS AND RECOMMENDING ANY CHANGES WHICH WOULD  
RESULT IN EFFICIENCIES, IN CONSULTATION WITH THE DEPARTMENTS OF PUBLIC  
HEALTH AND ENVIRONMENT, REGULATORY AGENCIES, AND HUMAN SERVICES AND  
OTHER AFFECTED PARTIES;

(II) ESTABLISHING A METHOD FOR DETERMINING THE SUCCESS OF ANY HEALTH  
CARE COST-CONTAINMENT METHODS IMPLEMENTED;

(III) UTILIZING AUTOMATED SYSTEMS TO MINIMIZE PAPER FLOW AND IMPROVING  
EFFICIENCIES AND TO COORDINATE MEDICALLY INDIGENT PROGRAM AND MEDICAID  
PROGRAM PROCESSING; AND

(IV) EVALUATING CURRENT MEDICAID PROGRAMS TO DETERMINE  
COST-EFFECTIVENESS.

**SECTION 9.** Part 2 of article 50 of title 24, Colorado Revised Statutes, 1988  
Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION  
to read:

**24-50-208. Voluntary separation incentive program.** THE STATE PERSONNEL  
BOARD MAY ADOPT RULES AND REGULATIONS ESTABLISHING A VOLUNTARY  
SEPARATION INCENTIVE PROGRAM AVAILABLE TO ALL STATE EMPLOYEES WHO ARE  
SUBJECT TO SEPARATION FROM EMPLOYMENT BASED ON A DETERMINATION BY THE  
GOVERNOR THAT THE DEPARTMENT HAS PERSONNEL IN EXCESS OF ITS NEEDS DUE TO  
LACK OF WORK, LACK OF FUNDS, OR REORGANIZATION. ANY SUCH PROGRAM SHALL

NOT CONFLICT WITH STATE PERSONNEL SYSTEM OR PUBLIC EMPLOYEES RETIREMENT ASSOCIATION STATUTES, RULES, OR REGULATIONS.

**SECTION 10.** 25-1-107, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**25-1-107. Powers and duties of the department.** (4) IN THE EXERCISE OF ITS POWERS, THE DEPARTMENT SHALL NOT PROMULGATE ANY RULE, REGULATION, OR STANDARD WHICH LIMITS OR INTERFERES WITH THE ABILITY OF AN INDIVIDUAL TO ENTER INTO A CONTRACT WITH A PRIVATE PAY FACILITY CONCERNING THE PROGRAMS OR SERVICES PROVIDED AT THE PRIVATE PAY FACILITY. FOR THE PURPOSES OF THIS SUBSECTION (4), "PRIVATE PAY FACILITY" MEANS A SKILLED NURSING FACILITY OR INTERMEDIATE CARE FACILITY SUBJECT TO THE REQUIREMENTS OF SECTION 25-1-120 OR A PERSONAL CARE BOARDING HOME LICENSED PURSUANT TO SECTION 25-27-105 THAT IS NOT PUBLICLY FUNDED OR IS NOT CERTIFIED TO PROVIDE SERVICES THAT ARE REIMBURSED FROM STATE OR FEDERAL ASSISTANCE FUNDS.

**SECTION 11.** 25-1-108, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**25-1-108. Powers and duties of the state board of health.** (3) IN THE EXERCISE OF ITS POWERS, THE DEPARTMENT SHALL NOT PROMULGATE ANY RULE, REGULATION, OR STANDARD WHICH LIMITS OR INTERFERES WITH THE ABILITY OF AN INDIVIDUAL TO ENTER INTO A CONTRACT WITH A PRIVATE PAY FACILITY CONCERNING THE PROGRAMS OR SERVICES PROVIDED AT THE PRIVATE PAY FACILITY. FOR THE PURPOSES OF THIS SUBSECTION (3), "PRIVATE PAY FACILITY" MEANS A SKILLED NURSING FACILITY OR INTERMEDIATE CARE FACILITY SUBJECT TO THE REQUIREMENTS OF SECTION 25-1-120 OR A PERSONAL CARE BOARDING HOME LICENSED PURSUANT TO SECTION 25-27-105 THAT IS NOT PUBLICLY FUNDED OR IS NOT CERTIFIED TO PROVIDE SERVICES THAT ARE REIMBURSED FROM STATE OR FEDERAL ASSISTANCE FUNDS.

**SECTION 12.** 25.5-1-105 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25.5-1-105. Transfer of functions - employees - property - records.** (2) (a) On and after July 1, 1994, all positions of employment in the department of local affairs, the department of social services, THE HEALTH SCIENCES CENTER, and the department of regulatory agencies concerning the powers, duties, and functions transferred to the department of health care policy and financing pursuant to this article and determined to be necessary to carry out the purposes of this article by the executive director of the department of health care policy and financing shall be transferred to the department of health care policy and financing and shall become employment positions therein. The executive director shall appoint such employees as are necessary to carry out the duties and exercise the powers conferred by law upon the state department and the executive director. On and after July 1, 1994, any appointment of employees and any creation or elimination of positions of employment shall be consistent with the plan for restructuring health and human services as set forth in article 1.7 of title 24, C.R.S. Appointing authority may be delegated by the executive director as appropriate.

(b) On and after July 1, 1994, all employees of the department of local affairs, the

department of social services, THE HEALTH SCIENCES CENTER, and the department of regulatory agencies whose duties and functions concerned the powers, duties, and functions transferred to the department of health care policy and financing pursuant to this article, regardless of whether the position of employment in which the employee served was transferred, shall be considered employees of the department of health care policy and financing for purposes of section 24-50-124, C.R.S. Such employees shall retain all rights under the state personnel system and to retirement benefits pursuant to the laws of this state, and their services shall be deemed continuous.

**SECTION 13.** 26-1-107, Colorado Revised Statutes, 1989 Repl. Vol., as amended, as it will become effective on July 1, 1994, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**26-1-107. State board of human services.** (10) THE STATE BOARD SHALL FIX MINIMUM STANDARDS AND QUALIFICATIONS FOR COUNTY DEPARTMENT PERSONNEL BASED UPON TRAINING AND EXPERIENCE DEEMED NECESSARY TO FULFILL THE REQUIREMENTS AND RESPONSIBILITIES FOR EACH POSITION AND ESTABLISH SALARY SCHEDULES BASED UPON PREVAILING WAGES FOR COMPARABLE WORK WITHIN EACH COUNTY OR DISTRICT OR REGION WHERE SUCH DATA IS AVAILABLE AND IS COLLECTED AND COMPILED IN A MANNER APPROVED BY THE STATE PERSONNEL DIRECTOR. THE RULES AND REGULATIONS ISSUED BY THE STATE BOARD SHALL BE BINDING UPON THE SEVERAL COUNTY DEPARTMENTS. AT ANY PUBLIC HEARING RELATING TO A PROPOSED RULE MAKING, INTERESTED PERSONS SHALL HAVE THE RIGHT TO PRESENT THEIR DATA, VIEWS, OR ARGUMENTS ORALLY. PROPOSED RULES OF THE STATE BOARD SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 24-4-103, C.R.S.

**SECTION 14.** 26-1-108 (1) (a) and (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**26-1-108. Powers and duties of the executive director - rules.** (1) Executive director rules shall be solely within the province of the executive director and shall include the following:

(a) Rules governing matters of internal administration in the state department, ~~and the several county departments~~, including organization, staffing, records, reports, systems, and procedures, and also governing fiscal and personnel administration for the state department and establishing accounting and fiscal reporting rules and regulations for disbursement of federal funds, contingency funds, and proration of available appropriations except those determinations precluded by authority granted to the state board;

(2) ~~The executive director shall fix minimum standards and qualifications for personnel based upon training and experience deemed necessary to fulfill the requirements and responsibilities for each position, and establish salary schedules based upon prevailing wages for comparable work within each county or district or region where such data is available and is collected and compiled in a manner approved by the state personnel director.~~ The rules and regulations issued by the executive director shall be binding upon the several county departments. At any public hearing relating to a proposed rule making, interested persons shall have the right to present their data, views, or arguments orally. Proposed rules of the

executive director shall be subject to the provisions of section 24-4-103, C.R.S.

**SECTION 15.** 26-1-122.5, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**26-1-122.5. County appropriation increases - limitations.** (7) IN THE EVENT THAT THERE ARE ANY FUNDS REMAINING IN THE DEPARTMENT OF HUMAN SERVICES BUDGET WHICH WERE APPROPRIATED FOR FISCAL YEAR 1994-95 TO COVER THE ADDITIONAL STATE SHARE OF EXPENSES REQUIRED AS A RESULT OF THE LIMITATION ESTABLISHED IN THIS SECTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES SHALL DISTRIBUTE SUCH REMAINING FUNDS TO COUNTIES WHOSE ASSESSED VALUATION DECLINED BETWEEN CALENDAR YEAR 1992 AND 1993 IF SUCH COUNTY PROVIDES EVIDENCE TO THE DEPARTMENT IN 1994 THAT THE COUNTY HAS A SHORTFALL. DISTRIBUTIONS TO COUNTIES PURSUANT TO THIS SUBSECTION (7) SHALL BE MADE ON A PRO RATA BASIS AND SHALL NOT EXCEED THE AMOUNT OF THE COUNTY'S SHORTFALL. FOR PURPOSES OF THIS SECTION, "SHORTFALL" MEANS THE AMOUNT BY WHICH A COUNTY'S 1992 COUNTY SHARE EXCEEDS THE PROPERTY TAX REVENUE COLLECTED BY THE COUNTY THROUGH ITS 1992 SOCIAL SERVICES MILL LEVY LEVIED ON THE COUNTY'S 1992 ASSESSED VALUATION.

**SECTION 16.** 26-2-122.3 (1) (a), Colorado Revised Statutes, 1989 Repl. Vol., as amended, as it will become effective July 1, 1994, is amended to read:

**26-2-122.3. Adult foster care and home care allowance as services under certain public assistance programs - administered by department of health care policy and financing.** (1) (a) (I) In addition to the amount of assistance available pursuant to the provisions of this article, the executive director of the department of health care policy and financing, with the consent of the general assembly and subject to available funds, may provide adult foster care for persons eligible to receive OLD AGE PENSION, aid to the needy disabled, or aid to the blind. For purposes of this paragraph (a), "adult foster care" means that care and service which, in addition to room and board, may include, but is not limited to, personal services, recreational opportunities, transportation, utilization of volunteer services, and special diets. Such care is provided to recipients of federal supplemental security income benefits who are also eligible for the Colorado supplement program for aid to the needy disabled or aid to the blind and who do not require skilled nursing care or intermediate health care and cannot remain in or return to their residences but who need to reside in a supervised nonmedical setting on a twenty-four-hour basis. Those persons with developmental disabilities as defined in section 27-10.5-102, C.R.S., or who are receiving or eligible to receive services pursuant to any provision of title 27, C.R.S., do not qualify for adult foster care under this paragraph (a).

(II) ADULT FOSTER CARE FACILITIES SHALL BE CERTIFIED BY THE SINGLE ENTRY POINT AGENCY IN THE SINGLE ENTRY POINT DISTRICT IN WHICH THEY ARE LOCATED; EXCEPT THAT EACH COUNTY DEPARTMENT OF SOCIAL SERVICES SHALL CERTIFY ADULT FOSTER CARE FACILITIES LOCATED IN SUCH COUNTY UNTIL A SINGLE ENTRY POINT AGENCY HAS BEEN ESTABLISHED PURSUANT TO SECTION 26-4-522.

**SECTION 17.** 26-18-103 (1) (a) and (4), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**26-18-103. State council created - powers and duties - report.** (1) (a) There is hereby created a state council on family development centers. The state council shall exercise its powers and perform its duties and powers as specified in this article within the ~~office of the governor~~ DEPARTMENT OF HUMAN SERVICES.

(4) The state council shall establish ~~through rule-making~~ the procedure for the submittal of grant applications by community applicants seeking to establish family development centers. The procedure shall set forth the method for making application including time frames, the criteria to be considered in awarding a grant, and the method for the making of annual reports to the state council concerning the effectiveness of the family development center pilot program in accordance with section 26-18-105 (2). In addition, the state council shall ~~adopt~~ ESTABLISH any other ~~rules~~ PROCEDURES necessary to implement this article, including a method for evaluating the effectiveness of the family development center pilot program.

**SECTION 18.** 27-10.5-103 (1) (f), Colorado Revised Statutes, 1989 Repl. Vol., as it will become effective July 1, 1994, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

**27-10.5-103. Duties of the executive director - rules and regulations.** (1) In order to implement the provisions of this article, the executive director shall, subject to available appropriations, carry out the following duties:

(f) CONSISTENT WITH THE POLICIES ADOPTED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, IMPLEMENT THE PROVISION OF HOME AND COMMUNITY-BASED SERVICES TO ELIGIBLE PERSONS WITH DEVELOPMENTAL DISABILITIES AND PURSUE OTHER MEDICAID-FUNDED SERVICES DETERMINED BY THE DEPARTMENT TO BE APPROPRIATE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, PURSUANT TO SUBPARTS 2 AND 4 OF PART 6 OF ARTICLE 4 OF TITLE 26, C.R.S., AND SUBJECT TO AVAILABLE APPROPRIATIONS; AND

#### **BILLS ENACTED DURING THE 1994 LEGISLATIVE SESSION**

**SECTION 19.** 2-3-203 (1) (e), Colorado Revised Statutes, 1980 Repl. Vol., as enacted by House Bill 94-1340, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**2-3-203. Powers and duties of the joint budget committee.** (1) The committee has the following power and duties:

(e) Acting as a joint committee with the capital development committee of the general assembly, to review and approve facilities program plans of the department of corrections for correctional facilities pursuant to section 17-1-104.8, C.R.S., and facilities program plans of the department of ~~institutions~~ HUMAN SERVICES for youth detention facilities pursuant to section 27-1-104.5, C.R.S.

**SECTION 20.** 2-3-304 (4), Colorado Revised Statutes, 1980 Repl. Vol., as enacted by House Bill 94-1340, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**2-3-304. Director of research - assistants.** (4) Effective July 1, 1994, the

director of research shall be responsible for the forecasting of adult and juvenile offender populations within the criminal justice system for the general assembly. The division of criminal justice in the department of public safety shall provide information to the director concerning population projections, research data, modelling information, and any other related data requested by the director. The executive directors of the departments of corrections and ~~institutions~~ HUMAN SERVICES and the state court administrator shall provide information to the director concerning population projections, research data, and the projected long-range needs of the institutions under the control of the executive directors and any other related data requested by the director.

**SECTION 21.** 2-3-1304 (1) (e), Colorado Revised Statutes, 1980 Repl. Vol., as enacted by House Bill 94-1340, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**2-3-1304. Powers and duties of the capital development committee.** (1) The capital development committee shall have the following powers and duties:

(e) Acting as a joint committee with the joint budget committee of the general assembly, to review and approve facilities program plans of the department of corrections for correctional facilities pursuant to section 17-1-104.8, C.R.S., and facilities program plans of the department of ~~institutions~~ HUMAN SERVICES for youth detention facilities pursuant to section 27-1-104.5, C.R.S.

**SECTION 22.** 10-3-1104.7 (9), Colorado Revised Statutes, 1987 Repl. Vol., as enacted by Senate Bill 94-58, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**10-3-1104.7. Genetic testing - declaration - definitions - limitations on disclosure of information - liability.** (9) This section does not limit the authority granted the state department of PUBLIC health AND ENVIRONMENT, the state board of health, or local departments of health pursuant to section 25-1-122, C.R.S.

**SECTION 23.** 13-10-113 (5), Colorado Revised Statutes, 1987 Repl. Vol., as amended by Senate Bill 94-89, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**13-10-113. Fines and penalties.** (5) Notwithstanding any other provision of law, a child, as defined in section 19-1-103 (4), C.R.S., arrested for an alleged violation of a municipal ordinance, convicted of violating a municipal ordinance or probation conditions imposed by a municipal court, or found in contempt of court in connection with a violation or alleged violation of a municipal ordinance shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders but may be held in a juvenile detention facility operated by or under contract with the department of ~~institutions~~ HUMAN SERVICES or a temporary holding facility operated by or under contract with a municipal government which shall receive and provide care for such child. A municipal court imposing penalties for violation of probation conditions imposed by such court or for contempt of court in connection with a violation or alleged violation of a municipal ordinance may confine a child pursuant to section 19-2-204, C.R.S., for up to forty-eight hours in a juvenile detention facility operated by or under contract with the department of ~~institutions~~ HUMAN SERVICES.

In imposing any jail sentence upon a juvenile for violating any municipal ordinance when the municipal court has jurisdiction over the juvenile pursuant to section 19-2-102 (1) (a) (II), C.R.S., a municipal court does not have the authority to order a child under eighteen years of age to a juvenile detention facility operated or contracted by the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 24.** 17-1-104.4 (3) (b), Colorado Revised Statutes, 1986 Repl. Vol., as enacted by House Bill 94-1340, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**17-1-104.4. Future correctional facility needs.** (3) (b) Pursuant to the provisions of part 14 of article 30 of title 24, C.R.S., the department of administration shall contract with one or more persons or firms to provide contract administration, oversight of the various contractors, management and coordination services between the various contractors and the department of corrections or between the various contractors and the department of ~~institutions~~ HUMAN SERVICES, and such other project management services as may be required to accomplish the construction of the correctional facility projects authorized by this section and the juvenile detention facility projects authorized in sections 15 (2) and 16 of House Bill 94-1340, enacted at the second regular session of the fifty-ninth general assembly. The cost for contracting for such persons or firms shall be paid out of the appropriations made by the general assembly for the construction of the correctional facility projects authorized by this section and the juvenile detention facility projects authorized in sections 15 (2) and 16 of House Bill 94-1340, enacted at the second regular session of the fifty-ninth general assembly.

**SECTION 25.** 22-20-107.5, Colorado Revised Statutes, 1988 Repl. Vol., as amended by Senate Bill 94-185, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**22-20-107.5. District of residence of a child with a disability - jurisdiction.** Notwithstanding the provisions of section 22-1-102 (2), for the purposes of this article the district of residence of a child with a disability is the school district in which such child lives on a day-to-day basis; except that, if a child with a disability is homeless, as defined by section 22-1-102.5, the provisions of section 22-1-102 (2) (h) shall apply, and except that, when a child is living at one of the regional centers including satellite homes of such centers operated by the department of ~~institutions~~ HUMAN SERVICES or any other facility operated by or under contract to the department of ~~institutions~~ HUMAN SERVICES or at the Colorado mental health institute at Pueblo or Fort Logan, a group care facility or home, or the school for the deaf and the blind, such child shall be deemed to reside where the parent or guardian of such child resides; except that, when a child lives in such facility and the district of residence cannot be determined due to the inability to locate a parent or guardian, the child shall be considered a resident of the school district in which such facility is located. If there is a dispute as to which school district constitutes the district of residence, the commissioner of education shall have the authority to determine questions of residency and thus jurisdiction after reviewing necessary details involved in the determination of residency.

**SECTION 26.** 30-20-109 (4), Colorado Revised Statutes, 1986 Repl. Vol., as enacted by House Bill 94-1077, enacted at the Second Regular Session of the

Fifty-ninth General Assembly, is amended to read:

**30-30-109. State board of health to promulgate rules and regulations - repeal.** (4) Any and all rules promulgated by the department of PUBLIC health AND ENVIRONMENT prior to the transfer of its rule-making authority under this section to the state board of health shall remain in full force and effect after the date of such transfer.

**SECTION 27.** 24-1.7-403 (1), Colorado Revised Statute, 1988 Repl. Vol., as enacted by House Bill 94-1005, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**24-1.7-403. Local planning area - identification.** (1) ~~Within thirty days of the effective date of this part 4,~~ ON OR BEFORE JULY 1, 1994, the governing body of every county in the state shall consult with the governing bodies of other counties as they deem appropriate for the purpose of cooperatively identifying and designating the local planning area which will serve as a basis for human services assessment and planning in said county or counties. The boundaries of a local planning area may be modified at any time upon the mutual agreement of the governing bodies of all affected counties.

**SECTION 28.** 24-34-104 (26.2), Colorado Revised Statutes, 1988 Repl. Vol., as enacted by Senate Bill 94-109, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (26.2) The following function of the specified agencies shall terminate on July 1, 1997: The imposition of sanctions, including civil money penalties, upon a nursing facility when such a facility violates a federal regulation for participation in the medicaid program by the department of PUBLIC health AND ENVIRONMENT in accordance with section 25-1-107.5, C.R.S., and the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING in accordance with article 4 of title 26, C.R.S.

**SECTION 29.** 25-1-107.5 (2), (3) (a), (3) (c) (II) (C), (3) (d), (4) (a), and (4) (b), Colorado Revised Statutes, 1989 Repl. Vol., as enacted by Senate Bill 94-109, enacted at the Second Regular Session of the Fifty-ninth General Assembly, are amended to read:

**25-1-107.5. Additional authority of the department - remedies against nursing facilities - criteria for recommending assessments for civil penalties - cooperation with the department of health care policy and financing - nursing home penalty cash fund - repeal.** (2) The department, as the state agency responsible for certifying skilled and intermediate nursing facilities which receive federal and state funds under Title XIX of the federal "Social Security Act", as amended, is hereby given the authority to adopt rules and regulations necessary to establish a series of remedies in accordance with this section and the federal "Omnibus Budget Reconciliation Act of 1987" (P.L. 100-203), as amended, which may be imposed by the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING when a nursing facility violates federal regulations for participation in the medicaid program. The remedies which are established shall include any remedies

required under federal law and shall include the imposition of civil money penalties.

(3) (a) In accordance with rules and regulations promulgated under this section, the department is authorized to recommend to the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING an appropriate civil money penalty based on the nature of the violation. Any penalties recommended shall not be less than one hundred dollars nor more than ten thousand dollars for each day the facility is found to be in violation of the federal regulations. Penalties assessed shall include interest at the statutory rate.

(c) (II) Except as provided in subparagraph (I) of this paragraph (c), no penalty shall be assessed prior to the date a nursing facility receives written notice from the department of its recommendation to assess civil money penalties. Such notice shall be provided to the facility no later than five days after the last day of the inspection or survey during which the deficiencies which constitute the violation were found. The notice shall:

(C) Provide for the submission of a written plan of correction by the nursing facility. The department shall adopt criteria for the submission and approval of written plans of correction. If the facility acts in a timely and diligent manner to correct the violation in accordance with an approved plan of correction, the department may recommend to the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING that the penalty be suspended or reduced during the period of correction specified in the approved plan of correction.

(d) Except as provided in sub-subparagraph (C) of subparagraph (II) of paragraph (c) of this subsection (3), any penalty recommended under this section shall continue to be assessed until the department verifies to the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING that the violation is corrected or until the nursing facility notifies the department that correction has occurred, whichever is earlier. In the event the nursing facility has not corrected the violation, the penalty shall be reinstated at an increased amount and shall be retroactively assessed to the date the penalty was suspended.

(4) (a) The department of ~~social services~~ HEALTH CARE POLICY AND FINANCING, after receiving a recommendation from the department, is authorized to assess, enforce, and collect the civil money penalty pursuant to section 26-4-505, C.R.S., for credit to the nursing home penalty cash fund, created pursuant to section 26-4-505 (3) (a), C.R.S.

(b) (I) The department of ~~health~~ PUBLIC HEALTH AND ENVIRONMENT and the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall have joint authority for administering the nursing home penalty cash fund; except that final authority regarding the administration of moneys in the fund shall be in the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING.

(II) The authority of both departments includes establishing circumstances under which funds may be distributed in order to protect the health or property of individuals residing in nursing facilities which the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING has found to be in violation of federal regulations for participation in the medicaid program.

(III) The department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall promulgate rules and regulations necessary to ensure proper administration of the nursing home penalty cash fund.

**SECTION 30.** The introductory portion to 25-1-114.5 (1) and 25-1-114.5 (1) (d), (2), (3), (4), (5), and (7), Colorado Revised Statutes, 1989 Repl. Vol., as enacted by Senate Bill 94-139, enacted at the Second Regular Session of the Fifty-ninth General Assembly, are amended to read:

**25-1-114.5. Voluntary disclosure arising from self-evaluation - presumption against imposition of administrative, civil, or criminal penalties - repeal.**

(1) For the purposes of this section, a disclosure of information by a person or entity to any division or agency within the department of PUBLIC health AND ENVIRONMENT regarding any information related to an environmental law is voluntary if all of the following are true:

(d) The person or entity making the disclosure cooperates with the appropriate division or agency in the department of PUBLIC health AND ENVIRONMENT regarding investigation of the issues identified in the disclosure.

(2) For the purposes of paragraph (c) of subsection (1) of this section, upon application to and at the discretion of the department of PUBLIC health AND ENVIRONMENT, the time period within which the noncompliance is required to be corrected may be extended if it is not practicable to correct the noncompliance within the two-year period. A request for a de novo review of the decision of the department of PUBLIC health AND ENVIRONMENT may be made to the appropriate district court or administrative law judge.

(3) If a person or entity is required to make a disclosure to a division or agency within the department of PUBLIC health AND ENVIRONMENT under a specific permit condition or under an order issued by the division or agency, then the disclosure is not voluntary with respect to that division or agency.

(4) If any person or entity makes a voluntary disclosure of an environmental violation to a division or agency within the department of PUBLIC health AND ENVIRONMENT, then there is a rebuttable presumption that the disclosure is voluntary and therefore the person or entity is immune from any administrative and civil penalties associated with the issues disclosed and is immune from any criminal penalties for negligent acts associated with the issues disclosed. The person or entity shall provide information supporting its claim that the disclosure is voluntary at the time that the disclosure is made to the division or agency.

(5) To rebut the presumption that a disclosure is voluntary, the appropriate division or agency shall show to the satisfaction of the respective commission in the department of PUBLIC health AND ENVIRONMENT or the state board of health, if no respective commission exists, that the disclosure was not voluntary based upon the factors set forth in subsections (1), (2), and (3) of this section. A decision by the commission or the state board of health, whichever is appropriate, regarding the voluntary nature of a disclosure is final agency action. The division or agency may not include any administrative or civil penalty or fine or any criminal penalty or fine for negligent acts in a notice of violation or in a cease and desist order on any

underlying environmental violation that is alleged absent a finding by the respective commission or the state board of health that the division or agency has rebutted the presumption of voluntariness of the disclosure. The burden to rebut the presumption of voluntariness is on the division or agency.

(7) Except as specifically provided in this section, this section does not affect any authority the department of PUBLIC health AND ENVIRONMENT has to require any action associated with the information disclosed in any voluntary disclosure of an environmental violation.

**SECTION 31.** 25-4-701 (2), Colorado Revised Statutes, 1989 Repl. Vol., as enacted by Senate Bill 94-023, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**25-4-701. Definitions.** As used in this part 7, unless the context otherwise requires:

(2) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 32.** 25-7-211, Colorado Revised Statutes, 1989 Repl. Vol., as enacted by Senate Bill 94-180, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**25-7-211. Visibility impairment attribution studies.** Any visibility impairment reasonable attribution study pertaining to class I areas shall be subject to balanced peer review by a panel including scientists with appropriate expertise who do not have any substantive involvement with any party, shall be site-specific with respect to any suspected source of impairment and to any impacted area, shall be conducted under the oversight of the division, including but not limited to determination of deadlines for such study, and shall utilize study design and data collection and analytical techniques, including, but not limited to, contemporaneous ambient air quality, visibility, and meteorological sampling that allows correlation of the data relevant to any such study. With the exception of emissions from agricultural activities which are exempted under section 25-7-109 (8), relevant data shall include a reasonable assessment of the contributions of emissions from reasonably identifiable sources, including natural sources, within the state and region. Any remedy selection must include relevant economic impact data. In order to minimize delay in the process, the study shall proceed as expeditiously as sound science will allow. The cost of any such study shall not be required to be paid by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 33.** 30-20-109 (4), Colorado Revised Statutes, 1986 Repl. Vol., as enacted by House Bill 94-1077, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**30-20-109. State board of health to promulgate rules and regulations - repeal.** (4) Any and all rules promulgated by the department of PUBLIC health AND ENVIRONMENT prior to the transfer of its rule-making authority under this section to the state board of health shall remain in full force and effect after the date of such transfer.

**SECTION 34.** 37-95-107.7 (3) (b), Colorado Revised Statutes, 1990 Repl. Vol., as enacted by Senate Bill 94-203, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

**37-95-107.7. Creation and administration of domestic water supply project revolving fund.** (3) (b) Additions and modifications to the domestic water supply project eligibility list shall be developed by the division of local government in the department of local affairs, the division of administration in the department of PUBLIC health AND ENVIRONMENT, and the authority and shall be submitted to the general assembly on or before January 15 of each year. Any additions or modifications to the eligibility list shall consist of domestic water supply projects of governmental agencies that do not qualify for financial assistance through the existing programs of the authority. On or before April 1 of each year, such additions or modifications shall be adopted by the passage of a joint resolution which is approved by a majority vote of both houses of the general assembly and which is approved by the governor in accordance with section 39 of article V of the state constitution.

**SECTION 35.** Section 1 (3) of Senate Bill 94-102, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

Section 1. **Definitions.** As used in this act, unless the context otherwise requires:

(3) "Department" means the department of ~~institutions~~ HUMAN SERVICES created by section ~~24-1-118~~ 24-1-120, Colorado Revised Statutes.

**SECTION 36.** The introductory portion to Section 15 (2) (a), Section 15 (2) (b), and Section 16 (1) and (2) of House Bill 94-1340, enacted at the Second Regular Session of the Fifty-ninth General Assembly, are amended to read:

Section 15. **Appropriation for the 1994-95 fiscal year.** (2) (a) For the fiscal year beginning July 1, 1994, there is hereby appropriated, out of any moneys in the capital construction fund created in section 24-75-302, Colorado Revised Statutes, not otherwise appropriated, to the department of ~~institutions~~ HUMAN SERVICES, for allocation to the division of youth services, seven million nine hundred eighty-seven thousand nine hundred eighty-four dollars (\$7,987,984) to be allocated as follows:

(b) Notwithstanding the dollar amounts allocated in paragraph (a) of this subsection (2) for specified juvenile detention facilities, it is the intent of the general assembly that the cost per juvenile detention bed allowed by such dollar amounts is to be considered an estimate of the cost per bed and that the department should contract for the construction of beds at a cost per bed which is as much below this estimate as reasonably possible. If the dollar amount allocated for a specified detention facility exceeds the actual construction cost for such facility, the department of ~~institutions~~ HUMAN SERVICES, with the approval of the capital development committee, may use the excess dollars to pay for the construction costs at one or both of the other juvenile detention facilities so long as the dollars are used only for the construction of the beds authorized by this subsection (2) and the total construction cost of the three facilities remains within the total appropriation made pursuant to this subsection (2). Any dollars not expended pursuant to this subsection (2) shall revert to the capital construction fund.

Section 16. **Authorization for construction of detention facilities by division of youth services in the department of human services - additional appropriation for 1993-94 fiscal year.** (1) (a) As required by section 13 of chapter 1, Session Laws of Colorado 1993, First Extraordinary Session, the general assembly hereby approves the construction by the division of youth services in the department of ~~institutions~~ HUMAN SERVICES of one hundred eight juvenile detention beds at a facility to be located in Arapahoe county at a cost of ten million four hundred seventy-six thousand dollars (\$10,476,000), sixty juvenile detention beds at a facility to be located in the city and county of Denver at a cost of six million seven hundred forty-three thousand dollars (\$6,743,000), and sixty juvenile detention beds at one or more facilities to be located in the northeast area of the state at a cost of six million seven hundred forty-three thousand dollars (\$6,743,000). If a suitable site cannot be found in the city and county of Denver for the sixty-bed facility, the department of ~~institutions~~ HUMAN SERVICES shall recommend an alternate site for the facility in the Denver metropolitan area, and such recommendation shall be reviewed and approved by the capital development committee prior to a final decision on the site for such facility. The department of ~~institutions~~ HUMAN SERVICES shall recommend the site for the facility or facilities to be located in the northeast area of the state, and such recommendation shall be reviewed and approved by the capital development committee prior to a final decision on the site for such facility or facilities. The facilities provided for in this section shall be constructed from moneys appropriated to the department of ~~institutions~~ HUMAN SERVICES and allocated to the division of youth services by section 12 (1) of said chapter 1 and subsection (2) of this section.

(b) Notwithstanding the dollar amounts allocated in paragraph (a) of this subsection (1) for specified juvenile detention facilities, it is the intent of the general assembly that the cost per juvenile detention bed allowed by such dollar amounts is to be considered an estimate of the cost per bed and that the department should contract for the construction of beds at a cost per bed which is as much below this estimate as reasonably possible. If the dollar amount allocated for a specified detention facility exceeds the actual construction cost for such facility, the department of ~~institutions~~ HUMAN SERVICES, with the approval of the capital development committee, may use the excess dollars to pay for the construction costs at one or more of the other juvenile detention facilities so long as the dollars are used only for the construction of the beds authorized by this subsection (1) and the total construction cost of the facilities remains within the total appropriation made pursuant to section 12 (1) of chapter 1, Session Laws of Colorado 1993, First Extraordinary Session, and subsection (2) of this section. Any dollars not expended pursuant to this subsection (1) shall revert to the capital construction fund.

(2) In addition to any other appropriation made for the current fiscal year, there is hereby appropriated, out of any moneys in the capital construction fund created in section 24-75-302, Colorado Revised Statutes, not otherwise appropriated, to the department of ~~institutions~~ HUMAN SERVICES, for allocation to the division of youth services, the sum of two million four hundred ninety-two thousand dollars (\$2,492,000), to pay the costs which are in excess of the appropriation from the capital construction fund made in section 12 (1) of chapter 1, Session Laws of Colorado 1993, First Extraordinary Session, for the purpose of constructing additional juvenile detention beds.

#### **DEPARTMENT OF HEALTH CARE POLICY AND FINANCING**

**SECTION 37.** 10-1-108 (15), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**10-1-108. Duties of commissioner - reports - publications - disposition of funds.** (15) It is the duty of the commissioner to oversee the operation of electronic data interchange projects for purposes of uniform billing and electronic data exchange for health benefit coverages in Colorado. In carrying out such duties, the commissioner shall coordinate with the departments of labor and employment, PUBLIC health AND ENVIRONMENT, and ~~social services~~ HEALTH CARE POLICY AND FINANCING and the Colorado health data commission, as appropriate.

**SECTION 38.** 10-1-131 (6) (b), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**10-1-131. Uniform billing and electronic data exchange act - advisory board - creation.** (6) (b) It is the determination of the general assembly that funding for the provisions of this section shall only be from sources exempt from the definition of "fiscal year spending", as said term is defined in section 20 of article X of the state constitution. The division of insurance, the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING, the department of labor and employment, the department of PUBLIC health AND ENVIRONMENT, and the Colorado health data commission are authorized to accept and expend gifts and federal funds on behalf of the advisory board for the purposes of this section.

**SECTION 39.** 12-38.1-103 (6), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

**12-38.1-103. Certification - state board of nursing.** (6) Funding for the nurse aide certification program, as operated by the department of regulatory agencies, shall be provided by the federal Medicaid and Medicare programs. Medicaid funding shall be secured by the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING and Medicare funding shall be secured by the department of PUBLIC health AND ENVIRONMENT. All such funding shall be forwarded to the department of regulatory agencies for its use in operating the nurse aide certification program. The departments of ~~social services and health~~ HEALTH CARE POLICY AND FINANCING AND PUBLIC HEALTH AND ENVIRONMENT shall take all reasonable and necessary steps to secure such funding from the federal Medicaid and Medicare programs.

**SECTION 40.** 22-82-103 (4) and (6), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

**22-82-103. Public school medical assistance pilot program - rules and regulations - report.** (4) The department, in consultation with the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING, shall promulgate such rules and regulations as are necessary to implement the pilot program in the participating districts and to coordinate the pilot program with the operations of the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING. The department shall through such rules and regulations attempt to minimize the paperwork required for obtaining reimbursement and to minimize any duplication of effort among the districts, the department, and the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING under the pilot program.

(6) The department, the districts, and the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall safeguard the privacy interests of students receiving medical assistance. However, any necessary transfer or sharing of medicaid information among the department, the districts, and the department of ~~social services~~ HUMAN SERVICES for the purposes of implementing this article shall not be construed to be a breach of confidentiality. Notwithstanding any other law to the contrary, no person or public entity shall be liable in any civil action for any transfer of medicaid information in accordance with the provisions of this article or in accordance with the department's rules or regulations promulgated pursuant to subsection (4) of this section.

**SECTION 41.** 24-34-104 (22) (c) (I), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (22) (c) The following functions of the specified agencies shall terminate on July 1, 1993:

(I) The imposition of sanctions, including civil money penalties, upon a nursing facility when such a facility violates a federal regulation for participation in the medicaid program by the department of PUBLIC health AND ENVIRONMENT in accordance with section 25-1-107.5, C.R.S., and the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING in accordance with article 4 of title 26, C.R.S.;

**SECTION 42.** 25-1-120 (8) (a), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-1-120. Nursing facilities - rights of patients.** (8) (a) A patient who is eligible to receive medicaid benefits pursuant to article 4 of title 26, C.R.S., and who qualifies for nursing facility care shall have the right to select any nursing care facility ~~certified~~ RECOMMENDED FOR CERTIFICATION by the department of PUBLIC health AND ENVIRONMENT under Title XIX of the federal "Social Security Act", as amended, as a provider of medicaid services and licensed by the department pursuant to article 3 of this title where space is available, and the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall reimburse the selected facility for services pursuant to section 26-4-410, C.R.S., unless such nursing care facility shall have been notified by the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING at the time of or prior to action on its application for certificate of public ~~necessity~~ that it may not qualify as a provider of medicaid services.

**SECTION 43.** 25-3-108 (7), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-3-108. Receivership.** (7) The department of PUBLIC health AND ENVIRONMENT shall grant the receiver a license pursuant to section 25-3-102 and SHALL RECOMMEND certification for medicaid participation, and the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall reimburse the receiver for the long-term health care facility's medicaid residents pursuant to section 26-4-410, C.R.S.

**SECTION 44.** 25-4-1707, Colorado Revised Statutes, 1989 Repl. Vol., as

amended, is amended to read:

**25-4-1707. Moneys targeted for medical assistance for infants - reimbursement.** The state department of ~~social services~~ HUMAN SERVICES shall reimburse the department of PUBLIC health AND ENVIRONMENT for the costs of vaccinating infants under the infant immunization program who are medicaid eligible pursuant to the "Colorado Medical Assistance Act", part 1 of article 4 of title 26, C.R.S. Such moneys received from the state department of ~~social services~~ HUMAN SERVICES shall be credited to the infant immunization fund.

**SECTION 45.** 25-4-1711 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-1711. Infant immunization advisory committee - creation.** (1) There is hereby created an infant immunization advisory committee, in this part 17 referred to as the "committee", appointed by the executive director of the department. The committee shall consist of twelve members as follows: The executive directors of the departments of PUBLIC health AND ENVIRONMENT and ~~social services~~ HUMAN SERVICES or their designees, a public health nurse, two licensed physicians with knowledge and expertise in the fields of family practice and pediatrics, a representative of a licensed or certified hospital, a representative of a pharmaceutical manufacturer, a representative of the advertising industry, a representative of the health insurance industry, a parent of a child enrolled in the Colorado medical assistance program, and two members from the general public.

**SECTION 46.** 25-21-105 (4), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-21-105. Copayment schedule - committee - eligibility - maximum payments.** (4) Persons eligible for dental appliances and services under this article may apply for such to the appropriate committee. The committee shall contact the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING to determine eligibility of the applicant for the program and, upon receiving certification therefor, shall approve such application.

**SECTION 47.** 26-2-114 (2) (a) (I) and (2) (a) (II) (A), Colorado Revised Statutes, 1989 Repl. Vol., as amended, as they will become effective July 1, 1994, are amended to read:

**26-2-114. Amount of assistance payments - old age pension.** (2) (a) (I) The ~~executive director of~~ MEDICAL SERVICES BOARD IN the department of health care policy and financing, with the consent of the general assembly and subject to available funds, may provide adult foster care for persons eligible to receive old age pension. For the purposes of this subparagraph (I), "adult foster care" means the care and services defined in section 26-2-122.3.

(II) (A) The ~~executive director of~~ MEDICAL SERVICES BOARD IN the department of health care policy and financing, with the consent of the general assembly and subject to available funds, may provide a home care allowance for persons eligible to receive old age pensions. For the purposes of this subparagraph (II), "home care allowance" means care and services defined in section 26-2-122.3.

**SECTION 48.** 26-2-119 (1.5) (a) (I) and (1.5) (a) (II) (A), Colorado Revised Statutes, 1989 Repl. Vol., as amended, as they will become effective July 1, 1994, are amended to read:

**26-2-119. Amount of assistance payments - aid to the needy disabled.** (1.5) (a) (I) In addition to the amount of assistance available pursuant to subsection (1) of this section, the ~~executive director of~~ MEDICAL SERVICES BOARD IN the department of health care policy and financing, with the consent of the general assembly and subject to available funds, may provide adult foster care for persons eligible to receive aid to the needy disabled. For the purposes of this subparagraph (I), "adult foster care" means the care and services defined in section 26-2-122.3.

(II) (A) In addition to the amount of assistance available pursuant to subsection (1) of this section, the ~~executive director of~~ MEDICAL SERVICES BOARD IN the department of health care policy and financing, with the consent of the general assembly and subject to available funds, may provide a home care allowance for persons eligible to receive aid to the needy disabled. For the purposes of this subparagraph (II), "home care allowance" means care and services defined in section 26-2-122.3.

**SECTION 49.** 26-4-404 (1) (b) (II), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-404. Vendors - payments - rules.** (1) (b) (II) The general assembly shall annually appropriate to the state department of ~~social services~~ HEALTH CARE POLICY AND FINANCING one-half of the amount which would have been paid to vendors if the services described in subparagraph (I) of this paragraph (b) were compensated under both Title XIX and Title XVIII of the social security act which shall be applied to the costs and expenses of any primary care provider incentive program established as a part of any managed care system established pursuant to section 26-4-104 (2).

**SECTION 50.** 26-4-405, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-405. Vendors - hospital reimbursement.** On or after July 1, 1987, the state department shall pay all licensed or certified hospitals under this article, except those hospitals operated by the department of ~~institutions~~ HUMAN SERVICES, pursuant to a system of prospective payment, generally based on the elements of the medicare system of diagnosis-related groups. While developing the system of prospective payment, the state department shall constitute an advisory committee, whose members shall include hospital providers and be appointed by the executive director. The system of prospective payment shall consider utilizing the system of children's diagnosis-related groups, as developed by the national association of children's hospitals, for pediatric hospitalization, unless the state board finds that such groups are statistically invalid. If the state department determines that the medicare system of diagnosis-related groups has been expanded or revised sufficiently to reasonably apply to additional categories of vendors under this article or if the state department develops a diagnosis-related groups system for additional categories of vendors, which system includes hospitals operated by the department of ~~institutions~~ HUMAN SERVICES, then the state department shall begin payment to such categories of vendors under this article pursuant to the system of prospective payment developed under this section. The state department shall develop and administer a system for assuring

appropriate utilization and quality of care provided by those vendors who are reimbursed pursuant to the system of prospective payment developed under this section. The state department shall promulgate rules and regulations to provide for the implementation of this section.

**SECTION 51.** 26-4-409, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-409. Vendors - community mental health center and clinics - reimbursement.** For the purpose of reimbursing community mental health center and clinic vendors, the state department shall establish a price schedule annually with the department of ~~institutions~~ HUMAN SERVICES in order to reimburse each vendor for its actual or reasonable cost of services.

**SECTION 52.** 26-4-503 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, as it will become effective July 1, 1994, is amended to read:

**26-4-503. Definitions relating to reimbursement of rental allowance for capital-related assets.** (2) "Appraised value" means the determination by a qualified appraiser who is a member of an institute of real estate appraisers or its equivalent of the depreciated cost of replacement of a capital-related asset to its current owner. The depreciated replacement appraisal shall be based on the "Boeckh Commercial Underwriter's Valuation System for Nursing Homes", December 1985 edition. The depreciated cost of replacement appraisal shall be redetermined every four years by new appraisals of the nursing facilities. Such new appraisals shall be based upon rules and regulations promulgated by the ~~executive director~~ of MEDICAL SERVICES BOARD in the department of health care policy and financing.

**SECTION 53.** 26-4-506.5 (3) (a) (III) (D), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-506.5. Court-approved trusts - transfer of property for persons seeking medical assistance for nursing home care - undue hardship.** (3) (a) If a person who applies for medical assistance for nursing home care would be deemed ineligible for assistance as a result of deeming a court-approved trust established for the applicant as a medicaid qualifying trust or as a result of deeming property in the court-approved trust as an improper transfer of assets, the person's application shall, nonetheless, be treated as a case of undue hardship and the person shall be eligible for medical assistance for said care if the establishment of the court-approved trust meets the following criteria:

(III) The applicant and the state medical assistance program shall be the sole beneficiaries of the trust. The entire corpus of the trust, or as much of the corpus as may be distributed each month without violating federal requirements for federal financial participation, shall be distributed each month for expenses related to the beneficiary's nursing home care that are approved under the medical assistance program; except that an amount reasonably necessary to maintain the existence of the trust and to comply with federal requirements may be retained in the trust. Deductions may be distributed from the trust to the same extent deductions from the income of a nursing home resident who is not a trust beneficiary are allowed under

the medical assistance program, which shall include the following:

(D) Any other deduction provided in the rules of the state department of ~~social services~~ HEALTH CARE POLICY AND FINANCING;

**SECTION 54.** 26-4-506.7 (4) (a) (VI), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-506.7. Study of private-public partnership for financing long-term care - exemption of countable resources for persons with long-term care policies - authority to implement exemption - rules - repeal.** (4) (a) To facilitate a comprehensive study of the program, the state department shall cooperate with and receive recommendations from an advisory committee, which the executive director of the state department is hereby authorized to establish. The committee shall consist of not less than thirteen members, including a chairperson, who shall be appointed by the executive director of the state department and shall serve without compensation. Members appointed by the executive director of the state department shall be from among the following groups or agencies:

(VI) The state department of ~~social services~~ HUMAN SERVICES.

**SECTION 55.** 26-4-514 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, as it will become effective July 1, 1994, is amended to read:

**26-4-514. Clinic services - children and pregnant women - utilization of certain providers.** (1) The state department shall utilize, to the extent possible and appropriate, county or regional health departments or local boards of health established pursuant to part 5, 6, or 7 of article 1 of title 25, C.R.S., that are certified by the department of public health and environment as qualified to receive payments pursuant to this article, and that meet the requirements and standards set forth in rules and regulations promulgated by the ~~executive director of~~ MEDICAL SERVICES BOARD IN the department of health care policy and financing pursuant to section 26-4-104 to provide clinic services to patients who are children under age seven or patients who are pregnant women.

**SECTION 56.** The introductory portion of 26-4-522 (3) a, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-522. Single entry point system - authorization - phases for implementation - services provided.** (3) **Single entry point agencies - service programs - functions.** (a) A single entry point agency shall be an agency in a local community through which any person eighteen years of age or older who is in need of long-term care can access needed long-term care services. A single entry point agency may be a private, nonprofit organization, a county agency, including a county department of social services, a county nursing service, an area agency on aging, or a multicounty agency. Persons in need of specialized assistance such as services for developmental disabilities or mental illness may be referred by a single entry point agency to programs under the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 57.** 26-4-527 (1), (2), (3), and (4), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**26-4-527. Residential child health care feasibility study - waiver - program.**

(1) The department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall conduct a feasibility study to determine whether a program concerning residential child health care under this article to provide services to medicaid-eligible children in foster care would be cost-effective. The feasibility study shall establish the type of rehabilitative or medical assistance services to be provided under the program as described in subsection (3) of this section, the recipient eligibility criteria which may include a medical necessity determination and a financial eligibility determination, and the cost-effectiveness of such a program. The department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall submit a report on cost-effectiveness, program design, and projected savings of the program to the general assembly on or before July 1, 1992.

(2) The department of ~~social services~~ HEALTH CARE POLICY AND FINANCING is authorized to seek a waiver or an amendment to an existing waiver, if necessary, from the federal department of health and human services which would allow the department to limit the number of recipients or providers participating in the program.

(3) If a determination is made by the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING based on the feasibility study required in subsection (1) of this section, that a residential child health care program would be cost-effective, and if all necessary federal waivers are obtained, the department shall establish a residential child health care program under this article. The department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall promulgate rules as necessary for the implementation of the program, including, but not limited to, rules regarding program services which may include rehabilitative services as appropriate to residential child health care when referred by a physician licensed pursuant to article 36 of title 12, C.R.S., a psychologist licensed pursuant to part 3 of article 43 of title 12, C.R.S., a clinical social worker licensed pursuant to part 4 of article 43 of title 12, C.R.S., a marriage and family therapist licensed pursuant to part 5 of article 43 of title 12, C.R.S., or a professional counselor licensed pursuant to part 6 of article 43 of title 12, C.R.S., the number of recipients participating, eligibility criteria including financial eligibility criteria, reimbursement of providers, and such other rules as are necessary for the implementation and administration of the program. The twenty percent county contribution established in section 26-1-122 for residential child care facilities may be used by the state to obtain federal financial participation under Title XIX of the federal "Social Security Act" for any residential child health care program established pursuant to this section. Said twenty percent contribution shall not be increased due to any federal financial participation received as a result of any programs established pursuant to this section. Nothing in this section shall be construed to prohibit an adjustment in the county contribution due to caseload or service cost increases. Nothing in this section shall be construed to create a county obligation to directly participate in the financing of any program established pursuant to the "Colorado Medical Assistance Act" as set forth in this article. The program shall terminate on July 1, 1995, unless extended by the general assembly. If the program is implemented, the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall submit a report on the cost-effectiveness of continuing said program to the general assembly on or before January 1, 1995.

(4) Prior to the submittal of any waiver or amendment to an existing waiver pursuant to subsection (2) of this section, the department of ~~social services~~ HEALTH

CARE POLICY AND FINANCING shall consult with the joint budget committee of the general assembly concerning the proposed number of recipients to be served, the savings anticipated, and the costs associated with the implementation of this program.

**SECTION 58.** The introductory portion to 26-4-528 (1) (a) and 26-4-528 (1) (b) and (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**26-4-528. Managed mental health services feasibility study - waiver - pilot program.** (1) (a) The ~~state~~ department OF HEALTH CARE POLICY AND FINANCING and the department of ~~institutions~~ HUMAN SERVICES shall jointly conduct a feasibility study concerning management of mental health services under the "Colorado Medical Assistance Act", which study shall consider a prepaid capitated single entry point system for providing comprehensive mental health services. In conducting the study, the ~~state~~ department OF HEALTH CARE POLICY AND FINANCING and the department of ~~institutions~~ HUMAN SERVICES shall:

(b) On or before October 1, 1992, the state department and the department of ~~institutions~~ HUMAN SERVICES shall provide a written report to the general assembly assessing the costs, benefits, risks, alternatives, and impact upon recipients, providers, and mental health services in this state, for each model or proposed program modification. Said report shall include recommendations for implementation of any model or proposed program modification.

(3) If a determination is made by the ~~state~~ department OF HEALTH CARE POLICY AND FINANCING and the department of ~~institutions~~ HUMAN SERVICES, based on the feasibility study required in subsection (1) of this section, that the implementation of one or more model or proposed program modifications would be cost-effective, and if all necessary federal waivers are obtained, the ~~state~~ department OF HEALTH CARE POLICY AND FINANCING shall establish a pilot prepaid capitated single entry point system for providing comprehensive mental health services. The ~~state~~ department OF HEALTH CARE POLICY AND FINANCING shall promulgate rules as necessary for the implementation and administration of the pilot program. The pilot program shall terminate on July 1, 1996, unless extended by the general assembly. If the pilot program is implemented, the ~~state~~ department OF HEALTH CARE POLICY AND FINANCING and the department of ~~institutions~~ HUMAN SERVICES shall submit to the general assembly on or before January 1, 1996, a report on the cost-effectiveness of continuing said program.

**SECTION 59.** 26-4-623 (2) (b), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-623. Definitions.** As used in this subpart 21, unless the context otherwise requires:

(2) (b) The amount of parental income and resources which shall be attributable to a child's gross income for purposes of eligibility under paragraph (a) of this subsection (2) shall be set forth in rules and regulations promulgated by the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 60.** 26-4-653, Colorado Revised Statutes, 1989 Repl. Vol., as

amended, is amended to read:

**26-4-653. No entitlement created.** Nothing in this subpart 4 shall be construed to establish that eligible persons as defined in section 26-4-654 (4) are entitled to receive services from the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING or the department of ~~institutions~~ HUMAN SERVICES. The provision of any services pursuant to this subpart 4 shall be subject to and limited by available appropriations.

**SECTION 61.** 26-4-655, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-655. Duties of the department of health care policy and finance and the department of human services.** (1) The department of ~~social services and the department of institutions~~ HEALTH CARE POLICY AND FINANCING AND THE DEPARTMENT OF HUMAN SERVICES shall provide a system of reimbursement for services provided pursuant to this subpart 4 which encourages the most cost-effective provision of services.

(2) The department of ~~social services and the department of institutions~~ HEALTH CARE POLICY AND FINANCING AND THE DEPARTMENT OF HUMAN SERVICES shall, subject to appropriation, utilize any available federal, state, local, or private funds, including but not limited to, medicaid funds available under Title XIX of the federal "Social Security Act", as amended, to carry out the purposes of this subpart 4.

(3) The department of ~~social services~~ HEALTH CARE AND POLICY may contract with the department of ~~institutions~~ HUMAN SERVICES to certify agencies providing services under this subpart 4 as eligible medicaid providers, to adopt fiscal and administrative procedures, to review plans of care, to set rates, and to make and implement recommendations regarding the scope, duration, and content of programs and the eligibility of persons for specific services provided pursuant to this subpart 4, and to fulfill any other responsibilities necessary to implement this subpart 4 which are consistent with the single state agency designation set out in section 26-4-104.

(4) The ~~state board of social services~~ MEDICAL SERVICES BOARD shall promulgate such rules and regulations regarding this subpart 4 as are necessary to fulfill the obligations of the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING as the single state agency to administer medical assistance programs in accordance with Title XIX of the federal "Social Security Act", as amended. Such rules and regulations may include, but shall not be limited to, determination of the level of care requirements for community-supported living arrangement services, patient payment requirements, the rights of persons receiving services, medicaid eligibility, and appeal rights associated with these requirements.

(5) The department of ~~institutions~~ HUMAN SERVICES shall promulgate such rules and regulations as are necessary to implement the provisions of this subpart 4. Such rules and regulations shall be promulgated pursuant to section 24-4-103, C.R.S.

(6) In the event that a direct conflict arises between the rules and regulations of the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING promulgated pursuant to subsection (4) of this section and the rules and regulations of the

department of ~~institutions~~ HUMAN SERVICES promulgated pursuant to subsection (5) of this section, regarding implementation of this subpart 4, the rules and regulations of the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall control.

**SECTION 62.** 26-4-658, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-658. Gifts - grants.** The department of ~~social services~~ HEALTH CARE POLICY AND FINANCING and the department of ~~institutions~~ HUMAN SERVICES, acting on behalf of the state, may receive and accept title to gifts or grants from any source, including the federal government. Both departments shall deposit all grants, grants-in-aid, and gifts with the state treasurer, who shall credit them to the general fund. These moneys shall remain available for appropriation to either department to carry out the purposes of this subpart 4.

**SECTION 63.** 26-4-659 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-659. Eligibility - fees.** (2) Any eligible person who accepts and receives services pursuant to this subpart 4 shall pay to the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING, or to an agent designated by the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING, an amount determined pursuant to federal regulations construing the federal "Social Security Act", as amended, concerning the application of patient income to the cost of services.

**SECTION 64.** 26-4-661, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-661. Qualification for federal funding.** Nothing in this subpart 4 shall prevent the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING or the department of ~~institutions~~ HUMAN SERVICES from complying with federal requirements in order for the state of Colorado to qualify for federal funds under Title XIX of the federal "Social Security Act", as amended.

**SECTION 65.** 26-4-672 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-672. Legislative declaration - no entitlement created.** (2) Nothing in this subpart 5 shall be construed to establish that eligible persons as defined in section 26-4-673 (1) are entitled to receive services from the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING or the department of ~~institutions~~ HUMAN SERVICES. The provision of any services pursuant to this subpart 5 shall be subject to federal waiver authorization and available appropriations.

**SECTION 66.** 26-4-674, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-674. Relationship to single entry point for long-term care.** The home and community-based services program for persons with major mental illnesses shall not be considered a publicly funded long-term care program for the purposes of sections

26-4-521 to 26-4-525, concerning the single entry point system, unless and until the departments of ~~social services and institutions~~ HEALTH CARE POLICY AND FINANCING AND HUMAN SERVICES provide in the memorandum of understanding between the departments for the inclusion of the program in the single entry point system.

**SECTION 67.** 26-4-675 (2), (3), (4), (5), (6), and (7), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**26-4-675. Implementation of program for mentally ill authorized - federal waiver - duties of the department of health care policy and financing and the department of human services.** (2) The department of ~~social services~~ HEALTH CARE POLICY AND FINANCING and the department of ~~institutions~~ HUMAN SERVICES shall provide a system of reimbursement for services provided pursuant to this subpart 5 which encourages the most cost-effective provision of services.

(3) The department of ~~social services~~ HEALTH CARE POLICY AND FINANCING and the department of ~~institutions~~ HUMAN SERVICES shall, subject to appropriation, use available federal, state, local, or private funds, including but not limited to, medicaid funds available under Title XIX of the federal "Social Security Act", as amended, to carry out the purposes of this subpart 5.

(4) The department of ~~social services~~ HEALTH CARE POLICY AND FINANCING may include in the memorandum of understanding with the department of ~~institutions~~ HUMAN SERVICES provisions that allow the department of ~~institutions~~ HUMAN SERVICES to certify agencies as medicaid providers for the purposes of this subpart 5, to adopt fiscal and administrative procedures, to review plans of care, to recommend reimbursement rates, and to make recommendations regarding the scope, duration, and content of programs and the eligibility of persons for specific services provided pursuant to this subpart 5, and to fulfill any other responsibilities necessary to implement this subpart 5. However, the provisions shall be consistent with the designation of the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING as the single state agency in section 26-4-104.

(5) The ~~state board of social services~~ MEDICAL SERVICES BOARD shall promulgate such rules and regulations regarding this subpart 5 as are necessary to fulfill the obligations of the ~~department of social services~~ DEPARTMENT OF HEALTH CARE POLICY AND FINANCING as the single state agency to administer medical assistance programs in accordance with Title XIX of the federal "Social Security Act", as amended.

(6) The department of ~~institutions~~ HUMAN SERVICES shall promulgate such rules as are necessary to perform its function pursuant to this subpart 5. Such rules shall be promulgated in accordance with section 24-4-103, C.R.S., and shall be consistent with the ~~state board of social services~~ rules OF THE MEDICAL SERVICES BOARD.

(7) In the event a direct conflict arises between the rules and regulations of the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING promulgated pursuant to subsection (5) of this section and the rules and regulations of the department of ~~institutions~~ HUMAN SERVICES promulgated pursuant to subsection (6) of this section, regarding implementation of this subpart 5, the rules and regulations of the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall

control.

**SECTION 68.** 26-5.5-104 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-5.5-104. Statewide family preservation program - creation - single state agency designated - program criteria established - available services - powers and duties of agencies - local oversight - feasibility report.** (1) The executive directors of the departments of ~~social services and institutions~~ HEALTH CARE POLICY AND FINANCING AND HUMAN SERVICES, through the promulgation of rules, may jointly develop, finance, and implement a statewide family preservation program, which program shall be fully implemented no later than July 1, 1996. The state department is hereby designated as the single state agency to administer the program in accordance with this article and applicable federal law.

**SECTION 69.** 26-17-107.5, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-17-107.5. Eligibility.** A person who otherwise meets the definition of "eligible person", as defined in section 26-17-103 (5), but has not been determined to be eligible under the medically indigent program established in article 15 of this title, shall be automatically eligible for the children's health plan if the person's family meets the income guidelines for eligibility for one or more of the following programs: The special supplemental food program for women, infants, and children (WIC), funded by the United States department of agriculture and administered by the state department of PUBLIC health AND ENVIRONMENT; the reduced price meal program under the national school lunch and school breakfast programs, funded by the United States department of agriculture and administered by the state department of education; the child and adult care food program, funded by the United States department of agriculture and administered by the state department of PUBLIC health AND ENVIRONMENT; the prenatal program, funded with local, state, and federal moneys and administered through the family planning and prenatal program of the state department of PUBLIC health AND ENVIRONMENT; the commodity supplemental food program, funded by the United States department of agriculture and administered through the state department of ~~social services~~ HUMAN SERVICES; the emergency food assistance program, funded by the United States department of agriculture and administered by the state department of ~~social services~~ HUMAN SERVICES; and the handicapped children's program, funded with local, state, and federal moneys and administered by the state department of PUBLIC health AND ENVIRONMENT, for children qualified up to one hundred eighty-five percent of the federal poverty level.

**SECTION 70.** 26-17-110, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-17-110. Waiver of medicaid.** The administrator shall have authority to request the state department of ~~social services~~ HEALTH CARE POLICY AND FINANCING to apply for a medicaid waiver from the federal department of health and human services in order to secure federal funding for the plan.

**SECTION 71.** 26-18-103 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-18-103. State council created - powers and duties - report.** (2) The state council shall consist of fourteen members, ten of whom shall be appointed by the governor and four of whom shall be members of the general assembly. The members appointed by the governor shall be as follows: One representative each from the state departments of ~~social services, health, institutions~~ HEALTH CARE POLICY AND FINANCING, PUBLIC HEALTH AND ENVIRONMENT, HUMAN SERVICES, and education; one representative from the governor's job training office; two representatives from local government, one of whom shall be from a county or city and county with a population greater than one hundred thousand people, and one from a county with a population of less than one hundred thousand people; one representative from the private sector who provides services which promote functional families; and two parents of children in a family who serve on local advisory councils. The members from the general assembly shall be as follows: Two members from the house of representatives, one of whom shall be appointed by the speaker of the house of representatives and one of whom shall be appointed by the minority leader; and two members from the state senate, one of whom shall be appointed by the president of the senate and one of whom shall be appointed by the minority leader.

#### DEPARTMENT OF HUMAN SERVICES

**SECTION 72.** 8-44-101 (3) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-44-101. Insurance requirements.** (3) (b) For purposes of this subsection (3), the department of ~~institutions~~ HUMAN SERVICES, by virtue of the self-insurance program established pursuant to section 8-44-203, shall be considered a public entity of the state.

**SECTION 73.** 8-44-201 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-44-201. Employer as own insurance carrier - revocation of permission.** (2) Notwithstanding the provisions of subsection (1) of this section, the executive director shall not prescribe or apply security requirements in granting or continuing permission for the self-insurance program of the department of ~~institutions~~ HUMAN SERVICES established pursuant to section 8-44-203 but shall provide instead for alternatives to such security requirements including trust funds, surety bonds, excess insurance, or other security acceptable to the executive director. The alternative security requirements provided by this subsection (2) shall apply only to claims arising on or after July 1, 1985, and before July 1, 1990. The trust fund in existence on May 24, 1990, pursuant to the trust agreement between the department of ~~institutions~~ HUMAN SERVICES, a third party administrator, and the state treasurer, dated June 27, 1985, shall remain in existence through June 30, 1990.

**SECTION 74.** 8-44-203, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-44-203. Department of human services - self-insurance program.** The general assembly hereby finds and declares that a program shall be established by the department of ~~institutions~~ HUMAN SERVICES and the department of labor and employment to provide for a self-insurance program for the department of ~~institutions~~

HUMAN SERVICES, which shall apply only to claims arising on or after July 1, 1985, and before July 1, 1990.

**SECTION 75.** 10-1-131 (6) (b), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**10-1-131. Uniform billing and electronic data exchange act - advisory board - creation.** (6) (b) It is the determination of the general assembly that funding for the provisions of this section shall only be from sources exempt from the definition of "fiscal year spending", as said term is defined in section 20 of article X of the state constitution. The division of insurance, the department of ~~social services~~ HUMAN SERVICES, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, the department of labor and employment, the department of PUBLIC health AND ENVIRONMENT, and the Colorado health data commission are authorized to accept and expend gifts and federal funds on behalf of the advisory board for the purposes of this section.

**SECTION 76.** 10-15-105 (9), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**10-15-105. Contract requirements - refund - full performance.** (9) No preneed contract shall restrict any contract buyer who is receiving public assistance from making a preneed contract and any related trust or life insurance policy irrevocable in accordance with the rules and regulations of the department of ~~social services~~ HUMAN SERVICES.

**SECTION 77.** 10-16-104 (5) (b) (I), (6), and (9) (b) (III), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended to read:

**10-16-104. Mandatory coverage provisions.** (5) **Mental illness.** Every group policy or contract providing hospitalization or medical benefits by an entity subject to the provisions of part 2 or 3 of this article shall provide benefits for conditions arising from mental illness at least equal to the following:

(b) (I) In the case of major medical coverage, benefits shall cover outpatient services furnished by a comprehensive health care service corporation, a hospital, or a community mental health center or other mental health clinics approved by the department of ~~institutions~~ HUMAN SERVICES to furnish mental health services; or furnished by a registered professional nurse within the scope of his or her license; or furnished by a licensed clinical social worker within the scope of his or her license; or furnished by or under the supervision of a licensed physician or licensed psychologist acting in compliance with part 3 of article 43 of title 12, C.R.S. Except as provided in subparagraph (II) of this paragraph (b), the services provided under this paragraph (b) shall be under the direct supervision of a physician or a licensed psychologist acting in compliance with part 3 of article 43 of title 12, C.R.S. The patient records shall show that the attending physician or licensed psychologist acting in compliance with part 3 of article 43 of title 12, C.R.S., either saw the patient or had a written summary of consultations or a personal consultation with the therapist at least once every ninety days.

(6) **Dependent children.** No insurance carrier subject to the provisions of part 2 of this article and no entity subject to the provisions of part 3 or 4 of this article which

provides individual or group sickness and accident coverage or health insurance in this state shall refuse to accept and honor an otherwise valid claim for a covered benefit which is filed by either parent of a covered child, or by the state department of ~~social services~~ HUMAN SERVICES in the case of an assignment under section 26-13-106, C.R.S., who submits valid copies of medical bills. A claim submitted by a custodial parent who is not the insured under a policy issued by an insurance carrier subject to the provisions of part 2 of this article shall be deemed a valid assignment of benefits for payment to the health care provider. No insurance carrier and no entity subject to the provisions of part 3 or 4 of this article which provides individual or group sickness and accident coverage or health insurance in this state shall refuse to provide coverage for a dependent child for the sole reason that the child is not living in the home of a parent applying for the policy.

(9) **Availability of coverage for alcoholism.** (b) Outpatient benefits shall cover, to the extent of five hundred dollars over a twelve-month period, services furnished by:

(III) Any mental health facility approved as such by the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 78.** 12-36-106 (3) (q) (I), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-36-106. Practice of medicine defined - exemptions from licensing requirements.** (3) Nothing in this section shall be construed to prohibit, or to require a license under this article with respect to any of the following acts:

(q) (I) The administration of nutrition or fluids through gastrostomy tubes as provided in section 27-10.5-103 (2) (k), C.R.S., as a part of residential or day program services provided through service agencies approved by the department of ~~institutions~~ HUMAN SERVICES pursuant to section 27-10.5-104.5, C.R.S.

**SECTION 79.** 12-38-125 (1) (i) (I), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-38-125. Exclusions.** (1) No provision of this article shall be construed to prohibit:

(i) (I) The administration of nutrition or fluids through gastrostomy tubes as provided in section 27-10.5-103 (2) (k), C.R.S., as a part of residential or day program services provided through service agencies approved by the department of ~~institutions~~ HUMAN SERVICES pursuant to section 27-10.5-104.5, C.R.S.

**SECTION 80.** 12-42-102 (4), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-42-102. Definitions.** As used in this article, unless the context otherwise requires:

(4) The practice as a "psychiatric technician" means the performance for compensation of selected acts requiring interpersonal and technical skills, and, in a

state hospital or other state institutional setting approved by the department of ~~institutions~~ HUMAN SERVICES, said practice includes the administering of selected treatments and selected medications prescribed by a licensed physician or dentist, in the care of and in the observation and recognition of symptoms and reactions of the mentally ill patient or developmentally disabled individual under the direction of a licensed physician and the supervision of a registered professional nurse. The selected acts in the care of the mentally ill patient or developmentally disabled individual shall not require the substantial specialized skill, judgment, and knowledge required in professional nursing.

**SECTION 81.** 12-42-108 (1) (b), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-42-108. License by waiver and examination.** (1) The board may issue a license without examination to any person who, not later than July 1, 1980, submits to the board written evidence, verified by oath, that such person:

(b) Has practiced in a state hospital or other state institutional setting approved by the department of ~~institutions~~ HUMAN SERVICES, working with developmentally disabled individuals, for at least twelve consecutive months within the three-year period immediately prior to application pursuant to this section. The board may accept evidence of such practice through written statements, verified by oath, of one physician and two registered professional nurses, each licensed to practice in this state, that each has personal knowledge of the applicant's practice working with developmentally disabled individuals.

**SECTION 82.** 12-43-214 (4) (d), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-43-214. Mandatory disclosure of information to clients.** (4) The disclosure of information required by subsection (1) of this section is not required when psychotherapy is being administered in any of the following circumstances:

(d) The client is in the physical custody of either the department of corrections or the department of ~~institutions~~ HUMAN SERVICES and such department has developed an alternative program to provide similar information to such client and such program has been established through rule or regulation pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S.;

**SECTION 83.** 12-43-215 (3), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-43-215. Scope of article - exemptions.** (3) The provisions of this article shall not apply to employees of the department of ~~social services~~ HUMAN SERVICES, employees of county departments of social services, or personnel under the direct supervision and control of the department of ~~social services~~ HUMAN SERVICES or any county department of social services for work undertaken as part of their employment.

**SECTION 84.** 12-47.1-1401 (7), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

**12-47.1-1401. Contiguous county limited gaming impact fund.** (7) There is hereby created within the department of local affairs a gaming impact advisory committee. The committee shall be composed of the executive director of the department of local affairs, the executive director of the department of ~~social services~~ HUMAN SERVICES, the executive director of the department of highways, the executive director of the department of public safety, and one resident from each of the counties whose boundaries are contiguous with those of Gilpin and Teller counties or with those of any Indian lands on which gaming activities are being conducted as contemplated in article 47.2 of this title. The residents from the said contiguous counties shall be appointed by their respective boards of county commissioners for terms not to exceed four years and shall serve at the pleasure of such respective boards.

**SECTION 85.** 13-1-127 (1) (a.5), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-1-127. Corporations - legislative declaration - representation.** (1) As used in this section, unless the context otherwise requires:

(a.5) "Corporate licensed child placement agency" means a corporation which places, or arranges for placement of, the care of any child with any family, person, or institution other than persons related to said child, and which is licensed by the department of ~~social services~~ HUMAN SERVICES pursuant to section 26-6-104, C.R.S., as a child placement agency.

**SECTION 86.** 13-1-134 (2), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-1-134. Court automation system - juvenile or domestic actions.** (2) (a) On or before January 15, 1996, the state court administrator shall establish and administer a program for automation of the court computer technology systems in order to link the juvenile courts and district courts involved in domestic actions around the state with each other and with state family service agencies, including, but not limited to, the department of ~~social services~~ HUMAN SERVICES, the juvenile probation department, law enforcement offices, and any other agency involved in the investigation, evaluation, or provision of services to families involved in domestic actions pursuant to title 19, C.R.S., and articles 4 and 10 of title 14, C.R.S. Said automation system shall provide those parties linked to the system with automatic access to information obtained by any one of the parties in regard to a family or family member involved in said domestic actions; except that said automation system shall not include information which is required to be kept confidential under any state or federal law.

(b) On or before January 1, 1994, the court administrator shall submit a report to the joint budget committee of the general assembly which describes the program and specifies the costs and benefits of implementing and administering the program. This report shall include the costs and feasibility of establishing an automation program using selected judicial districts as they become automated. The report shall be completed in coordination with the department of ~~social services~~ HUMAN SERVICES. The joint budget committee shall review the report and on or before February 15, 1994, may either approve the program for implementation or report to the members

of the general assembly that the committee has determined that it is unable to approve the program for implementation and the reasons for reaching such a determination.

**SECTION 87.** 13-5-139 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-5-139. Transfer of information from orders for child support and maintenance to child support enforcement agency - payment of support and maintenance.** (1) On and after July 1, 1991, and contingent upon the executive director of the department of ~~social services~~ HUMAN SERVICES notifying the state court administrator that a particular county or judicial district is ready to implement and participate in the family support registry created in section 26-13-114, C.R.S., the clerk of the court of every judicial district in the state shall transfer the information described in section 26-13-114 (7), C.R.S., to the delegate child support enforcement unit within five working days after entry or modification of a court order or filing of an administrative order in any IV-D case, as defined in section 26-13-102.5 (2), C.R.S.

**SECTION 88.** 13-5-140, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-5-140. Transfer of certain registry functions - cooperation between departments.** The judicial department and the department of ~~social services~~ HUMAN SERVICES shall cooperate in the transfer of the functions relating to the collection of child support from the courts to the child support enforcement agency specified in article 13 of title 26, C.R.S. In order to implement such transfer, which shall be completed on or after July 1, 1991, and upon notification to the state court administrator by the executive director of the department of ~~social services~~ HUMAN SERVICES that a particular county or judicial district is ready to implement and participate in the family support registry, the judicial department shall transfer to the state child support enforcement agency all necessary data, computer programs, technical written material, and budgetary information and shall provide such technical assistance as may be required. The judicial department shall retain payment records relating to child support orders until the executive director of the department of ~~social services~~ HUMAN SERVICES notifies the state court administrator that retention of the records is no longer necessary.

**SECTION 89.** 13-5-304, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-5-304. When magistrate not necessary.** If, within a judicial district, ninety percent of the actions to establish or enforce child support obligations are completed in three months, ninety-eight percent of such actions are completed in six months, and one hundred percent of such actions are completed in twelve months, the judicial department may determine that the appointment of a family law magistrate is not required within that district. The judicial department shall notify the department of ~~social services~~ HUMAN SERVICES when a determination has been made that the appointment of a family law magistrate is not required within that district.

**SECTION 90.** 13-10-113 (4), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-10-113. Fines and penalties.** (4) Notwithstanding any provision of law to the contrary, a municipal court has the authority to order a child under eighteen years of age confined in a juvenile detention facility operated or contracted by the department of ~~institutions~~ HUMAN SERVICES or a temporary holding facility operated by or under contract with a municipal government for failure to comply with a lawful order of the court, including an order to pay a fine. Any confinement of a child for contempt of municipal court shall not exceed forty-eight hours.

**SECTION 91.** 13-20-401 (2), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**13-20-401. Definitions.** As used in this part 4, unless the context otherwise requires:

(2) "Patient" means the person upon whom a proposed electroconvulsive treatment is to be performed; except that nothing in this part 4 shall be construed to supersede the provisions of article 10 of title 27, C.R.S., or any rule or regulation adopted by the department of ~~institutions~~ HUMAN SERVICES pursuant to section 27-10-116 (2), C.R.S., with regard to the care and treatment of any person unable to exercise written informed consent or of a mentally ill person.

**SECTION 92.** 13-20-402, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**13-20-402. Physician to provide information for written informed consent.** At any time prior to performance of electroconvulsive treatment, a physician shall provide his patient with sufficient information relating to the proposed electroconvulsive treatment to enable said patient to give written informed consent to the proposed electroconvulsive treatment. The written informed consent shall be given by such patient on a standard written consent form to be prepared by the department of ~~institutions~~ HUMAN SERVICES and shall be for a maximum number of treatments over a specified period of time.

**SECTION 93.** 13-90-202 (4), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**13-90-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(4) "Qualified interpreter" means a sign language interpreter or oral interpreter whose name is found on the interpreter referral resources list maintained pursuant to section 13-90-205 by the division of rehabilitation which was administratively created by the department of ~~social services~~ HUMAN SERVICES.

**SECTION 94.** 13-90-203, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**13-90-203. Powers and duties of the department of human services.** The department of ~~social services~~ HUMAN SERVICES shall promulgate rules and regulations pursuant to article 4 of title 24, C.R.S., which have been proposed by the division of rehabilitation as necessary for the implementation of this part 2.

**SECTION 95.** 13-90-205 (1), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**13-90-205. Coordination of interpreter requests.** (1) The division of rehabilitation which has been administratively created by the department of ~~social services~~ HUMAN SERVICES shall establish, maintain, update, and distribute an interpreter referral resources list for use by any appointing authority who requires the assistance of an interpreter pursuant to section 13-90-204 (1) (a), (1) (b), (1) (c), and (1) (d). In addition, the division of rehabilitation shall make such list available to any appointing authority who requires the assistance of an interpreter pursuant to section 13-90-204 (1) (e). Such list shall contain, but not be limited to, the names of private community programs and agencies that secure qualified interpreters for assignment.

**SECTION 96.** 14-5-103 (1) and (2.5) (a), Colorado Revised Statutes, 1987 Repl. Vol., as amended, as they exist until January 1, 1995, are amended to read:

**14-5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Central interstate registry" means a single unit or office within the state department of ~~social services~~ HUMAN SERVICES which receives, disseminates, and has oversight responsibility for initiated and responding interstate actions filed under Title IV-D of the federal "Social Security Act", as amended, including any proceedings filed pursuant to this article.

(2.5) (a) "Family support registry" means the central registry maintained and operated by the state department of ~~social services~~ HUMAN SERVICES pursuant to section 26-13-114, C.R.S., which receives, processes, disburses, and maintains a record of payments of child support, child support when combined with maintenance, child support arrears, or child support debt.

**SECTION 97.** 14-5-113, Colorado Revised Statutes, 1987 Repl. Vol., as amended, as it exists until January 1, 1995, is amended to read:

**14-5-113. Officials to represent state.** If this state is acting as an initiating state, the prosecuting attorney, upon the request of the court, shall prosecute the case in any proceeding under this article. If the prosecuting attorney neglects or refuses to prosecute the case diligently, the department of ~~social services~~ HUMAN SERVICES, through the attorney general, may undertake action on the case. The prosecuting attorney does not represent the obligee but represents the people of the state of Colorado. The actions of the prosecuting attorney shall not be construed to create an attorney-client relationship between the attorney and any party other than the people of the state of Colorado.

**SECTION 98.** The introductory portion to 14-5-118 (1) and 14-5-118 (3), Colorado Revised Statutes, 1987 Repl. Vol., as they exist until January 1, 1995, are amended to read:

**14-5-118. State information agency.** (1) The department of ~~social services~~ HUMAN SERVICES is designated as the state information agency under this article, and it shall:

(3) After the deposit of three copies of the complaint and certificate and one copy of the law of the initiating state with the clerk of the appropriate court, if the state information agency knows or believes that the prosecuting attorney is not prosecuting the case diligently, the department of ~~social services~~ HUMAN SERVICES, through the attorney general, may undertake the representation.

**SECTION 99.** 14-5-119 (3), Colorado Revised Statutes, 1987 Repl. Vol., as amended, as it exists until January 1, 1995, is amended to read:

**14-5-119. Duty of the court and officials of this state as responding state.**

(3) If the prosecuting attorney neglects or refuses to prosecute the case diligently, the department of ~~social services~~ HUMAN SERVICES, through the attorney general, may undertake action on the case.

**SECTION 100.** 14-5-139 (2), Colorado Revised Statutes, 1987 Repl. Vol., as amended, as it exists until January 1, 1995, is amended to read:

**14-5-139. Official to represent state.** (2) If the prosecuting attorney neglects or refuses to prosecute the case diligently, the department of ~~social services~~ HUMAN SERVICES, through the attorney general, may undertake action on the case.

**SECTION 101.** 14-5-142, Colorado Revised Statutes, 1987 Repl. Vol., as amended, as it exists until January 1, 1995, is amended to read:

**14-5-142. Assistance from the Colorado bureau of investigation.** The department of ~~social services~~ HUMAN SERVICES may contract with the Colorado bureau of investigation for investigative services which will assist in carrying out the responsibilities of the department under this article.

**SECTION 102.** 14-5-310 (a), Colorado Revised Statutes, 1987 Repl. Vol., as amended, as it will become effective January 1, 1995, is amended to read:

**14-5-310. Duties of state information agency.** (a) The state department of ~~social services~~ HUMAN SERVICES is the state information agency under this article.

**SECTION 103.** 14-5-1006 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, as it will become effective January 1, 1995, is amended to read:

**14-5-1006. Interstate central registry - duties as the responding and initiating state.** (1) For purposes of this section, "interstate central registry" means a single unit or office within the state department of ~~social services~~ HUMAN SERVICES which receives, disseminates, and has oversight responsibility for initiated and responding interstate actions filed under Title IV-D of the federal "Social Security Act", as amended, including any proceedings filed pursuant to this article.

**SECTION 104.** 14-6-109 (2), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**14-6-109. Forfeiture of bond - disposition of fines.** (2) Any moneys collected or paid upon any such execution or in any case upon said bond shall be turned over to the clerk of the court in which the bond is given to be applied to the child support

obligation, including where the obligation is assigned to the department of ~~social services~~ HUMAN SERVICES pursuant to section 26-2-111 (3) (g), C.R.S.

**SECTION 105.** 14-7-104, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**14-7-104. Application of article.** This article shall not apply to liability for the support of children admitted, committed, or transferred to any public institution of this state supervised by the department of ~~institutions~~ HUMAN SERVICES for the care, support, maintenance, education, or treatment of the mentally ill or mentally deficient.

**SECTION 106.** 14-10-107.7, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**14-10-107.7. Required notice of involvement with department of human services.** When filing a petition for dissolution of marriage or legal separation, a petition in support or custody proceedings, or any other matter pursuant to this article with the court, if the parties have joint legal responsibility for a child for whom the petition seeks an order of child support, the parties shall be required to indicate on a form prepared by the court whether or not the parties or the dependent children of the parties have received within the last five years or are currently receiving benefits or public assistance from either the state DEPARTMENT OF HUMAN SERVICES or county department of social services. If the parties indicate that they have received such benefits or assistance, the court shall inform the appropriate delegate child support enforcement unit so that the unit can determine whether any support enforcement services are required. There shall be no penalty for failure to report as specified in this section.

**SECTION 107.** 14-10-115 (18) (a), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**14-10-115. Child support - guidelines - schedule of basic child support obligations.** (18) (a) The child support guidelines and general child support issues shall be reviewed and the results of such review and any recommended changes shall be reported to the governor and to the general assembly on or before December 1, 1991, and at least every four years thereafter by a child support commission, which commission is hereby created. As part of its review, the commission must consider economic data on the cost of raising children and analyze case data on the application of, and deviations from, the guidelines to be used in the commission's review to ensure that deviations from the guidelines are limited. The child support commission shall consist of no more than seventeen members. Fifteen members of the commission appointed by the governor shall include a male custodial parent, a female custodial parent, a male noncustodial parent, a female noncustodial parent, a joint custodial parent, a parent in an intact family, a judge, a court magistrate, the state court administrator or his designee, the director of the division in the state department of ~~social services~~ HUMAN SERVICES which is responsible for child support enforcement or his designee, a representative of the family law section of the Colorado bar association, an attorney who is knowledgeable in child support, a director of a county department of social services, an administrator of a county delegate child support enforcement unit, and one public member. The remaining two members of the commission shall be a member of the house of representatives

appointed by the speaker of the house of representatives and a member of the senate appointed by the president of the senate and shall not be members of the same political party. The parent representatives, bar association representative, public member, and the legislative members shall not be employees of public agencies or courts which deal with child support issues. Members of the child support commission shall not be compensated for their services on the commission; except that members shall be reimbursed for actual and necessary expenses for travel and mileage incurred in connection with their duties. The child support commission is authorized, subject to appropriation, to incur expenses related to its work, including the costs associated with public hearings, printing, travel, and research.

**SECTION 108.** 14-10-127 (1) (a) (II), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**14-10-127. Evaluation and reports.** (1) (a) (II) Each party and the child shall cooperate in the supplemental evaluation. If the court finds that the supplemental evaluation was necessary and materially assisted the court, the court may order the costs of such supplemental evaluation to be assessed as costs between the parties. Except as otherwise provided in this section, such report shall be considered confidential and shall not be available for public inspection unless by order of court. The cost of each probation department or ~~social services department~~ DEPARTMENT OF HUMAN SERVICES evaluation shall be based on an ability to pay and shall be assessed as part of the costs of the action or proceeding, and, upon receipt of such sum by the clerk of court, it shall be transmitted to the department or agency performing the evaluation.

**SECTION 109.** 14-14-102 (4.5) (a) and (7), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended to read:

**14-14-102. Definitions - repeal.** As used in this article, unless the context otherwise requires:

(4.5) (a) "Family support registry" means a central registry maintained and operated by the state department of ~~social services~~ HUMAN SERVICES pursuant to section 26-13-114, C.R.S., which receives, processes, disburses, and maintains a record of the payment of child support, child support when combined with maintenance, child support arrears, or child support debt.

(7) "Public assistance" means assistance payments and social services provided to or on behalf of eligible recipients through programs administered or supervised by the state department of ~~social services~~ HUMAN SERVICES, either in cooperation with the federal government or independently without federal aid, pursuant to article 2 of title 26, C.R.S.

**SECTION 110.** 14-14-104 (9), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**14-14-104. Recovery for child support debt.** (9) A copy of the computer printout obtained from the state department of ~~social services~~ HUMAN SERVICES of the record of payments of aid to families with dependent children made on behalf of a child whose custodian has been receiving child support enforcement services pursuant

to section 26-13-106, C.R.S., shall be admissible into evidence as proof of such payments in any proceeding to establish child support debt and shall be prima facie evidence of the amount of child support debt owing on behalf of said child.

**SECTION 111.** 14-14-107 (14), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**14-14-107. Wage assignment - applicability.** (14) The department of ~~social services~~ HUMAN SERVICES is hereby designated as the income withholding agency as required by the federal "Social Security Act", as amended.

**SECTION 112.** 14-14-110 (5), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**14-14-110. Contempt of court.** (5) Any moneys collected or paid upon any such execution or in any case upon said bond shall be turned over to the clerk of the court in which the bond is given to be applied to the child support obligation, including where the obligation is assigned to the department of ~~social services~~ HUMAN SERVICES pursuant to section 26-2-111 (3) (g), C.R.S.

**SECTION 113.** 15-12-805 (1) (f.5), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**15-12-805. Classification of claims.** (1) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(f.5) The claim of the department of ~~social services~~ HUMAN SERVICES for the net amount of medical assistance, as defined in section 26-4-403.3 (5), C.R.S., paid to or for the decedent;

**SECTION 114.** 15-14-106, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**15-14-106. Notice to public institutions on appointment of guardian or conservator.** When any court shall appoint a conservator of the estate of a protected person or a guardian of an incapacitated person committed to or residing in any public institution of this state, the court shall notify the superintendent or chief administrative officer of said public institution or, if unknown, the executive director of the department of ~~institutions~~ HUMAN SERVICES in writing of the fact of such appointment, giving the name and address of the conservator or guardian.

**SECTION 115.** 15-18.5-103 (8), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**15-18.5-103. Proxy decision-makers for medical treatment authorized.** (8) Except for a court acting on its own motion, no governmental entity, including the state department of ~~social services~~ HUMAN SERVICES and the county departments of social services, may petition the court as an interested person pursuant to part 3 of article 14 of this title. In addition, nothing in this article shall be construed to authorize the county director of any county department of social services, or designee

of such director, to petition the court pursuant to section 26-3.1-104, C.R.S., in regard to any patient subject to the provisions of this article.

**SECTION 116.** 16-8-102 (6), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**16-8-102. Other definitions.** As used in this article unless the context otherwise requires:

(6) "Release hearing" means a hearing for the purpose of determining whether a defendant previously committed to the department of ~~institutions~~ HUMAN SERVICES, following a verdict of not guilty by reason of insanity, has become eligible for release.

**SECTION 117.** 16-8-103.5 (5), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**16-8-103.5. Impaired mental condition - when raised - procedure - legislative intent.** (5) If the trier of fact finds the defendant not guilty by reason of impaired mental condition, pursuant to section 18-1-803 (3), C.R.S., the court shall commit the defendant to the custody of the department of ~~institutions~~ HUMAN SERVICES until such time as he is found eligible for release, pursuant to the standards set forth in sections 16-8-115 and 16-8-120. The executive director of the department of ~~institutions~~ HUMAN SERVICES shall designate the state facility at which the defendant shall be held for care and psychiatric treatment and may transfer the defendant from one institution to another if in the opinion of the director it is desirable to do so in the interest of the proper care, custody, and treatment of the defendant or the protection of the public or the personnel of the facilities in question.

**SECTION 118.** 16-8-105 (4), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**16-8-105. Procedure after plea.** (4) If the trier of fact finds the defendant not guilty by reason of insanity, the court shall commit the defendant to the custody of the department of ~~institutions~~ HUMAN SERVICES until such time as he is found eligible for release. The executive director of the department of ~~institutions~~ HUMAN SERVICES shall designate the state facility at which the defendant shall be held for care and psychiatric treatment and may transfer the defendant from one institution to another if in the opinion of the director it is desirable to do so in the interest of the proper care, custody, and treatment of the defendant or the protection of the public or the personnel of the facilities in question.

**SECTION 119.** 16-8-112 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**16-8-112. Procedure after determination of competency or incompetency.** (2) If the final determination is that the defendant is incompetent to proceed, the court shall commit the defendant to the custody of the department of ~~institutions~~ HUMAN SERVICES, in which case the executive director has the same powers with respect to such commitment as he has following a commitment under section 16-8-105 (4). However, in the case of a defendant who is charged with an offense

which does not involve violent behavior and who is subject to treatment on an outpatient basis as determined by the examination conducted pursuant to section 16-8-111 (2) or on the basis of adequate psychiatric information already available, the court may order the defendant to undergo treatment at or under the supervision of a facility, as defined in section 27-10-102 (4.5), C.R.S., if a facility exists in the judicial district which is able to provide treatment appropriate to the defendant. Such commitment or treatment shall continue until the defendant is found competent to proceed or until otherwise terminated under the provisions of section 16-8-114.5.

**SECTION 120.** 16-8-114.5 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-8-114.5. Commitment - termination of proceedings.** (1) A defendant committed to the department of ~~institutions~~ HUMAN SERVICES or otherwise confined as a result of a determination of incompetency to proceed shall not remain confined for a period in excess of the maximum term of confinement which could be imposed for the offenses with which he is charged less earned time to which he would be entitled under article 22.5 of title 17, C.R.S.

**SECTION 121.** 16-8-115 (3) (b), (3) (c), and (3) (e), Colorado Revised Statutes, 1986 Repl. Vol., are amended to read:

**16-8-115. Release from commitment after verdict of not guilty by reason of insanity or not guilty by reason of impaired mental condition.** (3) (b) When a defendant is conditionally released, the chief officer of the institution in which the defendant is committed shall forthwith give written notice of the terms and conditions of such release to the executive director of the department of ~~institutions~~ HUMAN SERVICES and to the director of any community mental health center which may be charged with continued treatment of the defendant. The director of such mental health center shall make written reports every three months to the executive director of the department of ~~institutions~~ HUMAN SERVICES and to the district attorney for the judicial district where the defendant was committed and to the district attorney for any judicial district where the defendant may be required to receive treatment, concerning the treatment and status of the defendant. Such reports shall include all known violations of the terms and conditions of the defendant's release and any changes in the defendant's mental status which would indicate that the defendant has become ineligible to remain on conditional release as defined in section 16-8-102 (4.5).

(c) A defendant who has been conditionally released remains under the supervision of the department of ~~institutions~~ HUMAN SERVICES until the committing court enters a final order of unconditional release. When a defendant fails to comply with any conditions of his release requiring him to establish, maintain, and reside at a specific residence and his whereabouts have therefore become unknown to the authorities charged with his supervision or when the defendant leaves the state of Colorado without the consent of the committing court, the defendant's absence from supervision shall constitute escape, as defined in section 18-8-208, C.R.S. Such offense occurs in the county in which the defendant is authorized to reside.

(e) As long as the defendant is granted conditional release and is subject to the provisions thereof, there shall be free transmission of all information, including clinical information regarding the defendant, among the department of ~~institutions~~

HUMAN SERVICES, the appropriate community mental health centers, and appropriate district attorneys, law enforcement, and court personnel.

**SECTION 122.** 16-8-121 (1) and (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**16-8-121. Escape - return to institution.** (1) If any defendant confined in an institution for the care and treatment of the mentally ill or retarded which is under the supervision of the executive director of the department of ~~institutions~~ HUMAN SERVICES escapes from such institution, it is the duty of the chief officer thereof to apply forthwith to the district court for the county in which the hospital or institution is located for a warrant of arrest directed to the sheriff of the county, commanding him forthwith to take all necessary legal action to effect the arrest of such defendant and to return him promptly to the institution; and the fact of an escape becomes a part of the official record of a defendant and shall be certified to the committing court as part of the record in any proceeding to determine whether the defendant is eligible for release from commitment or eligible for conditional release.

(2) If any defendant committed to the custody of the executive director of the department of ~~institutions~~ HUMAN SERVICES and placed in an institution under his supervision has escaped from an asylum or other institution for insane persons or users of drugs or narcotics of another state, the chief officer thereof is authorized to return such defendant to the institution from which he escaped. The chief officer is further authorized to effect the return at the expense of the state of Colorado and under such terms and conditions as the chief officer deems suitable.

**SECTION 123.** 16-11-102 (1) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-11-102. Presentence or probation investigation.** (1) (a) Following the return of a verdict of guilty of a felony, other than a class 1 felony, or following a finding of guilt on such charge where the issues were tried to the court, or on a plea of guilty or nolo contendere to such a charge, or upon order of the court in any misdemeanor conviction, the probation officer shall make an investigation and written report to the court before the imposition of sentence. Each presentence report shall include a substance abuse assessment or evaluation made pursuant to article 11.5 of this title and, unless waived by the court, shall include, but not be limited to, information as to the defendant's family background, educational history, employment record, and past criminal record, an evaluation of the alternative dispositions available for the defendant, the information required by the court pursuant to section 16-11-204.5, a victim impact statement, and such other information as the court may require. A victim impact statement shall be prepared by the district attorney's office on and after September 1, 1985. The department of ~~social services~~ HUMAN SERVICES shall provide the district attorney's office with the information necessary for the preparation of a victim impact statement. In addition, the court, in cases that it deems appropriate, may require the presentence report to include the findings and results of a professionally conducted psychiatric examination of the defendant. No less than seventy-two hours prior to the sentencing hearing, copies of the presentence report, including any recommendations as to probation, shall be furnished to the prosecuting attorney and defense counsel or to the defendant if he is unrepresented. A copy of the presentence report shall be transmitted to the department of corrections together with

the mittimus.

**SECTION 124.** 16-11-501 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-11-501. Judgment for costs and fines.** (1) Where any person, association, or corporation is convicted of an offense, or any juvenile is adjudicated a juvenile delinquent for the commission of an act which would have been a criminal offense if committed by an adult, the court shall give judgment in favor of the state of Colorado, the appropriate prosecuting attorney, or the appropriate law enforcement agency, and against the offender or juvenile for the amount of the costs of prosecution and any fine imposed. No fine shall be imposed for conviction of a felony except as provided in section 18-1-105, C.R.S. Such judgments shall be enforceable in the same manner as are civil judgments, and, in addition, the provisions of section 16-11-502 shall be applicable. Any judgments collected pursuant to this section for fees for interpreters appointed pursuant to section 13-90-204, C.R.S., and reimbursed pursuant to section 13-90-210, C.R.S., shall be remitted to the division of rehabilitation in the department of ~~social services~~ HUMAN SERVICES.

**SECTION 125.** 16-11.7-103 (1) (c), (1) (e), and (4) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**16-11.7-103. Sex offender treatment board - creation - duties.** (1) There is hereby created, in the department of public safety, a sex offender treatment board which shall consist of ~~twelve~~ ELEVEN members. The membership of the board shall consist of the following persons:

(c) One member representing the department of ~~institutions~~ HUMAN SERVICES appointed by the executive director of such department;

(e) ~~One member representing the department of social services appointed by the executive director of such department;~~

(4) The board shall carry out the following duties:

(c) The board shall develop a plan for the allocation of moneys deposited in the sex offender surcharge fund created pursuant to section 18-21-103 (3), C.R.S., among the judicial department, the department of corrections, the division of criminal justice of the department of public safety, ~~the department of social services~~, and the department of ~~institutions~~ HUMAN SERVICES. In addition, the board shall coordinate the expenditure of moneys from the sex offender surcharge fund with any moneys expended by any of the departments described in this paragraph (c) for the identification, evaluation, and treatment of sex offenders. The plan developed pursuant to this section shall be submitted to the general assembly on or before January 1, 1993. For the fiscal year beginning July 1, 1993, the general assembly shall appropriate moneys from the sex offender surcharge fund in accordance with such plan.

**SECTION 126.** 16-11.7-105 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-11.7-105. Sentencing of sex offenders - treatment based upon evaluation and identification required.** (1) Each sex offender sentenced by the court for an offense committed on or after January 1, 1994, shall be required, as a part of any sentence to probation, community corrections, or incarceration with the department of corrections, to undergo treatment to the extent appropriate to such offender based upon the recommendations of the evaluation and identification made pursuant to section 16-11.7-104, or based upon any subsequent recommendations by the department of corrections, the judicial department, the department of ~~institutions; the department of social services~~ HUMAN SERVICES, or the division of criminal justice of the department of public safety, whichever is appropriate. Any such treatment and monitoring shall be at such person's own expense, based upon such person's ability to pay for such treatment.

**SECTION 127.** 16-11.7-106, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-11.7-106. Sex offender treatment - contracts with providers.** The department of corrections, the judicial department, the division of criminal justice of the department of public safety, ~~the department of social services,~~ or the department of ~~institutions~~ HUMAN SERVICES shall not employ or contract with any individual or entity to provide treatment services pursuant to this article unless the treatment services to be provided by such individual or entity conforms with the standards developed pursuant to section 16-11.7-103 (4) (b).

**SECTION 128.** 16-13-216 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**16-13-216. Powers and duties of the board.** (2) The board is authorized and it is its duty to order the transfer of any person committed pursuant to section 16-13-203, if the board deems it to be in the best interests of said person and the public, to any facility under the jurisdiction of the department or to the department of ~~institutions~~ HUMAN SERVICES subject to the availability of staff and housing.

**SECTION 129.** 17-23-101 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-23-101. Transfer of mentally ill or retarded persons and convicts.** (3) The executive director is further empowered, when it is reported to him that any mentally ill or retarded person is so dangerous that he cannot be safely confined in any other facility or institution for the care and treatment of the mentally ill or retarded, to order, subject to the approval of the executive director of the department of ~~institutions~~ HUMAN SERVICES, said mentally ill or retarded person transferred to the Colorado mental health institute at Pueblo or Colorado mental health institute at Fort Logan for safekeeping. No person who is adjudged to be mentally ill by a court of competent jurisdiction shall be transferred to any penal institution or reformatory, except upon a finding that he is so dangerous that he cannot be safely confined in the Colorado mental health institute at Pueblo or Fort Logan. A hearing on the dangerousness of the patient shall be conducted pursuant to the provisions of section 17-23-103.

**SECTION 130.** 17-24-121 (5), Colorado Revised Statutes, 1986 Repl. Vol., as

amended, is amended to read:

**17-24-121. Venture agreements.** (5) The wages of an inmate working under an agreement entered into pursuant to this section with a private person shall be distributed under guidelines established by the executive director in order to offset the cost of imprisonment and incidental expenses, pay court ordered restitution, pay the pro-rata share of child support cost as established by the department of ~~social services~~ HUMAN SERVICES, and establish a savings account to assist the inmate upon release and to offset state costs at the time of release.

**SECTION 131.** 17-27.9-102 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-27.9-102. Specialized restitution and community service programs - contract with treatment providers - division of criminal justice.** (1) The director of the division of criminal justice in the department of public safety may, pursuant to section 17-27-108, contract with one or more public or private providers or community corrections boards, as defined in section 17-27-102 (2), who operate restitution and community service facilities, to provide specialized restitution and community service programs that meet the requirements of this section. As used in this article, such providers shall be referred to as "providers". The provision of any substance abuse treatment shall be by an entity approved by the division of alcohol and drug abuse in the department of ~~health~~ HUMAN SERVICES pursuant to part 2 of article 1 of title 25, C.R.S.

**SECTION 132.** 17-31-101, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-31-101. Legislative declaration.** The general assembly hereby finds it necessary to provide for and encourage the implementation of programs within the state's correctional facilities and the adult and juvenile parole and probation divisions of the judicial department, the department of corrections, the department of ~~institutions~~ HUMAN SERVICES, and the department of public safety which enable volunteers to effectively assist with the rehabilitation and transition of adult and juvenile offenders. The general assembly further finds that the maximum use of volunteers should be encouraged to complement the regular staffs of such adult and juvenile corrections, parole, and probation divisions and that volunteers should be encouraged to participate in existing programs for adult and juvenile offenders in those divisions. The general assembly finds that such volunteers should be allowed, where practical and within the safety and security requirements of the applicable institution or program, to meet with and freely communicate with offenders to assist with the rehabilitation and transition of such offenders, in order to establish support groups and systems outside of the correctional facility.

**SECTION 133.** 17-31-102 (1) and (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**17-31-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Approved volunteer organization" means an organization which has screened

and trained volunteers for working with adult and juvenile offenders in correctional facilities and in parole and probation programs of the judicial department, the department of corrections, the department of ~~institutions~~ HUMAN SERVICES, and the department of public safety prior to January 1, 1990, or pursuant to guidelines for training volunteers established by either the executive director of the department of corrections, the executive director of the department of ~~institutions~~ HUMAN SERVICES, the executive director of the department of public safety, or the chief justice of the supreme court. Such guidelines shall address the issues of liability, supervision, support, and training of volunteers.

(2) "Division" means the division or department directing or administering any public or private correctional institution or detention facility in which offenders are housed or treated, any probation program within each judicial district, or any juvenile or adult parole program, including but not limited to, the judicial department, the department of public safety and the division of criminal justice therein, the department of corrections and the division of adult services therein, and the department of ~~institutions~~ HUMAN SERVICES and the division of juvenile parole therein.

**SECTION 134.** 17-31-103 (1) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-31-103. Volunteers - rehabilitation and transition - programs.** (1) Each division shall facilitate, where practicable, the use of volunteers to assist and participate in the development and implementation of programs for the rehabilitation and transition of and growth of support groups and systems for adult and juvenile offenders in the following institutions and programs:

(d) The juvenile parole program of the division of juvenile parole within the department of ~~institutions~~ HUMAN SERVICES;

**SECTION 135.** 17-32-106 (1) (h), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-32-106. Powers and duties of the division.** (1) In connection with the development and implementation of the correctional education program, the division shall have the following powers and duties:

(h) To enter into negotiations with the department of ~~institutions~~ HUMAN SERVICES for the purpose of coordinating and offering education services to juveniles in the custody of that department. The executive directors of the departments of corrections and ~~institutions~~ HUMAN SERVICES shall each submit a proposed plan to the governor and general assembly, no later than January 1, 1992, for integrating such juveniles into the correctional education program.

**SECTION 136.** 18-1-803 (3), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**18-1-803. Impaired mental condition.** (3) When the affirmative defense of impaired mental condition has been raised, the jury will be given special verdict forms containing interrogatories. The trier of fact shall decide first the question of

guilt as to felony charges which are before the court. If the trier of fact concludes that guilt has been proven beyond a reasonable doubt as to one or more of the felony charges submitted for consideration, the special interrogatories shall not be answered. Upon completion of its deliberations on the felony charges as previously set forth in this subsection (3), the trier of fact shall consider any other charges before the court in a similar manner; except that it shall not answer the special interrogatories regarding such charges if it has previously found guilt beyond a reasonable doubt with respect to one or more felony charges. The interrogatories shall provide for specific findings of the jury with respect to the affirmative defense of impaired mental condition in accordance with the Colorado rules of criminal procedure. When the court sits as the trier of fact, it shall enter appropriate specific findings with respect to the affirmative defense of impaired mental condition. If the trier of fact finds that the defendant is not guilty by reason of the affirmative defense of impaired mental condition, the court shall commit the defendant to the department of ~~institutions~~ HUMAN SERVICES pursuant to section 16-8-103.5 (5), C.R.S.

**SECTION 137.** 18-3-202 (1) (f), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-3-202. Assault in the first degree.** (1) A person commits the crime of assault in the first degree if:

(f) While lawfully confined or in custody as a result of being charged with or convicted of a crime or as a result of being charged as a delinquent child or adjudicated as a delinquent child and with intent to cause serious bodily injury to a person employed by or under contract with a detention facility, as defined in section 18-8-203 (3), or to a person employed by the division in the department of ~~institutions~~ HUMAN SERVICES responsible for youth services and who is a youth services counselor or is in the youth services worker classification series, he threatens with a deadly weapon such a person engaged in the performance of his duties and the offender knows or reasonably should know that the victim is such a person engaged in the performance of his duties while employed by or under contract with a detention facility or while employed by the division in the department of ~~institutions~~ HUMAN SERVICES responsible for youth services. A sentence imposed pursuant to this paragraph (f) shall be mandatory (and the court shall not grant probation or a suspended sentence, in whole or in part) and shall run consecutively with any sentences being served by the offender. A person who participates in a work release program, a furlough, or any other similar authorized supervised or unsupervised absence from a detention facility, as defined in section 18-8-203 (3), and who is required to report back to the detention facility at a specified time shall be deemed to be in custody.

**SECTION 138.** 18-3-203 (1) (f), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-3-203. Assault in the second degree.** (1) A person commits the crime of assault in the second degree if:

(f) While lawfully confined or in custody, he violently applies physical force against the person of a peace officer or fireman engaged in the performance of his duties, or a judge of a court of competent jurisdiction, or an officer of said court, or,

while lawfully confined or in custody as a result of being charged with or convicted of a crime or as a result of being charged as a delinquent child or adjudicated as a delinquent child, he violently applies physical force against a person engaged in the performance of his duties while employed by or under contract with a detention facility, as defined in section 18-8-203 (3), or while employed by the division in the department of ~~institutions~~ HUMAN SERVICES responsible for youth services and who is a youth services counselor or is in the youth services worker classification series, and the person committing the offense knows or reasonably should know that the victim is a peace officer or fireman engaged in the performance of his duties, or a judge of a court of competent jurisdiction, or an officer of said court, or a person engaged in the performance of his duties while employed by or under contract with a detention facility or while employed by the division in the department of ~~institutions~~ HUMAN SERVICES responsible for youth services. A sentence imposed pursuant to this paragraph (f) shall be mandatory (and the court shall not grant probation or a suspended sentence, in whole or in part) and shall run consecutively with any sentences being served by the offender; except that, if the offense is committed against a person employed by the division in the department of ~~institutions~~ HUMAN SERVICES responsible for youth services, the court may grant probation or a suspended sentence in whole or in part, and such sentence may run concurrently or consecutively with any sentences being served. A person who participates in a work release program, a furlough, or any other similar authorized supervised or unsupervised absence from a detention facility, as defined in section 18-8-203 (3), and who is required to report back to the detention facility at a specified time shall be deemed to be in custody.

**SECTION 139.** 18-6-601 (2) (b), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**18-6-601. Aiding or harboring a runaway child.** (2) For the purposes of this section:

(b) "Home" means the child's place of residence, including the home of any parent, legal guardian, or other legal custodian, but the term does not include any facility or residence under the department of ~~institutions~~ HUMAN SERVICES;

**SECTION 140.** 18-6-802 (1) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-6-802. Domestic violence - local board - treatment programs - liability immunity.** (1) (a) The chief judge in each judicial district shall appoint a local board which shall certify and monitor treatment programs for persons convicted of the crime of domestic violence. Said board shall consist of eight members: Two members from the victim services field; one member from law enforcement; one member from a prosecutor's office; one member from the probation department; one member from the community at large; one member from the mental health profession; and one member from the state DEPARTMENT OF HUMAN SERVICES or county department of social services. The board should reflect the ethnic composition of the community in which it is located.

**SECTION 141.** 18-21-103 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-21-103. Source of revenues - allocation of moneys.** (3) There is hereby created in the state treasury a sex offender surcharge fund which shall consist of moneys received by the state treasurer pursuant to paragraph (b) of subsection (2) of this section. In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of this fund shall be credited to the general fund. Any moneys not appropriated by the general assembly shall remain in the sex offender surcharge fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year. All moneys in the fund shall be subject to annual appropriation by the general assembly to the judicial department, the department of corrections, the division of criminal justice of the department of public safety, AND the department of social services, and the department of institutions HUMAN SERVICES, after consideration of the plan developed pursuant to section 16-11.7-103 (4) (c), C.R.S., to cover the direct and indirect costs associated with the evaluation, identification, and treatment and the continued monitoring of sex offenders.

**SECTION 142.** 18-22-101, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-22-101. Legislative declaration.** The general assembly hereby finds, determines, and declares that the commission of violent crimes by juveniles exacts an unacceptable toll on the fiscal resources of both state and local government and thereby increases the financial burden upon the taxpayers of this state. It is the intent of the general assembly in enacting this article to require, as much as possible, that juveniles convicted as adults of violent crimes pay for the cost of the rehabilitation, education, and treatment of juveniles sentenced to the youthful offender system or committed to the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 143.** 18-22-103 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-22-103. Source of revenues - allocation of moneys.** (3) There is hereby created in the state treasury a youthful offender system surcharge fund which shall consist of moneys received by the state treasurer pursuant to paragraph (b) of subsection (2) of this section. In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of this fund shall be credited to the general fund. Any moneys not appropriated by the general assembly shall remain in the youthful offender system surcharge fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year. In the event a youthful offender system is created pursuant to a bill introduced at the first extraordinary session of the fifty-ninth general assembly which is enacted and becomes law, all moneys in the fund shall be subject to annual appropriation by the general assembly to the department of corrections to cover the direct and indirect costs associated with the rehabilitation, education, and treatment of youthful offenders sentenced to a youthful offender system. In the event a youthful offender system is not created pursuant to a bill introduced at the first extraordinary session of the fifty-ninth general assembly which is enacted and becomes law, then all moneys in the fund shall be subject to annual appropriation by the general assembly to the division of youth services in the department of ~~institutions~~ HUMAN SERVICES to cover the direct and indirect costs associated with the rehabilitation, education, and treatment of juvenile offenders committed to the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 144.** 19-1-103 (2.5), (5), (12), (20), and (23), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-1-103. Definitions.** As used in this title, unless the context otherwise requires:

(2.5) "Administrative review" means a review conducted by the state department of ~~social services~~ HUMAN SERVICES, ~~or the department of institutions, as appropriate,~~ which is open to the participation of the parents of the child and conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(5) "Child care center" means a child care center licensed and approved pursuant to article 6 of title 26, C.R.S. If such facility is located in another state, it shall be designated by the department of ~~social services~~ HUMAN SERVICES upon certification that no appropriate available space exists in a child care facility in this state and shall be licensed or approved as required by law in that state.

(12) "Family care home" means a family care home licensed and approved pursuant to article 6 of title 26, C.R.S. If such facility is located in another state, it shall be designated by the department of ~~social services~~ HUMAN SERVICES upon certification that no appropriate available space exists in a facility in this state and shall be licensed or approved as required by law in that state.

(20) "Mental health professional" means a person licensed to practice medicine or psychology in this state or any person on the staff of a facility designated by the executive director of the department of ~~institutions~~ HUMAN SERVICES for seventy-two-hour treatment and evaluation who has been authorized by the facility to do mental health prescreenings and who is under the supervision of a person licensed to practice medicine or psychology in this state.

(23) "Protective supervision" means a legal status created by court order under which the child is permitted to remain in his home or is placed with a relative or other suitable person and supervision and assistance is provided by the court, department of ~~social services~~ HUMAN SERVICES, or other agency designated by the court.

**SECTION 145.** 19-1-108 (4) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-1-108. Magistrates - qualifications - duties.** (4) At the conclusion of a hearing, the magistrate shall:

(d) Advise the parties that they have a right to object to an order allowing the review of any decree for placement of a child to be conducted as an administrative review by the department of ~~social services~~ HUMAN SERVICES and that if any party objects to administrative review, the court shall conduct the review.

**SECTION 146.** 19-1-115 (3) (a), (4) (a), (4) (c), and (4) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-1-115. Legal custody - guardianship - placement out of the home.**

(3) (a) Any agency vested by the court with legal custody of a child shall have the right, subject to the approval of the court, to determine where and with whom the child shall live, but this paragraph (a) shall not apply to placement of children committed to the department of ~~institutions~~ HUMAN SERVICES. In determining where and with whom a child shall live, if in the best interests of the child, preference may be given to the child's grandparent who is appropriate, capable, willing, and available to care for the child.

(4) (a) A decree vesting legal custody of a child in an individual, institution, or agency or providing for placement of a child pursuant to section 19-2-701, 19-3-403, or 19-3-701 shall be for a determinate period. Such decree shall be reviewed by the court no later than three months after it is entered, except a decree vesting legal custody of a child with the department of ~~institutions~~ HUMAN SERVICES.

(c) The court shall review any decree or, if there is no objection by any party to the action, the court may, in its discretion, require an administrative review by the state department of ~~social services~~ HUMAN SERVICES of any decree entered in accordance with this subsection (4) each six months after the initial review provided in paragraph (a) of this subsection (4). In the event that an administrative review is ordered, all counsel of record shall be notified and may appear at said review. Periodic reviews shall include the determinations and projections required in section 19-3-702 (6).

(d) A decree vesting legal custody of a child or providing for placement of a child with an agency in which public moneys are expended shall be accompanied by an order of the court which obligates the parent of the child to pay a fee, based on the parent's ability to pay, to cover the costs of the guardian ad litem and of providing for residential care of the child. When custody of the child is given to the county department of social services, such fee for residential care shall be in accordance with the fee requirements as provided by rule of the department of ~~social services~~ HUMAN SERVICES, and such fee shall apply, to the extent unpaid, to the entire period of placement. When a child is committed to the department of ~~institutions~~ HUMAN SERVICES, such fee for care and treatment shall be in accordance with the fee requirements as provided by rule of the department of ~~institutions~~ HUMAN SERVICES, and such fee shall apply, to the extent unpaid, to the entire period of placement.

**SECTION 147.** 19-1-116 (1), (2) (a), (2) (b) (I), (2) (e), (3), (4) (b), (5), and (7) (c), Colorado Revised Statutes, 1986 Repl. Vol., are amended to read:

**19-1-116. Funding - alternatives to placement out of the home - pilot project.**

(1) The state department of ~~social services~~ HUMAN SERVICES shall reimburse allowable expenses to county departments of social services for foster care. The state department's budget request for foster care shall be based upon the actual aggregate expenditure of federal, state, and local funds of all counties during the preceding twenty-four months on foster care. Special purpose funds, not to exceed five percent of the total appropriation for foster care, shall be retained by the department of ~~social services~~ HUMAN SERVICES for purposes of meeting emergencies and contingencies in individual counties. The amount thus reimbursed to each county shall represent the total expenditure by an individual county for foster care and for alternative services provided in conformance with the plan prepared and approved pursuant to paragraph (b) of subsection (2) and subsection (4) of this section.

(2) (a) The county commissioners in each county may appoint a placement alternatives commission consisting, where possible, of a physician or a licensed health professional, an attorney, representatives of a local law enforcement agency, representatives recommended by the court and probation department, representatives from the county department of social services, a local mental health clinic, and the DEPARTMENT OF public health AND ENVIRONMENT, ~~department~~, a representative of a local school district specializing in special education, a representative of a local community centered board, representatives of a local residential child care facility and a private not for profit agency providing nonresidential services for children and families, a representative specializing in occupational training or employment programs, a foster parent, and one or more representatives of the lay community. At least fifty percent of the commission members shall represent the private sector. The county commissioners of two or more counties may jointly establish a district placement alternatives commission.

(b) (I) On or before July 1, 1994, the commission, if established, shall annually prepare a plan for the provision of services. The primary goals under the plan shall be to prevent imminent placement of children out of the home and to reunite children who have been placed out of the home with their families. For the purposes of this subsection (2), "imminent placement out of the home" means that without intercession the child will be placed out of the home immediately. The plan shall be prepared using all available sources of information in the community, including public hearings. The plan shall specify the nature of the expenditures to be made and shall identify the services which are intended to prevent or minimize placement out of the home and to what extent. The plan shall contain, whenever practicable, a vocational component to provide assistance to older children concerning a transition into the work force upon completion of school. Upon approval of the plan by the county commissioners, the counties shall submit the plan to the department of ~~social services~~ HUMAN SERVICES.

(e) Upon approval by the state board of ~~social services~~ HUMAN SERVICES of the plan submitted pursuant to paragraph (b) of this subsection (2), the department of ~~social services~~ HUMAN SERVICES shall reimburse county departments, as described in section 26-1-122, C.R.S., for eighty percent of the expenditures made in conformance with the plan.

(3) The department of ~~social services~~ HUMAN SERVICES shall report annually to the general assembly concerning the funds reimbursed to each county pursuant to this section, by line item, and each county's spending, by line item.

(4) (b) In addition to the duties described in paragraph (a) of this subsection (4), the state board of ~~social services~~ HUMAN SERVICES is hereby authorized to develop through the adoption of rules categories of programs and services that promote the primary goals of the plan established in accordance with paragraph (b) of subsection (2) of this section. Any plan established on and after July 1, 1994, shall provide for the availability and provision of services or programs within such categories. Any plan established before July 1, 1994, shall be amended on or before that date to provide for the availability and provision of services or programs within such categories. The department of ~~social services~~ HUMAN SERVICES shall monitor the implementation of the plans as approved by the state board.

(5) Children currently residing in institutions whose condition would permit them to be discharged to less restrictive settings shall be so transferred at the earliest possible date. Moneys appropriated and available to the department of ~~social services~~ HUMAN SERVICES shall be allocated on a priority basis by the department to county departments for the purposes of providing care to children who are discharged from the institution in which they reside if such children then receive care that is less intensive, closer to the residence of the parents or family, or in a less restrictive setting.

(7) (c) The fund shall consist of contributions, which shall be made by any state, county, or local agency, of federal, state, or local funds appropriated to or contributed by such agencies for child welfare services for at-risk children and their families. Appropriated funds shall include, but shall not be limited to, those appropriated to county ~~and state departments~~ DEPARTMENTS of social services AND THE STATE DEPARTMENT OF HUMAN SERVICES, the department of PUBLIC health AND ENVIRONMENT, ~~the department of institutions~~; the department of education, the department of public safety, the judicial department, and the job training partnership office in the governor's office. Each state agency's contribution to the fund shall be contingent upon and equal to contributions from the pilot county and any other local agency that participates and seeks money from the fund.

**SECTION 148.** 19-1-119 (1) (a) (X), (1) (a) (XIII) (A), (1) (c) (V), (2) (a) (X), (2) (a) (XIV) (A), and (6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-1-119. Confidentiality of juvenile records - delinquency.** (1) (a) Except as provided in paragraph (b.5) of this subsection (1), court records in juvenile delinquency proceedings or proceedings concerning a juvenile charged with the violation of any municipal ordinance except a traffic ordinance shall be open to inspection to the following persons without court order:

(X) The state department of ~~social services~~ HUMAN SERVICES;

(XIII) Any person or agency for research purposes, if all of the following conditions are met:

(A) The person or agency conducting such research is employed by the state of Colorado or is under contract with the state of Colorado and is authorized by the department of ~~institutions~~ HUMAN SERVICES to conduct such research; and

(c) A juvenile probation officer's records, whether or not part of the court file, shall not be open to inspection except as provided in subparagraphs (I) to (IX) of this paragraph (c):

(V) To the state department of ~~social services~~ HUMAN SERVICES;

(2) (a) The records of law enforcement officers concerning juveniles, including identifying information, shall be identified as juvenile records and shall not be inspected by or disclosed to the public, except:

(X) To the state department of ~~social services~~ HUMAN SERVICES;

(XIV) To any person or agency for research purposes, if all of the following conditions are met:

(A) The person or agency conducting such research is employed by the state of Colorado or is under contract with the state of Colorado and is authorized by the department of ~~institutions~~ HUMAN SERVICES to conduct such research; and

(6) The department of ~~institutions~~ HUMAN SERVICES shall release to the committing court, the district attorney, the Colorado bureau of investigation, and local law enforcement agencies basic identification information as defined in section 24-72-302 (2), C.R.S., concerning any juvenile released or released to parole supervision or any juvenile who escapes.

**SECTION 149.** 19-1-120 (2) (k), (2) (m), and (2) (o), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-1-120. Confidentiality of records - dependency and neglect.** (2) Only the following persons or agencies shall be given access to child abuse or neglect records and reports:

(k) The state central registry of child protection, when requested in writing by any operator of a facility or agency that is licensed by the department of ~~social services~~ HUMAN SERVICES pursuant to section 26-6-107, C.R.S., to check the state central registry of child protection for the purpose of screening an applicant for employment or a current employee. Any such operator who requests such information concerning an individual who is neither a current employee nor an applicant for employment commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. Within ten days of the operator's request, the central registry shall provide the incident date, the location of investigation, the type of abuse and neglect, and the county which investigated the incident contained in the confirmed reports of child abuse and neglect. Any such operator who releases any information obtained under this paragraph (k) to any other person shall be deemed to have violated the provisions of section 19-3-313 (10) and shall be subject to the penalty therefor.

(m) The state DEPARTMENTS OF HEALTH CARE POLICY AND FINANCING AND HUMAN SERVICES and THE county departments of social services, for the following purposes:

(o) A person, agency, or organization engaged in a bona fide research or evaluation project or audit, but without information identifying individuals named in a report, unless having said identifying information open for review is essential to the research and evaluation, in which case the executive director of the state department of ~~social services~~ HUMAN SERVICES shall give prior written approval and the child through a legal representative shall give permission to release the identifying information.

**SECTION 150.** 19-2-101 (5) and (9), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-101. Definitions.** As used in this article, unless the context otherwise requires:

(5) "Diagnostic and evaluation center" means a facility for the examination and study of persons committed to the custody of the department of ~~institutions~~ HUMAN SERVICES.

(9) "Receiving center" means a facility used to provide temporary detention and care for juveniles by the department of ~~institutions~~ HUMAN SERVICES pending placement in a training school, camp, or other facility.

**SECTION 151.** 19-2-204 (4) (d) and (7), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-204. Detention and shelter - hearing - time limits - confinement with adult offenders - restrictions.** (4) (d) Any juvenile arrested and detained for an alleged violation of any article of title 42, C.R.S., or for any alleged violation of a municipal or county ordinance, and not released on bond, shall be taken before a judge with jurisdiction of such violation within forty-eight hours for the fixing of bail and conditions of bond pursuant to subparagraph (IV) of paragraph (a) of subsection (3) of this section. Such juvenile shall not be detained in a jail, lockup, or other place used for the confinement of adult offenders for longer than six hours, and in no case overnight, for processing only, after which the juvenile may be further detained only in a juvenile detention facility operated by or under contract with the department of ~~institutions~~ HUMAN SERVICES. In calculating time under this subsection (4), Saturdays, Sundays, and legal holidays shall be included.

(7) Any law enforcement officer, employee of the division in the department of ~~institutions~~ HUMAN SERVICES responsible for youth services, or another person acting under the direction of the court who in good faith transports any juvenile, releases any juvenile from custody pursuant to a written policy of a court, releases any juvenile pursuant to any written criteria established pursuant to this title, or detains any juvenile pursuant to court order or written policy or criteria established pursuant to this title shall be immune from civil or criminal liability that might otherwise result by reason of such act. For purposes of any proceedings, civil or criminal, the good faith of any such person shall be presumed.

**SECTION 152.** 19-2-308 (1) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-308. Mentally ill juvenile or juvenile with developmental disabilities - procedure.** (1) (c) When the mental health professional finds, based upon a prescreening, that the juvenile may be mentally ill, as defined in sections 27-10-105 and 27-10-106, C.R.S., the court shall review the prescreening report within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, and order the juvenile placed for an evaluation at a facility designated by the executive director of the department of ~~institutions~~ HUMAN SERVICES for a seventy-two-hour treatment and evaluation pursuant to section 27-10-105 or 27-10-106, C.R.S. If the juvenile to be placed is in a detention facility, the designated facility shall admit the juvenile within twenty-four hours after the court orders an evaluation, excluding Saturdays, Sundays, and legal holidays.

**SECTION 153.** 19-2-501 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-501. Right to jury trial.** (2) The juvenile is not entitled to a trial by jury when the petition alleges a delinquent act which is a class 2 or class 3 misdemeanor, a petty offense, a violation of a municipal or county ordinance, or a violation of a court order if, prior to the trial and with the approval of the court, the district attorney has waived in writing the right to seek a commitment to the department of ~~institutions~~ HUMAN SERVICES or a sentence to the county jail.

**SECTION 154.** 19-2-701 (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-701. Sentencing hearing.** (4) In any case in which the sentence is placement out of the home, except for juveniles committed to the department of ~~institutions~~ HUMAN SERVICES, the court shall, at the time of placement, set a review within ninety days to determine if continued placement is necessary and is in the best interest of the juvenile and of the community. Notice of said review shall be given by the court to all parties and to the director of the facility or agency in which the juvenile is placed and any person who has physical custody of the juvenile and any attorney or guardian ad litem of record.

**SECTION 155.** 19-2-703 (1) (a), (1) (b), (1) (e) (II), (1) (h) (II), (1) (k), (2) (a), and (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-703. Juvenile delinquent - sentencing - disposition - restitution - parental liability.** (1) (a) The court may impose any sentence, or combination of sentences when appropriate, provided under this subsection (1) or subsection (3) of this section; except that any juvenile delinquent committed to the department of ~~institutions~~ HUMAN SERVICES may be placed in the Lookout Mountain school, the Mount View school, or any other training school or facility, or any other disposition may be made which the department may determine as provided by law. No juvenile under the age of twelve years shall be committed to the department of ~~institutions~~ HUMAN SERVICES.

(b) The court may commit a person eighteen years of age or older but less than twenty-one years of age to the department of ~~institutions~~ HUMAN SERVICES if he is adjudicated a juvenile delinquent for an act committed prior to his eighteenth birthday or upon revocation of probation.

(e) (II) The court may alternatively sentence the juvenile to the department of ~~institutions~~ HUMAN SERVICES, with a recommendation to the department that the juvenile be required to participate in the regimented juvenile training program set forth in section 19-2-708. However, in the event the department assesses a juvenile in accordance with section 19-2-708 and determines that the juvenile's participation in the program is inappropriate, the court's order shall specify that the juvenile shall be sentenced in accordance with subparagraph (I) of this paragraph (e).

(h) (II) The court may alternatively sentence the juvenile to the department of ~~institutions~~ HUMAN SERVICES, with a recommendation to the department that the juvenile be required to participate in the regimented juvenile training program set forth in section 19-2-708. A sentence to the department pursuant to this subparagraph (II) shall be conditioned upon available space in the program and a

determination by the department that the juvenile is appropriate for the program. The court's order shall specify that in the event the department of ~~institutions~~ HUMAN SERVICES does not place the juvenile in the program, the juvenile shall be sentenced in accordance with subparagraph (I) of this paragraph (h).

(k) (I) The court may order that the juvenile be examined or treated by a physician, surgeon, psychiatrist, or psychologist or that he receive other special care and may place the juvenile in a hospital or other suitable facility for such purposes; except that no juvenile may be placed in a mental health facility operated by the department of ~~institutions~~ HUMAN SERVICES until the juvenile has received a mental health prescreening resulting in a recommendation that the juvenile be placed in a facility for an evaluation pursuant to section 27-10-105 or 27-10-106, C.R.S., or a hearing has been held by the court after notice to all parties, including the department of ~~institutions~~ HUMAN SERVICES. No order for a seventy-two-hour treatment and evaluation shall be entered unless a hearing is held and evidence indicates that the prescreening report is inadequate, incomplete, or incorrect and that competent professional evidence is presented by a mental health professional which indicates that mental illness is present in the juvenile. The court shall make, prior to the hearing, such orders regarding temporary custody of the juvenile as are deemed appropriate.

(II) Placement in any mental health facility operated by the department of ~~institutions~~ HUMAN SERVICES shall continue for such time as ordered by the court or until the professional person in charge of the juvenile's treatment concludes that the treatment or placement is no longer appropriate. If placement or treatment is no longer deemed appropriate, the court shall be notified and a hearing held for further disposition of the juvenile within five days excluding Saturdays, Sundays, and legal holidays. The court shall make, prior to the hearing, such orders regarding temporary custody of the juvenile as are deemed appropriate.

(2) (a) If the court finds that placement out of the home is necessary and is in the best interests of the juvenile and the community, the court shall place the juvenile, following any criteria established pursuant to section 19-2-1602, in the facility or setting which most appropriately meets the needs of the juvenile, the juvenile's family, and the community. In making its decision as to proper placement, the court shall utilize the evaluation for placement prepared pursuant to section 19-1-107 or the evaluation for placement required by section 19-3-701 (5). Any placement recommendation in the evaluation prepared by the county department of social services shall be accorded great weight as the placement that most appropriately meets the needs of the juvenile, the juvenile's family, and the community. Any deviation from such recommendation shall be supported by specific findings on the record of the case detailing the specific extraordinary circumstances which constitute the reasons for deviations from the placement recommendation of the county department of social services. Such recommendation prepared by the county department of social services shall set forth specific facts and reasons for the placement recommendation. If the evaluation for placement recommends placement in a facility located in Colorado which can provide appropriate treatment and which will accept the juvenile, then the court shall not place the juvenile in a facility outside this state. If the court places the juvenile in a facility located in Colorado other than one recommended by the evaluation for placement, in a facility located outside this state in accordance with the evaluation for placement, or in a facility in which the

average monthly cost exceeds the amount established by the general assembly in the general appropriation bill, it shall make specific findings of fact, including the monthly cost of the facility in which such juvenile is placed, relating to its placement decision. A copy of such findings shall be sent to the chief justice of the supreme court, who shall report monthly to the joint budget committee and annually to the general assembly on such placements. If the court commits the juvenile to the department of ~~institutions~~ HUMAN SERVICES, it shall not make a specific placement, nor shall the provisions of this subsection (2) relating to specific findings of fact be applicable.

(3) When a juvenile has been adjudicated as being a juvenile delinquent, the court shall enter a decree of sentence making any sentence provided in paragraph (a) of subsection (1) of this section or may commit the juvenile to the department of ~~institutions~~ HUMAN SERVICES for placement in any group care facility or make other disposition as may be determined by the department, as provided by law.

**SECTION 156.** 19-2-704 (1), (2), (3), (4), (4.5), (5), (7), (8), and (9), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-704. Commitment to department of human services.** (1) (a) When a juvenile is committed to the department of ~~institutions~~ HUMAN SERVICES, the court shall transmit, with the commitment order, a copy of the petition, the order of adjudication, copies of the social study, any clinical or educational reports, and other information pertinent to the care and treatment of the juvenile.

(b) The department of ~~institutions~~ HUMAN SERVICES shall provide the court with any information concerning a juvenile committed to its care which the court at any time may require.

(2) (a) The department of ~~institutions~~ HUMAN SERVICES shall designate receiving centers for juvenile delinquents committed to the department.

(b) If a change is made in the designation of a receiving center by the department, it shall so notify the juvenile courts at least thirty days prior to the date that the change takes effect.

(3) Subject to the provisions of this section, a commitment of a child to the department of ~~institutions~~ HUMAN SERVICES under section 19-2-703 shall be for a determinate period; except that, in the case of a repeat juvenile offender or violent juvenile offender, a judge may impose a minimum sentence of institutionalization, which sentence or commitment shall be served; but institutional placement, as determined by the department of ~~institutions~~ HUMAN SERVICES, shall not exceed a total of two years except as provided in subsection (4) of this section.

(4) The department of ~~institutions~~ HUMAN SERVICES may petition the committing court to extend the commitment for an additional period not to exceed two years. The petition shall set forth the reasons why it would be in the best interest of the juvenile or the public to extend the commitment. Upon filing the petition, the court shall set a hearing to determine whether the petition should be granted or denied and shall notify all interested parties.

(4.5) When a juvenile is placed in foster care by the department of ~~institutions~~ HUMAN SERVICES following commitment pursuant to section 19-2-703, an administrative review shall be conducted every six months after said placement for as long as the juvenile remains in foster care under the placement of the department of ~~institutions~~ HUMAN SERVICES.

(5) Parole supervision of juveniles committed to the department of ~~institutions~~ HUMAN SERVICES under section 19-2-703, as determined by the juvenile parole board, shall not exceed two years except as otherwise provided by statute.

(7) When a juvenile is released or released to parole supervision by the department of ~~institutions~~ HUMAN SERVICES or escapes from said department, the committing court, the district attorney, the Colorado bureau of investigation, and the initiating law enforcement agency shall be notified.

(8) When a juvenile is released by the department of ~~institutions~~ HUMAN SERVICES to parole supervision, the payment of any remaining restitution shall be a condition of parole.

(9) At least ninety days prior to termination of commitment to the department of ~~institutions~~ HUMAN SERVICES, notification shall be given to the person or agency that had custody of the juvenile prior to the commitment. Custody of the juvenile shall return to the person or agency having custody prior to the commitment, unless a court of competent jurisdiction orders that custody shall be in a different person or agency.

**SECTION 157.** 19-2-708 (2), (3) (a), (3) (b) (IV), (4), (5), and (6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-708. Regimented juvenile training program - legislative declaration.**

(2) (a) The department of ~~institutions~~ HUMAN SERVICES, under contract with any private entity, shall establish, maintain, and operate a regimented juvenile training program. Juveniles eligible for participation in the program shall be assessed and deemed appropriate for the program by the department. The juveniles eligible for the program shall include only juveniles sentenced to the department of ~~institutions~~ HUMAN SERVICES, regardless of whether the sentence to the department is a direct sentence or as a condition of probation.

(b) A juvenile may be eliminated from the program upon a determination by the department of ~~institutions~~ HUMAN SERVICES that a physical or mental condition will prevent full participation in the program by such offender.

(3) The regimented juvenile training program shall consist of two phases, which shall be administered as follows:

(a) **Phase I:** A military styled intensive physical training and discipline phase in a secure facility consisting of eighty beds for a period of sixty days and administered by the department of ~~institutions~~ HUMAN SERVICES;

(b) **Phase II:** A community reintegration phase for eighty juveniles, which is administered by the judicial department, as follows:

(IV) In addition to the requirements set forth in subparagraphs (I) and (II) of this paragraph (b), if deemed appropriate by the judicial department, juveniles may be subject to electronic monitoring or may be placed in a community residential facility subject to an interdepartmental agreement between the judicial department and the department of ~~institutions~~ HUMAN SERVICES; except that no more than sixty juveniles shall be subject to electronic monitoring and no more than twenty juveniles shall be placed in a community residential facility.

(4) Whenever a juvenile fails to progress through or complete the initial phase of the regimented juvenile training program, the department of ~~institutions~~ HUMAN SERVICES may reassign the juvenile to a division of youth services facility. In addition, whenever a juvenile fails to progress through or complete the second or third phase of the program, the department may return the juvenile to an earlier phase of the program for completion of all or part of the earlier phase; except that a juvenile shall not be returned for participation in the initial phase more than once.

(5) The department of ~~institutions~~ HUMAN SERVICES shall establish and enforce standards for the regimented juvenile training program and each of the phases thereof described in subsection (3) of this section. Supportive services deemed necessary by the department of ~~institutions~~ HUMAN SERVICES shall be made available under the phases of the regimented juvenile training program, as deemed appropriate by the department of ~~institutions~~ HUMAN SERVICES.

(6) (a) On or before December 1, 1996, the department of ~~institutions~~ HUMAN SERVICES shall submit a report evaluating the regimented juvenile training program to the governor, the speaker of the house of representatives, the president of the senate, and the joint budget committee of the general assembly.

(b) The report shall include the following determinations:

(I) Whether the courts are committing juveniles to the department of ~~institutions~~ HUMAN SERVICES in anticipation of the juvenile being assigned to the regimented juvenile training program when such juvenile would better be placed in another division of youth services facility or on probation; and

(II) Whether, as a result of being assigned to the regimented juvenile training program, juveniles in fact receive less serious sentences than similarly adjudicated juveniles, in terms of the type of delinquent act, juvenile history, and assessed needs, who were not assigned to such a program but were otherwise committed to the department of ~~institutions~~ HUMAN SERVICES; and

(III) Whether bed savings to the department of ~~institutions~~ HUMAN SERVICES are a result of the regimented juvenile training program; and

(IV) Whether juveniles placed in a regimented juvenile training program have a recidivism rate which is equal to or less than that of similar adjudicated juveniles who were not placed in such program but were otherwise committed to the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 158.** 19-2-802 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-802. Repeat juvenile offender.** (2) The court may sentence a repeat juvenile offender pursuant to section 19-2-703 or may commit a repeat juvenile offender to the department of ~~institutions~~ HUMAN SERVICES. The court may impose a minimum term during which the juvenile shall not be released from a residential program without prior written approval of the court which made the commitment.

**SECTION 159.** 19-2-803 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-803. Violent juvenile offender.** (3) The court may commit a violent juvenile offender to the department of ~~institutions~~ HUMAN SERVICES. The court may impose a minimum sentence during which the juvenile shall not be released from a residential program without prior written approval of the court which made the commitment.

**SECTION 160.** 19-2-804 (6) (a), (6) (b) (I), (6) (b) (II), (6) (b) (III), (7) (a), (8), and (9), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-804. Aggravated juvenile offender.** (6) (a) Upon adjudication as an aggravated juvenile offender, the court may commit the juvenile to the department of ~~institutions~~ HUMAN SERVICES for a determinate period of five years. An aggravated juvenile offender thus committed to the department of ~~institutions~~ HUMAN SERVICES shall not be transferred to a nonsecure or community setting for a period of more than forty-eight hours, excluding Saturdays, Sundays, and court holidays, nor released before the expiration of the determinate term imposed by the court without prior order of the court.

(b) (I) Upon court order, the department of ~~institutions~~ HUMAN SERVICES may transfer a child committed to its custody pursuant to paragraph (a) of this subsection (6) to the department of corrections if the juvenile has reached eighteen years of age and the department of ~~institutions~~ HUMAN SERVICES has certified that the juvenile is no longer benefiting from its programs.

(II) Such transfer shall be initiated by the filing of a request by the department of ~~institutions~~ HUMAN SERVICES for transfer with the court of commitment which shall state the basis for the request. Upon receipt of such a request, the court shall notify the interested parties and shall set the matter for a hearing.

(III) The court shall authorize such transfer only upon a finding by a preponderance of the evidence that the juvenile is no longer benefiting from the programs of the department of ~~institutions~~ HUMAN SERVICES.

(7) (a) After the juvenile has been in the custody of the department of ~~institutions~~ HUMAN SERVICES for three years or more, the department may petition the court for an order authorizing the juvenile parole board to release the juvenile subject to parole supervision as determined by the board at a parole hearing. Said parole supervision shall be conducted by the department of ~~institutions~~ HUMAN SERVICES. Upon the filing of such petition, the court shall notify the interested parties and set the matter for a hearing. The court shall authorize the juvenile parole board to release the juvenile only upon finding by a preponderance of the evidence that the safety of the

community will not be jeopardized by such release.

(8) Upon the filing of a petition with the committing court for transfer of the juvenile to a nonsecure or community setting, or for early release from the custody of the department of corrections or ~~institutions~~ HUMAN SERVICES, the court shall notify the interested parties and set the matter for a hearing. The court shall order such transfer or release only upon a finding by a preponderance of the evidence that the safety of the community will not be jeopardized by such transfer or release; except that early release of the juvenile from the department of corrections shall be governed by the provisions for adult felony offenders in titles 16 and 17, C.R.S., as if the juvenile had been sentenced as an adult felony offender.

(9) (a) When a juvenile in the custody of the department of ~~institutions~~ HUMAN SERVICES pursuant to this section reaches the age of twenty years and six months, the department of ~~institutions~~ HUMAN SERVICES shall file a motion with the court of commitment regarding further jurisdiction of the juvenile. Upon the filing of such a motion, the court shall notify the interested parties and set the matter for a hearing.

(b) At the hearing upon the motion, the court may either transfer the custody of and jurisdiction over the juvenile to the department of corrections, authorize early release of the juvenile pursuant to subsection (8) of this section, or order that custody and jurisdiction over the juvenile shall remain with the department of ~~institutions~~ HUMAN SERVICES; except that the custody of and jurisdiction over the juvenile by the department of ~~institutions~~ HUMAN SERVICES shall terminate when the juvenile reaches twenty-one years of age.

**SECTION 161.** 19-2-806 (3) (b) (XI), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-806. Transfer proceedings.** (3) (b) In considering whether or not to waive juvenile court jurisdiction over the juvenile, the juvenile court shall consider the following factors:

(XI) That the juvenile was previously committed to the department of ~~institutions~~ HUMAN SERVICES following an adjudication for a delinquent act which constitutes a felony;

**SECTION 162.** 19-2-902 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-902. Expungement of juvenile records.** (3) Basic identification information on the juvenile and a list of any state and local agencies and officials having contact with the juvenile, as they appear from the records, shall not be open to the public but shall be available to a district attorney, local law enforcement agency, and the department of ~~social services~~ HUMAN SERVICES; except that such information shall not be available to an agency of the military forces of the United States.

**SECTION 163.** 19-2-1001 (4) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1001. Juvenile probation departments or divisions - service agreements.**

(4) (a) The juvenile court judges are authorized to enter into agreements with the department of ~~social services~~ HUMAN SERVICES, county departments of social services, other public agencies, private nonprofit agencies, or with other juvenile courts to provide supervision or other services for juveniles placed on probation by the court.

**SECTION 164.** The introductory portion to 19-2-1101 (1) and 19-2-1101 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-1101. Authority - placement of juveniles who are committed to the department of human services.** (1) The department of ~~institutions~~ HUMAN SERVICES shall establish and operate facilities necessary for the care, education, training, treatment, and rehabilitation of those juveniles legally committed to its custody under section 19-2-703. As necessary and when funds are available for such purposes, such facilities may include but shall not be limited to:

(3) Once a juvenile is committed to the department of ~~institutions~~ HUMAN SERVICES, he shall remain in a facility directly operated by the department of ~~institutions~~ HUMAN SERVICES or in a secure facility contracted for by the department of ~~institutions~~ HUMAN SERVICES until his commitment expires as provided by law, parole status is granted pursuant to part 12 of this article, or a community placement is approved by a juvenile community review board, if one exists in the county of proposed placement.

**SECTION 165.** 19-2-1102, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1102. Receiving centers - designation.** (1) The department of ~~institutions~~ HUMAN SERVICES shall designate receiving centers for juvenile delinquents committed to the department under section 19-2-703.

(2) If a change is made in the designation of a receiving center by the department of ~~institutions~~ HUMAN SERVICES, it shall so notify the juvenile courts at least thirty days prior to the date that the change takes effect.

**SECTION 166.** 19-2-1103 (1) and (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1103. Juveniles committed to the department - evaluation and placement.** (1) (a) Each juvenile committed to the custody of the department of ~~institutions~~ HUMAN SERVICES shall be examined and evaluated by the department prior to institutional placement or other disposition.

(b) Such evaluation and examination shall be conducted at a detention facility and shall be completed within thirty days. The executive director of the department of ~~institutions~~ HUMAN SERVICES may, by rule and regulation, determine the extent and scope of the evaluation and examination. To the extent possible and relevant, the evidence, reports, examination, studies, and other materials utilized in a sentencing hearing conducted under section 19-2-701 shall also be utilized in evaluation and examination conducted under this section. The provisions of this paragraph (b) shall

not apply to examination and evaluation conducted pursuant to section 19-2-1104(1).

(3) (a) When the department of ~~institutions~~ HUMAN SERVICES determines that a juvenile requires placement in a state facility for children with developmental disabilities, as defined in article 10.5 of title 27, C.R.S., it shall initiate proceedings under article 10.5 of title 27, C.R.S., and notify the court thereof.

(b) (I) When the department of ~~institutions~~ HUMAN SERVICES determines that a juvenile may require treatment for mental illness, it shall conduct or have a mental health professional conduct a prescreening on the juvenile.

(II) If the prescreening report recommends that the juvenile be evaluated, the juvenile may be transferred to a mental health facility operated by the department of ~~institutions~~ HUMAN SERVICES for such evaluation.

(III) If the evaluation report states that the juvenile is mentally ill, as provided in sections 27-10-105 and 27-10-106, C.R.S., the department of ~~institutions~~ HUMAN SERVICES shall initiate proceedings under article 10 of title 27, C.R.S., and notify the court thereof.

**SECTION 167.** 19-2-1104, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1104. Juveniles committed to the department - transfers.** (1) The executive director of the department of ~~institutions~~ HUMAN SERVICES may transfer any juvenile committed under section 19-2-703 among the facilities established under sections 19-2-1101 and 19-2-1106 to 19-2-1108; except that, before any juvenile is transferred, he shall be examined and evaluated, and such evaluation shall be reviewed by the said executive director before he approves the transfer.

(2) When the executive director of the department of ~~institutions~~ HUMAN SERVICES finds that the welfare and protection of a juvenile or of others requires the juvenile's immediate transfer to another facility, he shall make the transfer prior to having the juvenile examined and evaluated.

(3) (a) Any juvenile committed to the department of ~~institutions~~ HUMAN SERVICES may be transferred temporarily to any state treatment facility for the mentally ill or for persons with developmental disabilities for purposes of diagnosis, evaluation, and emergency treatment; except that no juvenile may be transferred to a mental health facility until the juvenile has received a mental health prescreening resulting in a recommendation that the juvenile be placed in a facility for evaluation pursuant to section 27-10-105 or 27-10-106, C.R.S. No juvenile committed to the department as an aggravated juvenile offender or violent juvenile offender shall be transferred until the treatment facility has a secure setting in which to house the juvenile. The period of temporary transfer pursuant to this paragraph (a) shall not exceed sixty days.

(b) When a juvenile has remained in the treatment facility for sixty days, the treatment facility shall determine whether the juvenile requires further treatment or services, and, if so, the treatment facility shall confer with the sending facility concerning continued placement. If both facilities agree that the juvenile should

remain in the treatment facility, the executive director of the department of ~~institutions~~ HUMAN SERVICES shall be notified of the recommendation, and he may authorize an additional sixty-day placement. When an additional placement is authorized, the court shall be notified of the transferred placement.

(c) During each subsequent sixty-day placement period, the juvenile shall be reevaluated by both the treatment facility and the sending facility to determine the need for continued transferred placement. The juvenile shall remain in transferred placement until the facilities agree that such placement is no longer appropriate. At that time the juvenile shall be transferred back to the sending facility or to any other facility which the department determines to be appropriate. The period of placement shall not exceed the length of the original commitment to the department of ~~institutions~~ HUMAN SERVICES unless authorized by the court after notice and a hearing.

(d) When a juvenile is in continued transferred placement and the treatment facility and the sending facility agree that the need for placement of the juvenile is likely to continue beyond the original period of commitment to the department of ~~institutions~~ HUMAN SERVICES, the treatment facility shall initiate proceedings with the court having jurisdiction over the juvenile under article 10 of title 27, C.R.S., if the juvenile is mentally ill or under article 10.5 of title 27, C.R.S., if the juvenile has developmental disabilities.

(4) The department of ~~institutions~~ HUMAN SERVICES shall not have the authority to place in a penal institution any juvenile committed under section 19-2-703.

**SECTION 168.** The introductory portion to 19-2-1104.5 (1) and 19-2-1104.5 (1) (f) and (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-1104.5. Confidentiality of records.** (1) All records prepared or obtained by the department of ~~institutions~~ HUMAN SERVICES in the course of carrying out its duties pursuant to this article shall be confidential and privileged. Said records may be disclosed only:

(f) For research or evaluation purposes pursuant to rules regarding research or evaluation promulgated by the department of ~~institutions or the department of social services~~ HUMAN SERVICES. Any rules so promulgated shall require that persons receiving information for research or evaluation purposes are required to keep such information confidential.

(2) Nothing in this section shall be construed to limit the effect of any other provision of this article which requires the confidentiality of records under the control of the department of ~~institutions or the department of social services~~ HUMAN SERVICES.

**SECTION 169.** 19-2-1106 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1106. Lookout Mountain school.** (1) There is hereby established at Golden, Jefferson county, a training school known as the Lookout Mountain school,

under the supervision and control of the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 170.** 19-2-1107 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1107. Mount View school.** (1) There is hereby established near Morrison, Jefferson county, a training school known as the Mount View school under the supervision and control of the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 171.** 19-2-1108, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1108. Youth camps.** Youth camps may be established under the supervision and control of the department of ~~institutions~~ HUMAN SERVICES and shall provide care, education, training, rehabilitation, and supervision for juveniles twelve years of age or older who have been committed to the custody of the department under section 19-2-703.

**SECTION 172.** 19-2-1109, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1109. Alternate placement.** The executive director of the department of ~~institutions~~ HUMAN SERVICES may assign any juvenile placed by the department of ~~institutions~~ HUMAN SERVICES in any facility established under section 19-2-1101, 19-2-1106, or 19-2-1107 to any other facility established by said sections for educational training, treatment, or rehabilitation programs. The assignment and the transportation of a juvenile to and from such programs on a daily basis shall not constitute a transfer or change of placement of the juvenile.

**SECTION 173.** 19-2-1110 (1) and (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-1110. Contracts and agreements with public and private agencies.** (1) The executive director of the department of ~~institutions~~ HUMAN SERVICES shall, subject to available appropriations, enter into agreements or contracts deemed necessary and appropriate with any governmental unit or agency or private facility or provider cooperating or willing to cooperate in a program to carry out the purposes of this part 11. Such contracts or agreements may provide, among other things, for the type of work to be performed at a camp or other facility, for the rate of payment for such work, and for other matters relating to the care and treatment of juveniles.

(2) Placement of juveniles by the department of ~~institutions~~ HUMAN SERVICES in any public or private facility not under the jurisdiction of the department shall not terminate the legal custody of the department.

**SECTION 174.** 19-2-1111 (1), (2) (a), (2) (b), and (2) (d) (I), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-1111. Directors - duties.** (1) A director of each state-operated facility established by section 19-2-1101 and sections 19-2-1106 to 19-2-1108 shall be appointed by the executive director of the department of ~~institutions~~ HUMAN SERVICES

pursuant to section 13 of article XII of the state constitution.

(2) It is the duty of the director of each facility established by section 19-2-1101 and sections 19-2-1106 to 19-2-1108:

(a) To report to the executive director of the department of ~~institutions~~ HUMAN SERVICES at such times and on such matters as the director may require;

(b) To receive, subject to limitations on physical capacity and programs, all juveniles committed to the custody of the department of ~~institutions~~ HUMAN SERVICES and placed in his care under the provisions of this article and to keep them for rehabilitation, education, and training until discharged by law or under the rules of the department of ~~institutions~~ HUMAN SERVICES or released on parole;

(d) (I) Wherever possible, to take such measures as are reasonably necessary to prevent recruitment of new gang members from among the juveniles committed to the custody of the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 175.** 19-2-1113 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1113. Rules - academic and vocational courses.** (1) It is the duty of the department of ~~institutions~~ HUMAN SERVICES to develop such rules and regulations as may be necessary for imparting instruction, preserving health, and enforcing discipline of juveniles committed to the department.

**SECTION 176.** 19-2-1115 (1) and (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-1115. Juvenile detention services and facilities to be provided by department of human services - education.** (1) (a) Detention services for temporary care of a juvenile, pursuant to this article, shall be provided by the department of ~~institutions~~ HUMAN SERVICES, which shall consult on a regular basis with the court in any district where a detention facility is located concerning the detention program at that facility.

(b) Detention facilities operated by or under contract with the department of ~~institutions~~ HUMAN SERVICES shall receive and provide care for any juvenile arrested for or convicted of a violation of any provision of articles 1 to 15 of title 33, C.R.S., or any rule or regulation promulgated thereunder, or any article of title 42, C.R.S., or any municipal or county ordinance and for any juvenile found in contempt of court in connection with a violation or an alleged violation of any of those articles or any municipal or county ordinance.

(2) Detention facilities operated in part by a state court, pursuant to section 13-3-108, C.R.S., shall be operated in the same manner by the department of ~~institutions~~ HUMAN SERVICES, within the limits of available funds appropriated for such purpose.

**SECTION 177.** 19-2-1116, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1116. Transfer of detention facilities and equipment.** Whenever the department of ~~institutions~~ HUMAN SERVICES determines that any property, facilities, and equipment are no longer needed for juvenile detention facilities, the department shall transfer said property, facilities, and equipment back to the county without any cost to the county.

**SECTION 178.** 19-2-1117, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1117. Administration or monitoring of medications to persons in juvenile institutional facilities.** The executive director of the department of ~~institutions~~ HUMAN SERVICES has the power to direct the administration or monitoring of medications to persons in juvenile institutional facilities as defined in section 25-1-107 (1) (ee) (II.5) (B), C.R.S., in a manner consistent with section 25-1-107 (1) (ee), C.R.S.

**SECTION 179.** 19-2-1201 (2) (a) and (6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-1201. Juvenile parole board - creation - membership.** (2) All seven members shall be voting members, and, of the seven members:

(a) One member shall be from the department of ~~social services~~ HUMAN SERVICES;

(6) Clerical and other assistance for the board shall be furnished by the department of ~~institutions~~ HUMAN SERVICES. Such clerical and other assistance shall be supervised by a juvenile parole board administrator appointed by the executive director of the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 180.** 19-2-1202 (1), the introductory portion to 19-2-1202 (3), and 19-2-1202 (3) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-1202. Juvenile parole board - powers and duties - hearing panels.** (1) The board shall have the authority to grant, deny, defer, suspend, revoke, or specify or modify the conditions of any parole for any juvenile committed to the department of ~~institutions~~ HUMAN SERVICES under section 19-2-703 in such a manner as is in the best interests of the juvenile and the public. The board shall promulgate rules and regulations which establish criteria under which its parole decisions are made.

(3) A hearing panel shall have the authority to grant, deny, defer, suspend, revoke, or specify or modify the conditions of any parole of a juvenile committed to the department of ~~institutions~~ HUMAN SERVICES pursuant to section 19-2-703 as are in the best interests of the juvenile and the public; except that:

(c) If a written request is made by the juvenile, his parents, or his guardian, or the executive director of the department of ~~institutions~~ HUMAN SERVICES or his designee, the board may review the case of any juvenile who has been interviewed by a hearing panel. If such a review is made, the board shall have the authority to affirm or reverse the decision of the hearing panel or to impose such additional conditions for

parole as the board deems appropriate.

**SECTION 181.** 19-2-1204 (1), (2), and (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-1204. Division of juvenile parole - organization.** (1) There is hereby established in the department of ~~institutions~~ HUMAN SERVICES a division of juvenile parole, under the direction of the director of juvenile parole, who shall be appointed by the executive director of the department of ~~institutions~~ HUMAN SERVICES pursuant to section 13 of article XII of the state constitution.

(2) The division of juvenile parole shall include the director of juvenile parole and all juvenile parole officers appointed under this section. Such juvenile parole officers and other personnel shall be appointed by the director of juvenile parole pursuant to section 13 of article XII of the state constitution and with the consent of the department of ~~institutions~~ HUMAN SERVICES.

(4) The director of juvenile parole shall report to the director of youth services of the department of ~~institutions~~ HUMAN SERVICES at such times and on such matters as the executive director of the department may require.

**SECTION 182.** 19-2-1205 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1205. Division of juvenile parole - powers - duties.** (1) Under the direction of the director of juvenile parole, the juvenile parole officer or officers in each district established under this part 12 shall supervise all juveniles living in the district who, having been committed to the department of ~~institutions~~ HUMAN SERVICES, are on parole from one of its facilities.

**SECTION 183.** The introductory portion to 19-2-1206 (4) and 19-2-1206 (4.6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-1206. Parole violation and revocation.** (4) If, rather than issuing a summons, a parole officer makes an arrest of a parolee with or without a warrant or takes custody of a parolee who has been arrested by another, the parole officer shall place the parolee in the nearest local juvenile detention facility or shelter care facility approved by the department of ~~social services~~ HUMAN SERVICES, if under eighteen years of age, or in the nearest county jail, if eighteen years of age or older. Within forty-eight hours, not including Saturdays, Sundays, and legal holidays, the parole officer shall take one of the following actions:

(4.6) At any preliminary hearing held pursuant to section 19-2-1203 (2), the administrative law judge shall hear such testimony as shall be offered and shall determine whether there is probable cause to believe that the parolee has violated his parole. If probable cause has not been shown, the administrative law judge shall order the release of the parolee and shall make a written report of his findings to the juvenile parole board within ten days of the hearing. If the administrative law judge finds that probable cause exists to believe that the parolee has violated his parole, he shall order that the parolee be held to answer the charge before a hearing panel and shall order that the juvenile parole officer return the parolee without unnecessary

delay to any of the juvenile corrections facilities of the department of ~~institutions~~ HUMAN SERVICES pending a hearing before a hearing panel on the complaint for revocation, suspension, or modification of the juvenile's parole.

**SECTION 184.** 19-2-1301 (1) (a) and (1) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-1301. Legislative declaration.** (1) The general assembly hereby declares that it is the purpose of this part 13 to:

(a) Encourage state and local government cooperation regarding adjudicated children who while committed to the legal custody of the department of ~~institutions~~ HUMAN SERVICES are deemed appropriate for residential community placement;

(d) Provide for the care, education, training, treatment, and rehabilitation of those children legally committed to the custody of the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 185.** 19-2-1302 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1302. Definitions.** (2) "Residential community placement" means any placement for residential purposes permitted under this title except in an institutional facility directly operated by, or a secure facility under contract with, the department of ~~institutions~~ HUMAN SERVICES and except while a child is under the jurisdiction of the juvenile parole board.

**SECTION 186.** 19-2-1303 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1303. Approval of a juvenile community review board.** (1) A board of county commissioners or the city council of the city and county of Denver or more than one board of county commissioners may adopt a written resolution requiring approval by a juvenile community review board of residential community placements within its county of children under commitment to the department of ~~institutions~~ HUMAN SERVICES. Upon the effective date of such resolution and notice to the department of ~~institutions~~ HUMAN SERVICES, no child committed to the custody of the department of ~~institutions~~ HUMAN SERVICES shall be placed into a residential community placement in that county or region unless and until such placement is approved by the juvenile community review board.

**SECTION 187.** 19-2-1304 (1) and (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-1304. Scope of review.** (1) Prior to placement of a child in a residential community placement, the juvenile community review board shall review the case file of the child. It is the responsibility of the department of ~~institutions~~ HUMAN SERVICES to provide accurate information regarding the child and the proposed placement to the juvenile community review board. Such information shall include, but not be limited to, a history of delinquent adjudications, a social history, an educational history, a mental health treatment history, a drug and alcohol treatment history, and a summary

of institutional progress. Each child referred to the board shall be reviewed within fifteen days from the date the referral is received.

(2) The board shall review the case file of the child and make a decision regarding residential community placement, taking into consideration the results of the objective risk assessment by the department of ~~institutions~~ HUMAN SERVICES, the needs of the child, and the criteria established by the juvenile community review board based on the interests of the community. Objective risk criteria shall be established and maintained by the department of ~~institutions~~ HUMAN SERVICES and shall be based upon researched factors that have been demonstrated to be correlative to risk to the community.

**SECTION 188.** 19-2-1305, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1305. Reports required.** No later than January 30, 1988, the department of ~~institutions~~ HUMAN SERVICES shall submit a report to the general assembly describing the number of juvenile community review boards that have been established, the number of residential community programs, the number of children assigned to those programs, the number of children that have been rejected by the boards who subsequently required secure institutional care, and the rate of recidivism of those children as compared with the recidivism rates for children placed into secure institutional programs.

**SECTION 189.** 19-2-1401 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1401. Parental responsibility training programs - criteria.** (2) The state department of ~~social services~~ HUMAN SERVICES is authorized and directed to establish such standards and guidelines within the available resources of the state government and each of the state departments described in subsection (1) of this section.

**SECTION 190.** 19-2-1402 (1) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1402. Local board.** (1) (b) Said board shall consist of eight members: One member from the family education field; one member from law enforcement; one member from a prosecutor's office; two members from the probation department; one member from the community at large; one member from the mental health profession; and one member from the state DEPARTMENT OF HUMAN SERVICES or THE county department of social services. The board should reflect the ethnic composition of the community in which it is located.

**SECTION 191.** 19-2-1502 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1502. Juvenile intensive supervision program - elements.** (2) The judicial department shall be assisted in developing assessment criteria for placement in the juvenile intensive supervision program judicial department guidelines for implementation of the program, and measurement of the outcome of the program, by a juvenile intensive supervision advisory committee. Such advisory committee shall

be appointed by the state court administrator and shall include, but shall not be limited to, representatives of the division of youth services in the department of ~~institutions~~ HUMAN SERVICES and the division of criminal justice in the department of public safety.

**SECTION 192.** 19-2-1602.5, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is repealed as follows:

**19-2-1602.5. Transfer of appropriations between the department of social services and the department of human services.** ~~Notwithstanding the effect of the "M" provision in the 1992-93 and subsequent general appropriation acts, the governor may transfer unlimited amounts of general fund appropriations to and from the department of social services and the department of institutions when required by changes from the appropriated levels in the amount of federal funds earned through programs or services for eligible youth authorized by the federal "Social Security Act" and provided or administered by the department of institutions.~~

**SECTION 193.** 19-2-1602.7, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1602.7. Local juvenile services planning committee - creation - duties.** If all of the boards of commissioners of each county or the city council of each city and county in a judicial district agree, there shall be created in such judicial district a local juvenile services planning committee which shall be appointed by the chief judge of the judicial district from persons recommended by the boards of commissioners of each county or the city council of each city and county within the judicial district. The committee, if practicable, shall include but not be limited to a representative from the county department of social services, a local school district, a local law enforcement agency, a local probation department, the division of youth services, private citizens, the district attorney's office, and the public defender's office and a community mental health representative and a representative of the concerns of municipalities. The committee, if created, shall meet as necessary to develop a plan for the allocation of resources for local juvenile services within the judicial district for the fiscal year. Such plan shall be approved by the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 194.** 19-2-1603 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1603. Appropriations to department of human services for services to juveniles.** (2) On and after July 1, 1993, the general assembly shall appropriate moneys for the provision of services to juveniles to the department of ~~institutions~~ HUMAN SERVICES which shall allocate such moneys by each judicial district in the state. Such appropriation and allocation shall be made based upon the formula developed in section 19-2-1602 (1) (b). The department of ~~institutions~~ HUMAN SERVICES shall administer such appropriated moneys. The moneys appropriated to the department of ~~institutions~~ HUMAN SERVICES for allocation by each judicial district shall be expended in such judicial district by the department of ~~institutions~~ HUMAN SERVICES for services to juveniles which may include, but shall not be limited to, intervention, treatment, supervision, lodging, assessment and bonding programs, and family services. If a judicial district has a local juvenile services planning committee,

the expenditure of moneys for juvenile services in such judicial district shall be made in accordance with the plan developed pursuant to section 19-2-1602.7.

**SECTION 195.** 19-2-1607, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1607. Emergency release.** The department of ~~institutions~~ HUMAN SERVICES and the judicial department shall cooperate to establish guidelines for the emergency release of juveniles committed to the custody of the department of ~~institutions~~ HUMAN SERVICES during periods of crisis overcrowding of facilities operated by such department. Such guidelines shall take into consideration the best interests of juveniles, the capacity of individual facilities, and the safety of the public. Such guidelines shall be presented to the general assembly on or before December 1, 1991.

**SECTION 196.** 19-2-1608, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-1608. Department of human services - study programs for truants.** On or before January 1, 1992, the department of ~~institutions~~ HUMAN SERVICES, the department of education, and the judicial department, after consultation with the working group created in section 19-2-1602, shall study and report to the general assembly on appropriate programs or placement alternatives for truants, particularly any truants held in contempt of court, and the availability of such programs in the state of Colorado.

**SECTION 197.** 19-3-208 (2) (e), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3-208. Services - county required to provide - rules and regulations.**  
(2) (e) The department of ~~social services~~ HUMAN SERVICES may promulgate such rules and regulations as are necessary to implement the provision of services pursuant to this article.

**SECTION 198.** 19-3-210 (1) and (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-3-210. Foster parents' bill of rights study - task force created - principles to be examined.** (1) The state department of ~~social services~~ HUMAN SERVICES shall establish a task force consisting of representatives from the state DEPARTMENT OF HUMAN SERVICES and county departments of social services, child placement agencies, and the state foster parents association of Colorado. The task force shall examine the rights and responsibilities of foster parents.

(4) On or before December 1, 1995, the state department of ~~social services~~ HUMAN SERVICES shall submit a report of the task force study to the general assembly, with recommendations for legislation.

**SECTION 199.** 19-3-303 (9), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3-303. Definitions.** As used in this part 3, unless the context otherwise

requires:

(9) "State department" means the department of ~~social services~~ HUMAN SERVICES created by section 24-1-120, C.R.S.

**SECTION 200.** 19-3-315, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3-315. Federal funds.** The department of ~~social services~~ HUMAN SERVICES is authorized to accept federal funds such as child abuse and neglect state grants which are available for the implementation of programs which would further the purposes of this part 3.

**SECTION 201.** 19-3-403 (2), (5), (6), and (8), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-3-403. Temporary custody - hearing - time limits - restriction.** (2) When a child is placed in a shelter facility or a temporary holding facility not operated by the department of ~~institutions~~ HUMAN SERVICES designated by the court, the law enforcement official taking the child into custody shall promptly so notify the court. He shall also notify a parent or legal guardian or, if a parent or legal guardian cannot be located within the county, the person with whom the child has been residing and inform him of the right to a prompt hearing to determine whether the child is to be detained further. The court shall hold such hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays. A child requiring physical restraint may be placed in a juvenile detention facility operated by or under contract with the department of ~~institutions~~ HUMAN SERVICES for a period of not more than twenty-four hours, including Saturdays, Sundays, and legal holidays.

(5) The court may, at any time, order the release of any child being held pursuant to section 19-3-401 from shelter care or a temporary holding facility not operated by the department of ~~institutions~~ HUMAN SERVICES without holding a hearing, either without restriction or upon written promise of the parent, guardian, or legal custodian to bring the child to the court at a time set or to be set by the court.

(6) (a) After making a reasonable effort to obtain the consent of the parent, guardian, or other legal custodian, the court may authorize or consent to medical, surgical, or dental treatment or care for a child placed in shelter care or a temporary holding facility not operated by the department of ~~institutions~~ HUMAN SERVICES.

(b) When the court finds that emergency medical, surgical, or dental treatment is required for a child placed in shelter care or a temporary holding facility not operated by the department of ~~institutions~~ HUMAN SERVICES, it may authorize such treatment or care if the parents, guardian, or legal custodian are not immediately available.

(8) Any law enforcement officer, employee of the division in the department of ~~institutions~~ HUMAN SERVICES responsible for youth services, or other person acting under the direction of the court who in good faith transports any child, releases any child from custody pursuant to a written policy of a court, releases any child from custody pursuant to any written criteria established pursuant to this title, or detains any child pursuant to court order or written policy or criteria established pursuant to

this title shall be immune from civil or criminal liability that might otherwise result by reason of such act. For purposes of any proceedings, civil or criminal, the good faith of any such person shall be presumed.

**SECTION 202.** 19-3-502 (3) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3-502. Petition form and content - limitations on claims in dependency or neglect actions.** (3) All petitions filed alleging the dependency or neglect of a child shall include the following statements:

(c) "The review of any decree of placement of a child subsequent to the three month review required by section 19-1-115 (4) (a) may be conducted as an administrative review by the department of ~~social services or the department of institutions~~ HUMAN SERVICES, as appropriate. If you are a party to the action you have a right to object to an administrative review, and if you object, the review shall be conducted by the court."

**SECTION 203.** 19-3-506 (1) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3-506. Mentally ill child or child with developmental disabilities - procedure.** (1) (c) When the mental health professional finds, based upon a prescreening done pursuant to section 19-3-403 (4) or under this section, that the child may be mentally ill, as defined in sections 27-10-105 and 27-10-106, C.R.S., the court shall review the prescreening report within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, and order the child placed for an evaluation at a facility designated by the executive director of the department of ~~institutions~~ HUMAN SERVICES for a seventy-two-hour treatment and evaluation pursuant to section 27-10-105 or 27-10-106, C.R.S. On and after January 1, 1986, if the child to be placed is in a detention facility, the designated facility shall admit the child within twenty-four hours after the court orders an evaluation, excluding Saturdays, Sundays, and legal holidays.

**SECTION 204.** 19-3-507 (1) (b) and (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-3-507. Dispositional hearing.** (1) (b) Prior to any dispositional hearing, the caseworker of the department of ~~social services~~ HUMAN SERVICES assigned to the case shall submit to the court a statement which details the services which were offered to or provided to the family to prevent unnecessary out-of-home placement of the child and to facilitate the reunification of the child with the family. The statement shall contain an explanation of the services or actions which, had such services or actions been available, would have been necessary to enable the child to remain at home safely. In the alternative, the caseworker may submit a statement as to why no services or actions would have made it possible for the child to remain at home safely.

(4) In any case in which the disposition is placement out of the home, except for children committed to the department of ~~institutions~~ HUMAN SERVICES, the court shall, at the time of placement, set a review within ninety days, to determine if continued

placement is necessary and is in the best interests of the child and of the community. Notice of said review shall be given by the court to all parties and to the director of the facility or agency in which the child is placed and any person who has physical custody of the child and any attorney or guardian ad litem of record. The review shall be conducted in accordance with section 19-3-701 (6).

**SECTION 205.** 19-3-508 (1) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3-508. Neglected or dependent child - disposition.** (1) When a child has been adjudicated to be neglected or dependent, the court may enter a decree of disposition the same day, but in any event it shall do so within forty-five days unless the court finds that the best interests of the child will be served by granting a delay. If a delay is granted, the court shall set forth the reasons why a delay is necessary and the minimum amount of time needed to resolve the reasons for the delay and shall schedule the hearing at the earliest possible time following the delay. When the decree does not terminate the parent-child legal relationship, the court shall approve an appropriate treatment plan which shall include but not be limited to one or more of the following provisions of paragraphs (a) to (d) of this subsection (1):

(d) (I) The court may order that the child be examined or treated by a physician, surgeon, psychiatrist, or psychologist or that he receive other special care and may place the child in a hospital or other suitable facility for such purposes; except that no child may be placed in a mental health facility operated by the department of ~~institutions~~ HUMAN SERVICES until the child has received a mental health prescreening resulting in a recommendation that the child be placed in a facility for evaluation pursuant to section 27-10-105 or 27-10-106, C.R.S., or a hearing has been held by the court after notice to all parties, including the department of ~~institutions~~ HUMAN SERVICES. No order for a seventy-two-hour treatment and evaluation shall be entered unless a hearing is held and evidence indicates that the prescreening report is inadequate, incomplete, or incorrect and that competent professional evidence is presented by a mental health professional which indicates that mental illness is present in the child. The court shall make, prior to the hearing, such orders regarding temporary custody of the child as are deemed appropriate.

(II) Placement in any facility operated by the department of ~~institutions~~ HUMAN SERVICES shall continue for such time as ordered by the court or until the professional person in charge of the child's treatment concludes that the treatment or placement is no longer appropriate. If placement or treatment is no longer deemed appropriate, the court shall be notified and a hearing held for further disposition of the child within five days, excluding Saturdays, Sundays, and legal holidays. The court shall make, prior to the hearing, such orders regarding temporary custody of the child as are deemed appropriate.

**SECTION 206.** 19-3-701 (2) (c) and (6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-3-701. Petition for review of need for placement.** (2) (c) All petitions filed pursuant to this section shall include the following statement: "If the child is placed out of the home for a period of eighteen months or longer, the court shall hold a permanency planning hearing to determine the future status of the child. The review

of any decree of placement of a child subsequent to the three month review required by section 19-1-115 (4) (a) may be conducted as an administrative review by the department of ~~social services or the department of institutions, as appropriate~~ HUMAN SERVICES. If you are a party to the action, you have a right to object to an administrative review, and, if you object, the review shall be conducted by the court."

(6) The petition for review of need for placement shall request the court to determine, by a preponderance of the evidence, if placement or continued placement is necessary and is in the best interest of the child and of the community. If the court makes such a finding, it shall enter a decree ordering the child's placement out of the home in the facility or setting which most appropriately meets the needs of the child, the family, and the community. In making its decision as to proper placement, the court shall utilize the evaluation for placement prepared pursuant to section 19-1-107 or the evaluation for placement required by subsection (5) of this section. If the evaluation for placement recommends placement in a facility located in Colorado which can provide appropriate treatment and which will accept the child, then the court shall not place the child in a facility outside this state. If the court places the child in a facility located in Colorado other than one recommended by the evaluation for placement, in a facility located outside this state in accordance with the evaluation for placement, or in a facility in which the average monthly cost exceeds the amount established by the general assembly in the general appropriation bill, it shall make specific findings of fact, including the monthly cost of the facility in which such child is placed, relating to its placement decision. A copy of such findings shall be sent to the chief justice of the supreme court, who shall report monthly to the joint budget committee and annually to the general assembly on such placements. If the court commits the child to the department of ~~institutions~~ HUMAN SERVICES, it shall not make a specific placement, nor shall the provisions of this subsection (6) relating to specific findings of fact be applicable. If the court makes a finding that continued placement is not necessary and is not in the best interest of the child and the community, the court shall dismiss the petition for review of need for placement and shall order that the child be returned home. The court may require a continued hearing of the petition for review of need for placement for a period not to exceed fourteen days if it finds that the materials submitted are insufficient to make a finding as provided in this subsection (6).

**SECTION 207.** 19-3-702 (6) and (8), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-3-702. Permanency planning hearing.** (6) Periodic reviews conducted by the court or, if there is no objection by any party to the action, in the court's discretion, through an administrative review conducted by the state department of ~~social services or the department of institutions, as appropriate~~ HUMAN SERVICES, shall determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care and shall project a likely date by which the child may be returned to the home, placed for adoption, legal guardianship or guardianship of the person, or be placed in another permanent placement setting.

(8) Subsequent reviews by the court or, if there is no objection by any party to the

action, in the court's discretion, through an administrative review conducted by the state department of ~~social services or the department of institutions, as appropriate~~ HUMAN SERVICES, shall be conducted every six months except when the court requires a court review or when a court review is requested by the child's parents or guardians or by the child. In the event that an administrative review is ordered, all counsel of record shall be notified and may appear at said review.

**SECTION 208.** 19-3.5-104 (2)(a) and (2)(a.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-3.5-104. Colorado children's trust fund board - creation - assistance from Colorado state university - members.** (2) The board shall consist of nine members, as follows:

(a) The executive director of the department of ~~social services~~ HUMAN SERVICES or his designee;

(a.5) The executive director of the department of PUBLIC health AND ENVIRONMENT or such director's designee;

**SECTION 209.** The introductory portion to 19-4-107 (1) and 19-4-107 (2) and (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-4-107. Determination of father and child relationship - who may bring action - when action may be brought.** (1) A child, his natural mother, or a man presumed to be his father under section 19-4-105 (1) (a), (1) (b), or (1) (c) or the state, the state department of ~~social services~~ HUMAN SERVICES, or a county department of social services, pursuant to article 13 or 13.5 of title 26, C.R.S., or article 5 of title 14, C.R.S., may bring an action:

(2) Any interested party, including the state, the state department of ~~social services~~ HUMAN SERVICES, or a county department of social services, pursuant to article 13 or 13.5 of title 26, C.R.S., or article 5 of title 14, C.R.S., may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under section 19-4-105 (1) (d), (1) (e), or (1) (f).

(3) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under section 19-4-105 may be brought by the state, the state department of ~~social services~~ HUMAN SERVICES, a county department of social services, the child, the mother or personal representative of the child, the personal representative or a parent of the mother if the mother has died, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

**SECTION 210.** 19-5-104 (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-5-104. Final order of relinquishment.** (4) A final order of relinquishment shall divest the relinquishing parent or parents of all legal rights and obligations they may have with respect to the child relinquished, but it shall not modify the child's status as an heir at law which shall cease only upon a subsequent final decree of

adoption; except that the relinquishing parent's or parents' obligation to pay for services received by the child through the department of ~~social services~~ HUMAN SERVICES, or other support received, shall be terminated upon a subsequent final decree of adoption or by order of the court at the time of relinquishment. The order of relinquishment shall release the relinquished child from all legal obligations with respect to the relinquishing parent or parents.

**SECTION 211.** 19-5-203 (1) (g) and (1) (i), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-5-203. Availability for adoption.** (1) A child may be available for adoption only upon:

(g) A statement by the department of ~~social services~~ HUMAN SERVICES or its designated agent as to whether any placement arranged outside the state of Colorado was carried out by a child placement agency licensed or authorized under the laws of another state to make placements;

(i) Verification by the department of ~~social services~~ HUMAN SERVICES or its designated agent that any custody obtained outside the state of Colorado was acquired by proceedings sanctioned by the federal immigration and naturalization service in cooperation with the department of ~~social services~~ HUMAN SERVICES whenever such cooperation is authorized or advised by federal law.

**SECTION 212.** 19-5-207 (5) and (6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-5-207. Written consent and report.** (5) The department of ~~social services~~ HUMAN SERVICES shall establish rules and regulations which provide for county departments of social services to charge a fee, not to exceed five hundred dollars in the case of a first adoption and not to exceed two hundred fifty dollars for a second or subsequent adoption by the same party or parties, for reports and investigations provided in accordance with this article.

(6) The department of ~~social services~~ HUMAN SERVICES may waive the fee provided for in subsection (4) of this section if such fee poses a barrier to the adoption of a child for whom the county department of social services has financial responsibility.

**SECTION 213.** 19-5-303 (1) (b), (1) (c), and (1) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-5-303. Commission created - duties.** (1) There is hereby created in the department of ~~social services~~ HUMAN SERVICES a commission of seven members. The commission shall exercise its powers and perform the duties and functions specified by this part 3 as if the same were transferred to the department by a **type 1** transfer, as such transfer is defined in article 1 of title 24, C.R.S. Representation and appointment of such members shall be as follows:

(b) One member shall represent the department of ~~social services~~ HUMAN SERVICES and shall be appointed by the executive director of such department or his designee.

(c) Two members shall represent licensed adoption agencies and shall be appointed by a representative of a private adoption agency. Such representative shall be selected by the executive director of the department of ~~social services~~ HUMAN SERVICES.

(d) Two members shall represent either adoptees, adoptive parents, biological parents of adoptees, or biological siblings of adoptees and shall be selected by the executive director of the department of ~~social services~~ HUMAN SERVICES.

**SECTION 214.** 19-5-401 (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-5-401. Definitions.** As used in this part 4, unless the context otherwise requires:

(4) "Department" means the department of ~~social services~~ HUMAN SERVICES.

**SECTION 215.** 22-20-104 (2) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**22-20-104. Administration.** (2) (a) In order to assist the state board in the performance of its responsibilities for the implementation of this article, a state special education advisory committee of an appropriate size shall be appointed by the state board. The members of the advisory committee shall include at least one special education teacher from each of the disabilities set forth in section 22-20-103 (1.5), at least two administrators with experience in special education, at least two parents of children presently or formerly enrolled in special education programs, one representative from the department of ~~institutions~~ HUMAN SERVICES, at least one adult with a disability eighteen years of age or older, at least one faculty member from the Colorado school for the deaf and the blind or a parent of a student attending the Colorado school for the deaf and the blind, and at least one regular classroom teacher. Members shall be appointed for one-year or two-year terms. Any additions to the composition of the advisory committee shall be made pursuant to the rules and regulations of the state board.

**SECTION 216.** 22-20-108 (5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**22-20-108. Determination of disability - enrollment.** (5) In formulating recommendations for placement of a child with a disability, the committee shall work cooperatively with the department of ~~institutions~~ HUMAN SERVICES, when applicable, and shall be guided by the legislative declaration contained in section 22-20-102.

**SECTION 217.** 22-28-104 (1) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**22-28-104. Establishment of public preschool programs.** (1) There is hereby established a state preschool program, which shall be implemented in school districts beginning in January of 1989. The purposes of the program are:

(a) To serve four-year- and five-year-old children who lack overall learning

readiness due to significant family risk factors, who are in need of language development, or who are receiving services from the state department of ~~social services~~ HUMAN SERVICES pursuant to article 5 of title 26, C.R.S., as neglected or dependent children and who would benefit from participation in the state preschool program;

**SECTION 218.** 22-28-106 (1) (a) (II), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**22-28-106. Eligibility of children for participation in district program.**

(1) (a) The department shall establish, by rule and regulation, criteria for each school district to use in determining which children in the district shall be eligible for participation in the district preschool program, subject to the following requirements:

(II) No child shall participate in the district preschool program unless such child lacks overall learning readiness due to significant family risk factors, is in need of language development, including but not limited to the ability to speak English, or is receiving services from the state department of ~~social services~~ HUMAN SERVICES pursuant to article 5 of title 26, C.R.S., as a neglected or dependent child.

**SECTION 219.** 22-28-108 (1) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**22-28-108. Criteria for district preschool programs.** (1) The department shall establish, by rule and regulation, criteria for school districts to use in establishing district preschool programs, subject to the following requirements:

(a) The department shall establish basic program standards for district preschool programs using nationally accepted standards for preschool programs and requiring compliance with the Colorado rules and regulations for child care centers promulgated by the department of ~~social services~~ HUMAN SERVICES pursuant to section 26-6-106, C.R.S.

**SECTION 220.** 22-28-111 (1) (b), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**22-28-111. Coordination of district preschool program with extended day services.** (1) (b) Any extended day services provided pursuant to paragraph (a) of this subsection (1), regardless of whether provided by a school district, head start agency, or public or private child care agencies, shall meet the appropriate minimum standards for licensing established by the department of ~~social services~~ HUMAN SERVICES pursuant to section 26-6-106, C.R.S.

**SECTION 221.** 22-33-108 (7), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**22-33-108. Judicial proceedings.** (7) If the child does not comply with the court order, the court may order that an investigation be conducted as provided in section 19-2-301 (2), C.R.S., and the court may order the child to show cause why he should not be held in contempt of court. The court may include as a sanction after a finding of contempt an appropriate treatment plan which may include, but not be limited to,

community service to be performed by the child, supervised activities, and other activities having goals which shall ensure that the child has an opportunity to obtain a quality education. The court may not impose any sanction of incarceration to a jail, lockup, other place used for the confinement of adult offenders, or any juvenile detention facility operated by or under contract with the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 222.** 22-53-104 (2), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**22-53-104. Attendance in district other than district of residence.** (2) Any court of record, the department of ~~social services~~ HUMAN SERVICES, or any other agency authorized to place a child in a residential child care facility shall notify the school district of residence of such child, the district in which the child will receive educational services, and the department of education of such placement within fifteen days after the placement.

**SECTION 223.** 23-23-102, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**23-23-102. Supervision - interdepartmental cooperation.** The center shall be under the general supervision and control of the regents of the university of Colorado. The governor shall instruct the executive director of the department of ~~institutions~~ HUMAN SERVICES to cooperate with the regents to provide the diagnostic services provided for by this article.

**SECTION 224.** 23-23-103 (1) (c), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**23-23-103. Evaluations made - when.** (1) A child may be referred to the medical center for diagnostic evaluation and study under the following conditions:

(c) The superintendent of any institution in Colorado to which children have been committed or sentenced may request the executive director of the department of ~~institutions~~ HUMAN SERVICES to have an evaluation of any child in his institution made at the center.

**SECTION 225.** 23-23-104, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**23-23-104. Custody of children - housing.** For the making of any such diagnostic evaluation before commitment, the district judge or juvenile judge shall give the temporary custody of the child to the executive director of the department of ~~institutions~~ HUMAN SERVICES for temporary placement at any state institution deemed most suitable by the executive director during the period of evaluation. Subject to the provisions of section 23-23-108, the executive director of the department of ~~institutions~~ HUMAN SERVICES shall accept all such children assigned to him within the limits of available facilities. Nothing in this section shall be construed to permit the designation of the university of Colorado psychiatric hospital as a housing facility for such children.

**SECTION 226.** 23-60-306 (3) (a), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**23-60-306. Colorado customized training program - creation - policy - functions of the state board for community colleges and occupational education.**

(3) (a) There is hereby created the Colorado customized training program within the board. Said program shall be operated as a joint effort with the department of local affairs and in cooperation with the department of labor and employment, THE department of ~~social services~~ HUMAN SERVICES, and state and local education agencies.

**SECTION 227.** 23-60-502, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**23-60-502. Applicability of article.** Nothing in this article shall be construed to limit the duties, functions, or responsibilities of the department of ~~social services~~ HUMAN SERVICES.

**SECTION 228.** 24-4-105 (14) (a) (I) and (14) (b), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

**24-4-105. Hearings and determinations.** (14) (a) For the purpose of a decision by an agency which conducts a hearing or an initial decision by an administrative law judge or a hearing officer, the record shall include: All pleadings, applications, evidence, exhibits, and other papers presented or considered, matters officially noticed, rulings upon exceptions, any findings of fact and conclusions of law proposed by any party, and any written brief filed. The agency, administrative law judge, or hearing officer may permit oral argument. No ex parte material or representation of any kind offered without notice shall be received or considered by the agency, the administrative law judge, or by the hearing officer. The agency, an administrative law judge, or hearing officer, with the consent of all parties, may eliminate or summarize any part of the record where this may be done without affecting the decision. In any case in which the agency has conducted the hearing, the agency shall prepare, file, and serve upon each party its decision. In any case in which an administrative law judge or a hearing officer has conducted the hearing, the administrative law judge or the hearing officer shall prepare and file an initial decision which the agency shall serve upon each party, except where all parties with the consent of the agency have expressly waived their right to have an initial decision rendered by such administrative law judge or hearing officer. Each decision and initial decision shall include a statement of findings and conclusions upon all the material issues of fact, law, or discretion presented by the record and the appropriate order, sanction, relief, or denial thereof. An appeal to the agency shall be made as follows:

(I) With regard to initial decisions regarding agency action by the state DEPARTMENT OF HUMAN SERVICES or county department of social services under section 26-1-106 (1) (a), C.R.S., by filing exceptions within fifteen days after service of the initial decision upon the parties, unless extended by the state department or unless a review has been initiated in accordance with this subparagraph (I) upon motion of the state department within fifteen days after service of the initial decision. In the event a party fails to file an exception within fifteen days, the state department

may allow, upon a showing of good cause by the party, for an extension of up to an additional fifteen days to reconsider the final agency action.

(14) (b) In the absence of an appeal pursuant to subparagraph (I) of paragraph (a) of this subsection (14), the executive director of the state department of ~~social services~~ HUMAN SERVICES shall review the initial decision in accordance with a procedure adopted by the state board pursuant to section 26-1-106 (1), C.R.S. In the absence of an appeal pursuant to subparagraph (II) of paragraph (a) of this subsection (14), the initial decision of any other agency shall become the decision of the agency and in such case, the evidence taken by the administrative law judge or the hearing officer need not be transcribed.

**SECTION 229.** The introductory portion to 24-4.1-303 (14), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-4.1-303. Procedures for assuring rights of victims of crimes.** (14) Upon written request of a victim, the department of corrections, the department of ~~institutions~~ HUMAN SERVICES, or the local corrections authorities shall notify such victim of the following information regarding any person convicted of that crime against the victim:

**SECTION 230.** 24-30-903 (3), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-30-903. Duties and responsibilities.** (3) The state telecommunications director may enter into contracts with any county, city and county, state agency, private schools, school district, board of cooperative educational services, or library and may act as a telecommunications network provider between or among two or more counties or state agencies for the purpose of providing teleconferencing facilities and services between or among such entities, including the judicial system of any county, the department of corrections, and the department of ~~institutions~~ HUMAN SERVICES and any of their facilities. To assure the availability of such network throughout the various state agencies, private schools, school districts, boards of cooperative educational services, libraries, and counties, the director shall develop a uniform set of standards for facilities to be utilized by the contracting entities.

**SECTION 231.** 24-30-1510.7 (3), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-30-1510.7. Workers' compensation for state employees.** (3) Prior to July 1, 1990, nothing in this section shall apply to the department of institutions; but this section shall apply to the department of ~~institutions~~ HUMAN SERVICES beginning on July 1, 1990.

**SECTION 232.** 24-30-1517 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-30-1517. Applicability.** (1) With respect to claims covered under the risk management fund, until January 1, 1995, section 24-30-1510 shall apply to claims arising on or after September 15, 1985, and on and after January 1, 1995, section

24-30-1510 shall apply to claims whenever arising. With respect to claims for loss or damage to state property covered under the self-insured property fund, this part 15 shall apply to claims arising on or after July 1, 1986. With respect to claims for workers' compensation made by state employees, other than employees of the department of ~~institutions~~ HUMAN SERVICES, this part 15 shall apply to claims arising on or after May 24, 1990. With respect to claims for workers' compensation made by employees of the department of ~~institutions~~ HUMAN SERVICES, this part 15 shall apply to claims arising on or after July 1, 1990.

**SECTION 233.** 24-32-2115, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-32-2115. Merit system council.** The merit system council of the department of ~~social services~~ HUMAN SERVICES shall provide personnel services as described in section 26-1-120 (4) and (5), C.R.S., to civil defense employees of the political subdivisions of the state, except where such employees are covered by another federally approved merit system.

**SECTION 234.** 24-33.5-412 (1) (f), Colorado Revised Statutes, 1988 Repl. Vol., as amended, as it exists until January 1, 1995, is amended to read:

**24-33.5-412. Functions of bureau - legislative review.** (1) The bureau has the following authority:

(f) To enter into and perform contracts with the department of ~~social services~~ HUMAN SERVICES for the investigation of any matters arising under the "Revised Uniform Reciprocal Enforcement of Support Act", article 5 of title 14, C.R.S., or a substantially similar enactment of another state;

**SECTION 235.** 24-33.5-412 (1) (f), Colorado Revised Statutes, 1988 Repl. Vol., as amended, as it will become effective January 1, 1995, is amended to read:

**24-33.5-412. Functions of bureau - legislative review.** (1) The bureau has the following authority:

(f) To enter into and perform contracts with the department of ~~social services~~ HUMAN SERVICES for the investigation of any matters arising under the "Uniform Interstate Family Support Act", article 5 of title 14, C.R.S., or a substantially similar enactment of another state;

**SECTION 236.** The introductory portion to 24-33.5-415.3 (3), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-33.5-415.3. Information on gangs - legislative declaration.** (3) To aid in the identification and location of gangs and gang members, and to prevent recruitment of new gang members from both the population in general and persons in the custody of the department of corrections and the department of ~~institutions~~ HUMAN SERVICES, the Colorado bureau of investigation shall develop and maintain a computerized data base system which tracks the whereabouts of identified gang members. Such data base shall be compiled from reports submitted to the bureau pursuant to section 16-21-103 (3), C.R.S. Such information shall include the following:

**SECTION 237.** 24-34-104 (26.1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (26.1) The functions of the department of ~~social services~~ HUMAN SERVICES relating to the expending of moneys from the central fund for state and veterans nursing homes created by section 26-12-106, C.R.S., shall terminate July 1, 1997.

**SECTION 238.** 24-35-212 (5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, as it exists until January 1, 1995, is amended to read:

**24-35-212. Prizes.** (5) Prior to the payment of any lottery winnings required by rule and regulation of the commission to be paid only at the lottery offices, the department of revenue shall require the winner to submit the winner's social security number and federal employer identification number, if applicable, and shall check the social security number of the winner with those certified by the department of ~~social services~~ HUMAN SERVICES for the purpose of the state lottery winnings offset as provided in section 26-13-118, C.R.S. The social security number and the federal employer identification number shall not become part of the public record of the department of revenue. If the social security number of a lottery winner appears among those certified by the department of ~~social services~~ HUMAN SERVICES, the department of revenue shall suspend the payment of such winnings until the requirements of section 26-13-118, C.R.S., are met. If, after consulting with the department of ~~social services~~ HUMAN SERVICES, the department of revenue determines that the lottery winner owes a child support debt pursuant to section 14-14-104, C.R.S., or owes child support arrearages as part of an enforcement action pursuant to section 14-5-119, C.R.S., or owes child support arrearages which are the subject of enforcement services provided pursuant to section 26-13-106, C.R.S., then the department of revenue shall withhold from the amount of winnings paid to the lottery winner an amount equal to the amount of child support debt or child support arrearages which are due or, if the amount of winnings is less than or equal to the amount of child support debt or arrearages due, shall withhold the entire amount of the lottery winnings. Any moneys so withheld shall be transmitted to the state treasurer for disbursement by the department of ~~social services~~ HUMAN SERVICES as directed in section 26-13-118, C.R.S.

**SECTION 239.** 24-35-212 (5), Colorado Revised Statutes, 1989 Repl. Vol., as amended, as it will become effective January 1, 1995, is amended to read:

**24-35-212. Prizes.** (5) Prior to the payment of any lottery winnings required by rule and regulation of the commission to be paid only at the lottery offices, the department of revenue shall require the winner to submit the winner's social security number and federal employer identification number, if applicable, and shall check the social security number of the winner with those certified by the department of ~~social services~~ HUMAN SERVICES for the purpose of the state lottery winnings offset as provided in section 26-13-118, C.R.S. The social security number and the federal employer identification number shall not become part of the public record of the department of revenue. If the social security number of a lottery winner appears among those certified by the department of ~~social services~~ HUMAN SERVICES, the department of revenue shall suspend the payment of such winnings until the

requirements of section 26-13-118, C.R.S., are met. If, after consulting with the department of ~~social services~~ HUMAN SERVICES, the department of revenue determines that the lottery winner owes a child support debt pursuant to section 14-14-104, C.R.S., or owes child support arrearages as part of an enforcement action pursuant to article 5 of title 14, C.R.S., or owes child support arrearages which are the subject of enforcement services provided pursuant to section 26-13-106, C.R.S., then the department of revenue shall withhold from the amount of winnings paid to the lottery winner an amount equal to the amount of child support debt or child support arrearages which are due or, if the amount of winnings is less than or equal to the amount of child support debt or arrearages due, shall withhold the entire amount of the lottery winnings. Any moneys so withheld shall be transmitted to the state treasurer for disbursement by the department of ~~social services~~ HUMAN SERVICES as directed in section 26-13-118, C.R.S.

**SECTION 240.** 24-44-104 (1), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**24-44-104. Membership - term of office - chairman - compensation.** (1) The commission shall consist of the lieutenant governor, the executive director of the department of ~~social services~~ HUMAN SERVICES, the executive director of the department of PUBLIC health AND ENVIRONMENT, the executive director of the department of natural resources, the executive director of the department of local affairs, two official representatives each from Southern Ute and Ute Mountain Ute tribes, and two at-large members who shall be selected by the commission at its first meeting and annually thereafter.

**SECTION 241.** 24-50-109.5 (2), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-50-109.5. Fiscal emergencies - emergency orders.** (2) With the advice and assistance of the state personnel director, the governor shall take such actions as necessary to be utilized by each principal department and each institution of higher education to reduce state personnel expenditures in the event of a fiscal emergency. Such actions shall include, but need not be limited to, separations, voluntary furloughs, mandatory furloughs, suspension of salary and fringe benefit survey increases, suspension of merit increases, job-sharing, hiring freezes, forced reallocation of vacant positions, or a combination thereof. Any suspension of salary and fringe benefit survey increases or suspension of merit increases shall apply statewide to all employees in the state personnel system. If mandatory furloughs are utilized in any principal department or institution of higher education, such furloughs shall be implemented by each appointing authority so that all employees under such authority, regardless of status, position, or level of employment, are furloughed for the same length of time. Employees of the following agencies and employees with duties as described shall not be subject to mandatory furlough: The Colorado state patrol, correctional officers of the department of corrections, employees of the department of ~~institutions~~ HUMAN SERVICES providing hands-on care, and employees providing hands-on nursing care.

**SECTION 242.** 24-60-703, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**24-60-703. Administrator.** The executive director of the department of ~~institutions~~ HUMAN SERVICES is designated as and shall be the compact administrator who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is authorized, empowered, and directed to cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state thereunder.

**SECTION 243.** 24-60-1002, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**24-60-1002. Compact administrator.** The executive director of the department of ~~institutions~~ HUMAN SERVICES, referred to in this part 10 as the "director", shall be the compact administrator and shall have the power to make any rules and regulations necessary for the administration of this part 10. The director shall cooperate with all departments, agencies, and officers of the state and any political subdivision thereof to facilitate the proper administration of the interstate compact on mental health or of any supplementary agreement or agreements entered into by this state thereunder.

**SECTION 244.** 24-60-1004, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**24-60-1004. Annual budget.** The department of ~~institutions~~ HUMAN SERVICES in its annual budget shall include such amounts necessary to discharge the financial obligations incurred by it to carry out the purposes of the interstate compact on mental health, and the general assembly shall appropriate such sums necessary therefor.

**SECTION 245.** 24-60-1803 (2) and (3), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

**24-60-1803. Additional provisions and definitions.** (2) As used in article III of the compact, "appropriate public authorities" means the department of ~~social services~~ HUMAN SERVICES, and said department shall receive and act with reference to notices required by said article III.

(3) As used in article V (a) of the compact, "appropriate authority in the receiving state" means the department of ~~social services~~ HUMAN SERVICES.

**SECTION 246.** 24-60-2401, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**24-60-2401. Legislative declaration.** The general assembly hereby finds that it is desirable to find adoptive parents for children with special needs as specified in article 7 of title 26, C.R.S., to make payments in subsidization of the adoption of such children, and to protect the interests of such children throughout their minority. Pursuant to authorization contained in Title IV-E and Title XIX of the federal "Social Security Act", as amended, it is the intent of the general assembly to authorize the department of ~~social services~~ HUMAN SERVICES to enter into interstate compacts to address the problems arising for special needs children and their parents when they

move to other states, or are residents of another state, and to facilitate the provision of medical and other necessary services for special needs children when the provision of services takes place in another state.

**SECTION 247.** The introductory portion to 24-60-2403 (1) and 24-60-2403 (1) (a) and (2), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

**24-60-2403. Compacts authorized.** (1) Pursuant to authorization contained in Title IV-E and Title XIX of the federal "Social Security Act", as amended, the department of ~~social services~~ HUMAN SERVICES is hereby authorized to develop, participate in the development of, negotiate for, and enter into one or more interstate compacts on behalf of the state of Colorado with other states to implement the following purposes:

(a) The protection of children on behalf of whom adoption subsidy payments are being provided by the department of ~~social services~~ HUMAN SERVICES pursuant to article 7 of title 26, C.R.S.;

(2) When so entered into by the department of ~~social services~~ HUMAN SERVICES, any such compact shall have the force and effect of a law for so long as it shall remain in effect.

**SECTION 248.** The introductory portions to 24-60-2404 (1) and (2) and 24-60-2404 (2) (a), (2) (b), and (2) (c), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

**24-60-2404. Contents of compact.** (1) Any compact entered into by the department of ~~social services~~ HUMAN SERVICES pursuant to this part 24 shall contain the following general provisions:

(2) Any compact entered into by the department of ~~social services~~ HUMAN SERVICES pursuant to this part 24 shall contain and implement the following provisions regarding medical assistance:

(a) That a child with special needs who is residing in this state, who is the subject of an adoption assistance agreement with another state which is a party to the compact, shall be entitled to receive a medical assistance identification from this state upon filing with the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING a certified copy of the adoption assistance agreement obtained from the adoption assistance state. The adoptive parents of such child shall be required at least annually to show that the agreement is still in force or has been renewed.

(b) That the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall consider the holder of a medical assistance identification specified in paragraph (a) of this subsection (2) as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance pursuant to article 4 of title 26, C.R.S.;

(c) That the department of ~~social services~~ HUMAN SERVICES shall provide coverage

and benefits for a child with special needs, who is in another state, and who is covered by an agreement to make payments in subsidization of adoption entered into by the department of ~~social services~~ HUMAN SERVICES pursuant to article 7 of title 26, C.R.S., which coverage and benefits are not provided by the residence state, if any. In addition, that the adoptive parents of such special needs child, acting for the child, may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor by the department of ~~social services~~ HUMAN SERVICES. However, the department of ~~social services~~ HUMAN SERVICES shall not make reimbursement for services or benefit amounts covered under any insurance or other third-party medical contract or arrangement held by the child or his adoptive parents. The additional coverages and benefit amounts specified in this paragraph (c) shall be for services for which no federal contribution is available, or which, if federally aided, are not provided by the residence state.

**SECTION 249.** 24-60-2405, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**24-60-2405. Rules and regulations.** The department of ~~social services~~ HUMAN SERVICES AND THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING shall promulgate such rules and regulations, pursuant to section 24-4-103, as are necessary to implement the provisions of this part 24.

**SECTION 250.** 24-60-2406, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**24-60-2406. Report to general assembly.** The department of ~~social services~~ HUMAN SERVICES shall submit a report to the general assembly prior to January 15, 1986, which report shall include, but SHALL not be limited to, the previous year's activity, the number of children served under the program, and projections of numbers of children to be served and expenditures for future years.

**SECTION 251.** 24-75-109 (1) (b), (1) (c), and (1) (c.5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

**24-75-109. Controller may allow expenditures in excess of appropriations - limitations - appropriations for subsequent fiscal year restricted - repeal.**

(1) For the purpose of closing the state's books, and subject to the provisions of this section, the controller may, on or after May 1 of any fiscal year and before the forty-fifth day after the close thereof, upon approval of the governor, allow any department, institution, or agency of the state, including any institution of higher education, to make an expenditure in excess of the amount authorized by an item of appropriation for such fiscal year if:

(b) The overexpenditure is by the department of ~~social services~~ HUMAN SERVICES for any purpose other than medicaid programs, but the total of all overexpenditures allowed pursuant to this paragraph (b) shall not exceed one million dollars in any fiscal year; or

(c) The overexpenditure is for any purpose of a department, institution, or agency of the executive branch other than the department of ~~social services~~ HUMAN SERVICES, but the total of all overexpenditures allowed pursuant to this paragraph (c) shall not

exceed one million dollars in any fiscal year; or

(c.5) The overexpenditure is for the workers' compensation self-insurance program of the department of ~~institutions~~ HUMAN SERVICES established pursuant to section 8-44-203, C.R.S.; or

**SECTION 252.** 25-1-107 (1) (n) and (1) (ee) (II), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-1-107. Powers and duties of the department.** (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(n) To establish sanitary standards and make sanitary, sewerage, and health inspections and examinations for charitable, penal, and other public institutions, and, with respect to the state institutions under the department of ~~institutions~~ HUMAN SERVICES specified in section 27-1-104, C.R.S., or under the department of corrections specified in section 17-1-104, C.R.S., such inspections and examinations shall be made at least once each year. Reports on such inspections of institutions under control of the department of ~~institutions~~ HUMAN SERVICES or the department of corrections shall be made to the executive director of the appropriate department for appropriate action, if any.

(ee) (II) For the purposes of this paragraph (ee), "administration" means assisting a person in the ingestion, application, inhalation, or, using universal precautions, rectal or vaginal insertion of medication, including prescription drugs, according to the legibly written or printed directions of the attending physician or other authorized practitioner or as written on the prescription label and making a written record thereof with regard to each medication administered, including the time and the amount taken, but "administration" does not include judgment, evaluation, or assessments or the injections of medication, the monitoring of medication, or the self-administration of medication, including prescription drugs and including the self-injection of medication by the resident. "Administration" also means ingestion through gastrostomy tubes or naso-gastric tubes, if administered by an individual authorized pursuant to section 27-10.5-103 (2) (k), C.R.S., as part of residential or day program services provided through service agencies approved by the department of ~~institutions~~ HUMAN SERVICES and supervised by a licensed physician or nurse.

**SECTION 253.** 25-1-118 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-118. Rental properties - salvage - fund created.** (1) If any federal surplus property which has been acquired by the governor pursuant to the provisions of section 25-1-117 consists of rental property, the executive director of the department of ~~institutions~~ HUMAN SERVICES is authorized to continue renting such property for such rentals as he deems reasonable.

**SECTION 254.** 25-1-119 (1) (a), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-119. Disposition and expenditures of moneys from fund.** (1) Any moneys

credited to the Fort Logan state hospital fund received from rentals and salvage as provided in section 25-1-118 shall be held for the following purposes subject to appropriation except as provided in paragraph (b) of this subsection (1):

(a) The executive director of the department of ~~institutions~~ HUMAN SERVICES shall compute the cost of operation and maintenance of the rental properties and of repair, remodeling, or demolition of any facilities acquired in accordance with section 25-1-118.

**SECTION 255.** The introductory portion to 25-1-1003 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-1003. Grant program - requirements - use of medical assistance funds prohibited.** (2) The state board of health, after consultation with the division in the department of ~~social services~~ HUMAN SERVICES involved in licensing child care centers and if the committee formed in section 25-1-1004 recommends the establishment of child care facilities in nursing homes, shall promulgate reasonable rules and regulations establishing any necessary requirements for operating a day care center in a nursing home facility. Such rules and regulations shall include, but need not be limited to, the following:

**SECTION 256.** 25-4-1405 (8) (a) (I), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-1405. Disease control by the state department of public health and environment and local health departments.** (8) (a) No physician, health worker, or other person and no hospital, clinic, sanitarium, laboratory, or other private or public institution shall test, or shall cause by any means to have tested, any specimen of any patient for HIV infection without the knowledge and consent of the patient; except that knowledge and consent need not be given:

(I) Where a health care provider or a custodial employee of the department of corrections or the department of ~~institutions~~ HUMAN SERVICES is exposed to blood or other bodily fluids that may be infectious with HIV;

**SECTION 257.** 25-4-1711 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-1711. Infant immunization advisory committee - creation.** (1) There is hereby created an infant immunization advisory committee, in this part 17 referred to as the "committee", appointed by the executive director of the department. The committee shall consist of twelve members as follows: The executive directors of the departments of PUBLIC health AND ENVIRONMENT and ~~social services~~ HUMAN SERVICES or their designees, a public health nurse, two licensed physicians with knowledge and expertise in the fields of family practice and pediatrics, a representative of a licensed or certified hospital, a representative of a pharmaceutical manufacturer, a representative of the advertising industry, a representative of the health insurance industry, a parent of a child enrolled in the Colorado medical assistance program, and two members from the general public.

**SECTION 258.** 25-7-502 (8) (b) and (8) (c), Colorado Revised Statutes, 1989

Repl. Vol., are amended to read:

**25-7-502. Definitions.** As used in this part 5, unless the context otherwise requires:

(8) (b) (I) The term "school" shall not apply to those institutions operated and controlled by the department of ~~institutions~~ HUMAN SERVICES.

(II) The exclusion provided for in this paragraph (b) shall terminate on July 1, 1989, unless the capital development committee approves the plan filed by the department of ~~institutions~~ HUMAN SERVICES in accordance with paragraph (c) of this subsection (8).

(c) The department of ~~institutions~~ HUMAN SERVICES shall file a report with the capital development committee prior to July 1, 1989, detailing their plan for asbestos abatement.

**SECTION 259.** 25-27-104 (2) (d), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-27-104. Minimum standards for personal care boarding homes - rules.**

(2) Regulations promulgated by the state board pursuant to subsection (1) of this section shall include, as a minimum, provisions requiring the following:

(d) That the Colorado long-term care ombudsman, designated by the department of ~~social services~~ HUMAN SERVICES, have access to the premises and residents during reasonable hours for the purposes set out in the federal "Older Americans Act of 1965";

**SECTION 260.** 26-2-103 (11), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-2-103. Definitions.** (11) "Social services" means services and payments for services (other than medical services covered by the "Colorado Medical Assistance Act") available, directly or indirectly, through the ~~social services~~ staff of the state DEPARTMENT OF HUMAN SERVICES and county departments OF SOCIAL SERVICES or through state designated agencies, where applicable, for the benefit of eligible persons, which services are provided pursuant to rules and regulations adopted by the state department. "Social services" may include but need not be limited to day care, homemaker services, foster care, and other services to individuals or families for the purpose of attaining or retaining capabilities for maximum self-care, self-support, and personal independence and services to families or members of families for the purpose of preserving, rehabilitating, reuniting, or strengthening the family. At such time as Title XX of the social security act becomes effective with respect to federal reimbursements, "social services" may include but need not be limited to child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services, and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally

retarded, the blind, the emotionally disturbed, persons with physical disabilities, and alcoholics and drug addicts.

**SECTION 261.** 26-2-112 (3) (a) (II), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**26-2-112. Old age pensions for inmates of public institutions.** (3) (a) (II) Such chief financial officer shall be required to furnish, at the state's expense, a surety bond in such amount as the department of ~~institutions~~ HUMAN SERVICES shall from time to time deem sufficient in the premises to protect such funds.

**SECTION 262.** 26-2-120 (1.5) (a) (I), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-2-120. Amount of assistance payments - aid to the blind.** (1.5) (a) (I) In addition to the amount of assistance available pursuant to subsection (1) of this section, the state board, with the consent of the general assembly and subject to available funds, may provide adult foster care for persons eligible to receive aid to the blind. For the purposes of this subparagraph (I), "adult foster care" means the care and services defined in section ~~26-1-111 (2) (j)~~ 26-2-122.3.

**SECTION 263.** 26-2-122.5 (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-2-122.5. Acceptance of available moneys to finance the low-income energy assistance program - rules.** (3) Notwithstanding the availability of additional moneys pursuant to subsections (1) and (2) of this section, the low-income energy assistance program shall be administered within the staffing structure, in existence on July 1, 1991, of the state DEPARTMENT OF HUMAN SERVICES and county departments of social services, without additional FTE.

**SECTION 264.** 26-2-406 (1) (b) (II) (G), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**26-2-406. County departments - duties and responsibilities.** (1) (b) It is expected that each county department's action plan shall be unique and shall reflect the labor demands, educational and employment opportunities, and the service delivery network which exists in the county. However, each action plan shall:

(II) Provide for the coordination of existing employment, training, and supportive services programs, which may include, but are not limited to, the following:

(G) Colorado department of ~~social services~~ HUMAN SERVICES child care services;

**SECTION 265.** 26-3.1-103 (1) (c), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-3.1-103. Investigations.** (1) (c) It is the general assembly's further intent to encourage the creation of an at-risk adult protection team for each county or contiguous group of counties in the state. The purpose of the at-risk adult protection team shall be to review the processes used to investigate mistreatment or self-neglect

of at-risk adults, to review the provision of protective services for such adults, to encourage interagency cooperation, and to provide community education on the mistreatment and self-neglect of at-risk adults. The director of each county department is authorized to create and coordinate a protection team for the respective county in accordance with rules adopted by the state board of ~~social services~~ HUMAN SERVICES, which rules shall govern the establishment, composition, and duties of the team and shall be consistent with this paragraph (c).

**SECTION 266.** 26-5.5-103 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-5.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "At-risk family" means a family unit with a child who meets out-of-home placement criteria as established by the state board of ~~social services~~ HUMAN SERVICES.

**SECTION 267.** 26-5.5-104 (1) and (5), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**26-5.5-104. Statewide family preservation program - creation - single state agency designated - program criteria established - available services - powers and duties of agencies - local oversight - feasibility report.** (1) The executive ~~directors~~ DIRECTOR of the ~~departments of social services and institutions~~ DEPARTMENT OF HUMAN SERVICES, through the promulgation of rules, may ~~jointly~~ develop, finance, and implement a statewide family preservation program, which program shall be fully implemented no later than July 1, 1996. The state department is hereby designated as the single state agency to administer the program in accordance with this article and applicable federal law.

(5) The state DEPARTMENT OF HUMAN SERVICES and county departments of social services may seek the assistance of any public or private entity in carrying out the duties set forth in this article. In addition, the state department may contract with any public or private entity in providing the services described in this article. Priority shall be given to vendors who provide the most geographically and culturally relevant services.

**SECTION 268.** 26-6-102 (8), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**26-6-102. Definitions.** As used in this article, unless the context otherwise requires:

(8) "Residential child care facility" means a facility licensed by the state department pursuant to this article to provide twenty-four-hour group care and treatment for five or more children operated under private or nonprofit sponsorship. A residential child care facility may be eligible for designation by the executive director of the department of ~~institutions~~ HUMAN SERVICES pursuant to article 10 of title 27, C.R.S.

**SECTION 269.** 26-6-106 (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-6-106. Standards for facilities and agencies.** (3) Any person licensed to operate a child care facility or agency under the provisions of this article has the right to appeal any standard which, in his opinion, works an undue hardship or when, in his opinion, a standard has been too stringently applied by representatives of the department. Upon such appeal, the department shall designate a panel of three persons representing the department of ~~institutions~~ HUMAN SERVICES, the department of education, and the department of PUBLIC health AND ENVIRONMENT to hear such appeal and to make recommendations to the department.

**SECTION 270.** 26-6-109 (1) (c), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-6-109. Advisory committee - sunset review - institutes.** (1) (c) The committee shall consist of five members from among the licensees licensed under the provisions of this article, and one member representing the department, one member representing the department of PUBLIC health AND ENVIRONMENT, one member representing the department of education, one member representing the department of ~~institutions~~ HUMAN SERVICES, and two members at large who are not licensees under this article or representatives of the departments mentioned in this paragraph (c) but who are persons of known interest in child welfare. For the terms of the two members at large beginning July 1, 1990, July 1, 1991, and thereafter, such at large members shall be parents, each having at least one child attending a facility licensed or certified under this article at the time of such members' appointment.

**SECTION 271.** 26-7-108, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**26-7-108. Payment of subsidies.** Funds for the payment of the subsidies created under this article shall come from moneys appropriated to the department of ~~social services~~ HUMAN SERVICES for foster care.

**SECTION 272.** 26-7.5-105 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**26-7.5-105. Funding of domestic abuse programs.** (2) Staffing and administrative expenses of the state department of ~~social services~~ HUMAN SERVICES and other agencies for carrying out the provisions of this article shall be appropriated annually from available funds generated by the contribution cash funds.

**SECTION 273.** 26-7.8-103 (1.5), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-7.8-103. Homeless prevention activities program - criteria.** (1.5) The program established by this article shall be administered by a nongovernmental agency selected by the executive director with recommendations from an advisory committee which is hereby created. The advisory committee shall be composed of at least three members selected by the executive director. One member shall be a representative of the department of ~~social services~~ HUMAN SERVICES, one member

shall be a representative of the department of local affairs, and one member shall be a representative from the public at large. The committee shall serve without compensation and shall not be entitled to reimbursement for their expenses while attending meetings of the committee. The nongovernmental agency selected pursuant to the provisions of this subsection (1.5) shall administer the program under the direction of the advisory committee.

**SECTION 274.** 26-11.5-102 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-11.5-102. Legislative declaration.** (1) The general assembly hereby recognizes that the FORMER state department of social services, CURRENTLY THE STATE DEPARTMENT OF HUMAN SERVICES, pursuant to the federal "Older Americans Act of 1965", as amended, has established a state long-term care ombudsman program.

**SECTION 275.** 26-11.5-104 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-11.5-104. Creation of state long-term care ombudsman program.** (2) The state long-term care ombudsman office shall be established and operated under the state department of ~~social services~~ HUMAN SERVICES either directly or by contract with or grant to any public agency or other appropriate private nonprofit organization; except that such office shall not be administered by any agency or organization responsible for licensing or certifying long-term care services in the state. The office shall be administered by a full-time qualified state long-term care ombudsman who shall be designated in accordance with rules and regulations promulgated by the state department.

**SECTION 276.** 26-11.5-105 (1) (a) (I), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-11.5-105. Duties of state long-term care ombudsman.** (1) In addition to such other duties and functions as the state department may allocate to the office, the state long-term care ombudsman shall have the following duties and functions in implementing a statewide long-term care ombudsman program:

(a) (I) Establish statewide policies and procedures for operating the state long-term care ombudsman program including procedures to identify, investigate, and seek the resolution or referral of complaints made by or on behalf of any elderly resident related to any action, inaction, or decision of any provider of long-term care services or of any public agency, including the state DEPARTMENT OF HUMAN SERVICES and county departments of social services, that may adversely affect the health, safety, welfare, or rights of such elderly resident.

**SECTION 277.** 26-11.5-109 (4) (a), (4) (b), and (4) (c), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**26-11.5-109. Interference with ombudsmen prohibited - civil penalty.** (4) (a) Any person listed in paragraphs (a) and (b) of subsection (2) of this section, or any person acting on such person's behalf, including the state or a local

ombudsman, may file a complaint with the department of ~~social services~~ HUMAN SERVICES against any person who violates subsection (1) or (2) of this section. The said department shall investigate such a complaint and, if there is sufficient evidence of a violation, shall be authorized to assess, enforce, and collect the appropriate penalty set forth in subsection (3) of this section.

(b) Prior to the assessment of a penalty, the department of ~~social services~~ HUMAN SERVICES shall give written notice to the person against whom a penalty will be assessed, stating the basis for the violation and the amount of the penalty to be assessed. Such person, upon request, shall be given a hearing in accordance with section 24-4-105, C.R.S., which hearing shall constitute final agency action. Such agency action shall be subject to judicial review in accordance with section 24-4-106, C.R.S.

(c) The department of ~~social services~~ HUMAN SERVICES shall promulgate rules and regulations necessary for the implementation of this subsection (4).

**SECTION 278.** 26-12-106 (1) (c) and (1) (d), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**26-12-106. Payments for care - funds - annual report - collections for charges.** (1) (c) The functions of the department of ~~social services~~ HUMAN SERVICES relating to the expending of moneys from the central fund for state and veterans nursing homes is repealed, effective July 1, 1997.

(d) The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state, unless extended as provided in that section, are applicable to the functions of the department of ~~social services~~ HUMAN SERVICES relating to the expending of moneys from the central fund for state and veterans nursing homes performed pursuant to this section.

**SECTION 279.** 26-13-114 (1), (2), (4) (e), (5), and (9), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**26-13-114. Family support registry - collection and disbursement of child support and maintenance - rules and regulations - legislative declaration.** (1) The general assembly hereby finds, determines, and declares that, based on the results of the feasibility study conducted pursuant to section 26-13-117, it has been demonstrated that the establishment and operation of an automated central payment registry for the processing of child support payments would be beneficial to the state in the collection and enforcement of family support obligations, particularly with respect to Title IV-D cases. It is the intent of the general assembly by enacting this section to authorize the implementation of a central family support registry for the collection, receipt, and disbursement of payments with respect to child support obligations for children whose custodians are receiving child support enforcement services from delegate child support enforcement units (IV-D cases). It is the intent of the general assembly that, after the completion of the conversion of all IV-D cases to payment through the registry, the state department of ~~social services~~ HUMAN SERVICES shall evaluate and analyze the operation of the family support registry in order to determine the feasibility of expanding the registry to include the processing of some or all of the non-IV-D cases through the family support registry.

(2) "Family support registry" means a central registry maintained and operated by the state department of ~~social services~~ HUMAN SERVICES acting as the child support enforcement agency which receives, processes, disburses, and maintains a record of the payment of child support, child support when combined with maintenance, child support arrears, or child support debt made pursuant to court order or administrative order. The family support registry shall be used only for the collection and processing of child support payments for IV-D cases or IV-D orders.

(4) In implementing the family support registry, the child support enforcement agency is authorized to:

(e) Collect a fee for the processing of insufficient funds checks and issue a notice to the originator of any insufficient funds check that no further checks will be accepted from such person and that future payments shall be required to be paid by cash or certified funds. The department of ~~social services~~ HUMAN SERVICES shall insure that provisions are available for obligors to make cash payments through their county child support enforcement units.

(5) On and after July 1, 1991, the child support enforcement agency shall begin implementing the family support registry in particular counties and judicial districts as designated by the executive director of the state department of ~~social services~~ HUMAN SERVICES. The executive director of the state department of ~~social services~~ HUMAN SERVICES shall inform the state court administrator when a particular county or judicial district is ready to implement and participate in the family support registry.

(9) The judicial department and the department of ~~social services~~ HUMAN SERVICES shall cooperate in the transfer of the functions relating to the collection of child support from the judicial department to the department of ~~social services~~ HUMAN SERVICES.

**SECTION 280.** 26-13-118 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-13-118. Lottery winnings offset.** (2) Prior to the payment of lottery winnings required by rule and regulation of the commission to be paid only at the lottery offices, the department of revenue shall check the social security number of each winner with those certified by the state department. If the social security number of a lottery winner appears among those certified by the state department, the department of revenue shall obtain the current address of the winner, shall suspend the payment of the winnings, and shall notify the state department. The state department shall notify the obligated parent, in writing, that the state intends to offset, in the following order of priority, the parent's current monthly child support obligation, child support debt, or child support arrearages against the parent's winnings from the state lottery. Such notification shall include information on the parent's right to object to the offset and to request an administrative review pursuant to the rules and regulations of the state board of ~~social services~~ HUMAN SERVICES.

**SECTION 281.** 27-1-102 (2) (b), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**27-1-102. Executive director - division heads - interagency council - advisory**

**boards.** (2) (b) Medical personnel employed at any of the institutions subject to the control of the executive director, the medical director of which is licensed to practice medicine in this state, shall be exempt from the provisions of the "Colorado Medical Practice Act", article 36 of title 12, C.R.S., with respect to service rendered to bona fide patients or inmates at said institutions, if such personnel are licensed to practice medicine in any other state of the United States or any province of Canada, have satisfactorily completed an internship of not less than one year in the United States, Canada, or Puerto Rico in a hospital approved for that purpose by the American medical association, have satisfactorily completed three years of postgraduate residency training, or its equivalent, in their particular specialty in a hospital approved for that purpose by the American medical association, and can read, write, speak, and understand the English language. Proof of said requirements shall be submitted to and approved or disapproved by the executive director of the department of ~~institutions~~ HUMAN SERVICES.

**SECTION 282.** 27-1-110 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**27-1-110. Employment of personnel.** (2) Prior to the department's employment of any person in a state facility operated by the department and in a position which would require that person to have direct and unsupervised contact with any individual receiving services pursuant to this title, the executive director or any division head of the department of ~~institutions~~ HUMAN SERVICES may require said person to submit fingerprints to the department which shall be released to the Colorado bureau of investigation for the purpose of fingerprint processing utilizing the files and records of the Colorado bureau of investigation and the federal bureau of investigation.

**SECTION 283.** 27-1-207, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**27-1-207. Purchase of services by courts, counties, municipalities, school districts, and other political subdivisions.** Any county, municipality, school district, hospital district, or other political subdivision of the state or any county, district, or juvenile court is authorized to purchase such mental health services from community mental health clinics and such other community agencies as are approved for purchases by the executive director of the department of ~~institutions~~ HUMAN SERVICES. For the purchase of mental health services by counties or city and counties as authorized by this section, the board of county commissioners of any county or the city council of any city and county may levy a tax not to exceed two mills upon real property within the county or city and county if the board first submits the question of such levy to a vote of the qualified electors at a general election and receives their approval of such levy.

**SECTION 284.** 27-2-107 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**27-2-107. Purchase of supplies by and from institutions.** (1) The following designated state institutions are within the purview of this section: All facilities of the departments of corrections and ~~institutions~~ HUMAN SERVICES, the Colorado mental health institute at Pueblo, the Wheat Ridge regional center, the Grand Junction regional center, the Pueblo regional center, the Lookout Mountain school at Golden,

the Mount View school at Morrison, the Colorado industries for the blind, and the Colorado psychiatric hospital.

**SECTION 285.** The introductory portion to 27-10-103 (3.1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**27-10-103. Voluntary applications for mental health services.** (3.1) A minor who is fifteen years of age or older or a parent or legal guardian of a minor on the minor's behalf may make voluntary application for hospitalization. Application for hospitalization on behalf of a minor who is under fifteen years of age and who is a ward of the department of ~~social services~~ HUMAN SERVICES shall not be made unless a guardian ad litem has been appointed for the minor or a petition for the same has been filed with the court by the agency having custody of the minor; except that such an application for hospitalization may be made under emergency circumstances requiring immediate hospitalization, in which case the agency shall file a petition for appointment of a guardian ad litem within seventy-two hours after application for admission is made, and the court shall appoint a guardian ad litem forthwith. Procedures for hospitalization of such minor may proceed pursuant to this section once a petition for appointment of a guardian ad litem has been filed, if necessary. Whenever such application for hospitalization is made, an independent professional person shall interview the minor and conduct a careful investigation into the minor's background, using all available sources, including, but not limited to, the parents or legal guardian and the school and any other social agencies. Prior to admitting a minor for hospitalization, the independent professional person shall make the following findings:

**SECTION 286.** 27-10-129 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**27-10-129. Advisory board - service standards and regulations - sunset review.** (1) There is hereby established an advisory board to the department for the purpose of assisting and advising the executive director in accordance with section 27-10-128 in the development of service standards and regulations. The board shall consist of not less than eleven nor more than fifteen members appointed by the governor and shall include one representative each from the division of mental health in the department, the department of ~~social services~~ HUMAN SERVICES, the department of PUBLIC health AND ENVIRONMENT, the university of Colorado medical center, and a leading professional association of psychiatrists in this state; at least one member representing proprietary skilled health care facilities; one member representing nonprofit health care facilities; one member representing the Colorado bar association; one member representing consumers of mental health services; one member representing families of persons with mental illness; one member representing childrens' health care facilities; and other persons from both the private and the public sectors who are recognized or known to be interested and informed in the area of the board's purpose and function.

**SECTION 287.** 27-10.5-109, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**27-10.5-109. Community residential home - licenses - rules and regulations.** (1) (Deleted by amendment, L. 92, p. 1371, § 11, effective July 1, 1992.)

(2) The department of PUBLIC health AND ENVIRONMENT and the department of ~~institutions~~ HUMAN SERVICES shall implement a system of joint licensure and certification of community residential homes. Independent residential support services provided by the department of ~~institutions~~ HUMAN SERVICES do not require licensure by the department of PUBLIC health AND ENVIRONMENT.

(3) The department of PUBLIC health AND ENVIRONMENT and the department of ~~institutions~~ HUMAN SERVICES shall develop standards for the licensure and certification of community residential homes. Such standards shall include health, life, and fire safety, as well as standards to ensure the effective delivery of services and supports to residents; except that any community residential home must comply with local codes. These standards shall, as appropriate, be adopted in rule and regulation by the executive director of the department of ~~institutions~~ HUMAN SERVICES or the state board of health and shall specify the responsibilities of each department in the program. Surveys undertaken to ensure compliance with these standards shall, as appropriate, be undertaken as joint surveys by the departments.

(4) Any community residential home applying for a license or certification on or after January 1, 1986, shall accommodate at least four but no more than eight persons with developmental disabilities. All licenses and certificates issued by the department of PUBLIC health AND ENVIRONMENT or the department of ~~institutions~~ HUMAN SERVICES shall bear the date of issuance and shall be valid for not more than a twenty-four-month period.

(5) The issuance, suspension, revocation, modification, renewal, or denial of a license or certification shall be governed by the provisions of section 24-4-104, C.R.S. The failure of a community residential home to comply with the provisions of this article and the rules and regulations promulgated thereunder, or any local fire, safety, and health codes shall be sufficient grounds for the department of PUBLIC health AND ENVIRONMENT or the department of ~~institutions~~ HUMAN SERVICES to deny, suspend, revoke, or modify the community residential home's license or certification.

**SECTION 288.** 27-10.5-305, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**27-10.5-305. Endowment fund.** There is hereby authorized the regional center endowment fund. Any parent, person, corporation, or institution may contribute to said endowment fund. The bylaws to be provided by the department of ~~institutions~~ HUMAN SERVICES shall prescribe the different endowments; but the investments from said endowment fund shall be in state, county, or city bonds or in first mortgages on improved realty for not more than forty percent of the actual value of such realty.

**SECTION 289.** 27-10.5-404 (4), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**27-10.5-404. Administration - duties of department.** (4) Subject to annual appropriation by the general assembly, out of the appropriation to the department of ~~institutions~~ HUMAN SERVICES for community programs in the general appropriation act, the department is authorized to use up to seven percent of such appropriation allocated for family support services to pay for administrative costs within the department and the community centered boards.

**SECTION 290.** 27-10.5-502 (4), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**27-10.5-502. Colorado family support loan fund - creation - loans to families.**

(4) Subject to annual appropriation by the general assembly, the department of ~~institutions~~ HUMAN SERVICES is hereby authorized to transfer from the appropriation for community programs in the general appropriation act up to three percent of such appropriation allocated for family short-term support services or equipment to the Colorado family support loan fund. Any moneys received as a result of this subsection (4) shall be transmitted to the state treasurer and credited to the fund.

**SECTION 291.** 27-12-101 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**27-12-101. Liability.** (1) When any person is admitted, committed, or transferred to any public institution of this state supervised by the department of ~~institutions~~ HUMAN SERVICES for the care, support, maintenance, education, or treatment of the mentally ill or mentally deficient, such person, his spouse, and his parents shall be liable for the costs of the care, support, maintenance, and treatment of such person to the extent and in the manner provided in this article. No other relatives of such person shall be liable to any extent for such costs.

**SECTION 292.** 27-12-106, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**27-12-106. Appeal.** Appeals from the determination of the ability of a patient or relative to pay, as provided in this article, may be taken to any court of record in Colorado having jurisdiction of the patient or his spouse or parents liable for such payment; but no such appeal may be taken until the executive director of the department of ~~institutions~~ HUMAN SERVICES has ruled upon a written request for a review of such determination. Such request shall be made within sixty days after receipt of notification of the said determination, and the applicant shall be notified of the decision of the said executive director within forty-five days after the receipt of the said applicant's request for review.

**SECTION 293.** 27-13-106, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**27-13-106. Special intensive treatment demonstration unit established.** In order to provide for a research program of intensive treatment for a typical cross section of patients now committed to the Colorado mental health institute at Pueblo and to demonstrate the beneficial results which might be accomplished by such a program through a properly staffed psychiatric and treatment service, to the end that overcrowded conditions at the institute may be alleviated and that the release of patients from the institute may be materially increased in future years as a result of such program, there is established at the institute a special intensive treatment demonstration unit, the director of which shall be designated by the governor and shall be responsible directly to the executive director of the department of ~~institutions~~ HUMAN SERVICES. The chief officer of the Colorado mental health institute at Pueblo shall cooperate with the director of the unit to facilitate the fullest implementation of sections 27-13-106 to 27-13-108.

**SECTION 294.** 27-13-108, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**27-13-108. Staffing of unit.** The director of this unit shall submit a staffing pattern for approval to the executive director of the department of ~~institutions~~ HUMAN SERVICES and after receiving such approval shall hire such personnel as are approved within the limits of the funds appropriated.

**SECTION 295.** 27-13-109 (1) and (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**27-13-109. Authorized utilization of medical facilities at institute.** (1) Any person committed to the custody of or cared for in the department of ~~institutions~~ HUMAN SERVICES or the department of corrections who requires medical care and treatment which can be advantageously treated by psychiatric, medical, or surgical care available at the Colorado mental health institute at Pueblo may be treated at said institute. Charges for patient care and treatment shall be made in the manner provided in article 12 of this title. A specific appropriation shall be made annually for the general medical division of the Colorado mental health institute at Pueblo, based upon projections of the total patient load and associated costs from all institutions, and the department of ~~institutions~~ HUMAN SERVICES shall determine at least annually the per diem expenses and the actual utilization of the general medical division by each institution, including other divisions of the Colorado mental health institute at Pueblo.

(3) Any such contract shall cover the full direct and indirect costs of such services as determined by generally accepted accounting principles and shall include a fee to cover the need for replacement of existing equipment which would occur because of this additional use. All fees collected pursuant to this subsection (3) shall be collected by the Colorado mental health institute at Pueblo and shall be transmitted to the state treasurer, who shall credit the same to the equipment replacement fund, which fund is hereby created. Moneys in the equipment replacement fund shall be appropriated by the general assembly on an annual basis to the department of ~~institutions~~ HUMAN SERVICES for replacement of existing equipment made necessary pursuant to this section.

**SECTION 296.** 29-4-905 (1) (e), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**29-4-905. Rental assistance contracts - applications and criteria.** (1) A local entity seeking a rental assistance contract to administer a rental assistance program shall submit an application to the division. The award of a contract and the establishment of the local rental assistance program shall be in accordance with rules and regulations promulgated by the state board, which shall, at a minimum, provide for the following:

(e) The rental assistance agency shall demonstrate a commitment to coordinate, cooperate, and network with existing agencies in the community that provide self-sufficiency or substance abuse treatment programs. A rental assistance agency may contract with the department of ~~social services~~ HUMAN SERVICES or other entities for the provision of services and activities in connection with a self-sufficiency or substance abuse program.

**SECTION 297.** 30-28-115 (2) (b.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**30-28-115. Public welfare to be promoted - legislative declaration - construction.** (2) (b.5) The general assembly declares that the establishment of state-licensed group homes for the exclusive use of persons with mental illness as that term is defined in section 27-10-102, C.R.S., is a matter of statewide concern and that a state-licensed group home for eight persons with mental illness is a residential use of property for zoning purposes, as defined in section 31-23-301 (4), C.R.S. A group home for persons with mental illness established under this paragraph (b.5) shall not be located within seven hundred fifty feet of another such group home or of another group home as defined in paragraphs (a) and (b) of this subsection (2), unless otherwise provided for by the county. No person shall be placed in a group home without being screened by either a professional person, as defined in section 27-10-102 (11), C.R.S., or any other such mental health professional designated by the director of a facility, which facility is approved by the executive director of the department of ~~institutions~~ HUMAN SERVICES pursuant to section 27-1-103, C.R.S. Persons determined to be not guilty by reason of insanity to a violent offense shall not be placed in such group homes, nor shall any person who has been convicted of a felony involving a violent offense be eligible for placement in such group homes. The provisions of this paragraph (b.5) shall be implemented, where appropriate, by the rules of the department of health concerning residential care facilities for the mentally ill. Nothing in this paragraph (b.5) shall be construed to exempt such group homes from compliance with any state, county, or municipal health, safety, and fire codes.

**SECTION 298.** 31-23-303 (2) (b.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**31-23-303. Legislative declaration.** (2) (b.5) The general assembly declares that the establishment of state-licensed group homes for the exclusive use of mentally ill persons as that term is defined in section 27-10-102, C.R.S., is a matter of statewide concern and that a state-licensed group home for eight persons with mental illness is a residential use of property for zoning purposes, as defined in section 31-23-301 (4). A group home for persons with mental illness established under this paragraph (b.5) shall not be located within seven hundred fifty feet of another such group home, unless otherwise provided for by the municipality. No person shall be placed in a group home without being screened by either a professional person, as defined in section 27-10-102 (11), C.R.S., or any other such mental health professional designated by the director of a facility, which facility is approved by the executive director of the department of ~~institutions~~ HUMAN SERVICES pursuant to section 27-1-103, C.R.S. Persons determined to be not guilty by reason of insanity to a violent offense shall not be placed in such group homes, nor shall any person who has been convicted of a felony involving a violent offense be eligible for placement in such group homes. The provisions of this paragraph (b.5) shall be implemented, where appropriate, by the rules of the department of health concerning residential care facilities for the mentally ill. Nothing in this paragraph (b.5) shall be construed to exempt such group homes from compliance with any state, county, or municipal health, safety, and fire codes.

**SECTION 299.** 39-21-108 (3) (a) (I), (3) (a) (III), and (3) (a) (VII), Colorado Revised Statutes, 1982 Repl. Vol., as amended, are amended to read:

**39-21-108. Refunds.** (3) (a) (I) Whenever it is established that any taxpayer has, for any period open under the statutes, overpaid a tax covered by articles 22 and 26 to 29 of this title, article 60 of title 34, C.R.S., and article 3 of title 42, C.R.S., and that there is an unpaid balance of tax and interest accrued, according to the records of the executive director, owing by such taxpayer for any other period or that there is an amount required to be repaid to the unemployment compensation fund pursuant to section 8-81-101 (4), C.R.S., the amount of which has been determined to be owing as a result of a final agency determination or judicial decision or which has been reduced to judgment by the division of employment and training in the department of labor and employment, or that there is any unpaid child support debt as set forth in section 14-14-104, C.R.S., or child support arrearages which are the subject of enforcement services provided pursuant to section 26-13-106, C.R.S., as certified by the department of ~~social services~~ HUMAN SERVICES, or that there are any unpaid obligations owing to the state as set forth in section 26-2-133, C.R.S., for overpayment of public assistance or medical assistance benefits, the amount of which has been determined to be owing as a result of final agency determination or judicial decision or which has been reduced to judgment, as certified by the department of ~~social services~~ HUMAN SERVICES, or that there is any unpaid loan or other obligation due to a state-supported institution of higher education as set forth in section 23-5-115, C.R.S., the amount of which has been reduced to judgment, owing to such institution by such taxpayer, as certified by the appropriate institution, or that there is any unpaid loan due to the student loan division of the department of higher education as set forth in section 23-3.1-104 (1) (p), C.R.S., the amount of which has been reduced to judgment, owing to such division by such taxpayer, as certified by the division, or that there is any unpaid debt owing to the state or any agency thereof by such taxpayer, and which is found to be owing as a result of a final agency determination or the amount of which has been reduced to judgment and as certified by the controller, so much of the overpayment of tax plus interest allowable thereon as does not exceed the amount of such unpaid balance or unpaid debt shall be credited first to the unpaid balance of tax and interest accrued and then to the unpaid debt, and any excess of the overpayment shall be refunded. If the taxpayer elects to designate his refund as a credit against a subsequent year's tax liability, the amount allowed to be so credited shall be reduced first by the unpaid balance of tax and interest accrued and then by the unpaid debt. If the taxpayer filed a joint return, the executive director shall notify the taxpayer's spouse that the portion of the overpayment which is generated by the spouse's income shall be refunded upon receipt of a request detailing said amount.

(III) Any moneys withheld for payment of a child support debt or child support arrearages pursuant to this subsection (3) shall be deposited monthly with the state treasurer for disbursement by the department of ~~social services~~ HUMAN SERVICES. For all names and amounts certified by the department of ~~social services~~ HUMAN SERVICES pursuant to section 26-13-111, C.R.S., the executive director of the department of revenue shall provide to the department of ~~social services~~ HUMAN SERVICES the taxpayer names and associated amounts deposited with the state treasurer and any other identifying information as required by the department of ~~social services~~ HUMAN SERVICES.

(VII) Any moneys withheld for payment of obligations owed the department of ~~social services~~ HUMAN SERVICES for overpayment of public assistance benefits pursuant to this subsection (3) shall be deposited with the state treasurer for

disbursement by the department of ~~social services~~ HUMAN SERVICES. For all names and associated amounts certified by the department of ~~social services~~ HUMAN SERVICES pursuant to section 26-2-133, C.R.S., the executive director of the department of revenue shall provide to the department of ~~social services~~ HUMAN SERVICES the names of taxpayers and the associated amounts deposited with the state treasurer and any other identifying information as required by the department of ~~social services~~ HUMAN SERVICES.

**SECTION 300.** 39-21-113 (9), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

**39-21-113. Reports and returns.** (9) Notwithstanding the provisions of this section, the executive director of the department of revenue shall provide the department of ~~social services~~ HUMAN SERVICES with any information obtained pursuant to this section which is necessary to implement the procedure to offset state income tax refunds against past-due child support pursuant to section 26-13-111, C.R.S., and section 39-21-108.

**SECTION 301.** 39-22-802 (1), (2), and (3) (a), Colorado Revised Statutes, 1982 Repl. Vol., as amended, are amended to read:

**39-22-802. Contributions credited to Colorado domestic abuse program fund - appropriation.** (1) The department of revenue shall determine annually the total amount designated pursuant to section 39-22-801 and shall report such amount to the state treasurer and to the general assembly. The state treasurer shall credit such amount to the Colorado domestic abuse program fund, a cash fund which is hereby established in the state treasury. The controller, upon presentation of vouchers properly drawn and signed by the executive director of the department of ~~social services~~ HUMAN SERVICES, pursuant to section 26-7.5-105, C.R.S., shall issue warrants drawn on the Colorado domestic abuse program fund. All moneys in the Colorado domestic abuse program fund at the end of a fiscal year, after appropriations made pursuant to subsection (3) of this section, shall remain in the fund to be used for the purposes set forth in article 7.5 of title 26, C.R.S., and shall not revert to the general fund. Any interest earned on moneys in the fund shall remain in the fund to be used for the purposes of article 7.5 of title 26, C.R.S.

(2) The executive director of the department of ~~social services~~ HUMAN SERVICES shall sign vouchers to draw on the Colorado domestic abuse program fund exclusively for the purpose of exercising his authority under section 26-7.5-104, C.R.S.

(3) The general assembly shall appropriate annually from the Colorado domestic abuse program fund:

(a) To the department of ~~social services~~ HUMAN SERVICES such amount as is necessary for carrying out the purposes set forth in article 7.5 of title 26, C.R.S., including the department's administrative costs in connection therewith;

**SECTION 302.** 40-3.4-105, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-3.4-105. Low-income telephone assistance eligibility.** Individuals eligible

for low-income telephone assistance shall be those persons certified by the department of ~~social services~~ HUMAN SERVICES as qualified to receive financial assistance payments administered by the department of ~~social services~~ HUMAN SERVICES under programs for old age pension, aid to the blind, aid to the needy disabled, or low-income disabled persons who qualify to receive supplemental security income under the federal "Social Security Act", as amended. The department of ~~social services~~ HUMAN SERVICES shall periodically recertify an individual's eligibility to receive low-income telephone assistance.

**SECTION 303.** 40-3.4-108, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-3.4-108. Funding - federal requirements - program participation.** (1) The commission shall determine and impose a uniform charge on each business and residential access line in an amount sufficient to reimburse each provider of basic local exchange telecommunications services for its provision of low-income telephone assistance and to reimburse the department of ~~social services~~ HUMAN SERVICES for administrative expenses incurred under this article. The charge shall not be imposed on any state or local governmental body or on eligible subscribers. Each fiscal year, the commission, after considering any surplus revenues carried forward from the previous year, shall adjust the amount of the charge as necessary to provide the assistance authorized in this article. Each provider of basic local exchange telecommunications services providing low-income telephone assistance shall collect the entire charge imposed on business and residential access lines as determined by the commission. The charge established by the commission pursuant to this subsection (1) shall not generate any additional profit for the providers of basic local exchange telecommunications services.

(2) Upon collecting the charge imposed pursuant to subsection (1) of this section, each provider may retain, from the total charges collected, an amount sufficient to reimburse such provider for its provision of low-income telephone assistance and shall transmit the remaining portion of the total charges collected to the state treasurer, who shall credit the same to the low-income telephone assistance fund, which fund is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs incurred by the department of ~~social services~~ HUMAN SERVICES under this article.

(3) The commission, providers of basic local exchange telecommunications services, and the department of ~~social services~~ HUMAN SERVICES shall comply with all requirements expressly provided by federal order, regulation, and statute for eligible subscribers to qualify for federal assistance under low-income telephone assistance programs.

(4) Subject to available reimbursement from any source other than the state, the department of ~~social services~~ HUMAN SERVICES may participate in other federal telecommunications assistance programs for low-income individuals. No state moneys shall be appropriated to provide for participation in such programs.

(5) The department of ~~social services~~ HUMAN SERVICES is authorized to accept, on behalf of the state of Colorado, and expend any reimbursement from providers of basic local exchange telecommunication services, pursuant to this article, for

administrative costs incurred by the department in implementing this article. The department of ~~social services~~ HUMAN SERVICES is also authorized to accept grants from private or other sources to assist in reducing rates for eligible subscribers to the low-income telephone assistance program.

**SECTION 304.** 40-8.5-101, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-8.5-101. Legislative declaration.** In enacting this article, the general assembly finds and declares that there is a need to make distributions of moneys to provide aid and assistance to the indigent, the elderly, and persons with disabilities, who do not otherwise have the financial resources to meet their heating and other energy needs. The general assembly further finds and declares that the low-income energy assistance program of the department of ~~social services~~ HUMAN SERVICES is the most appropriate entity to determine those most in need of such aid and assistance. Therefore, this article shall authorize the commission on low-income energy assistance to establish a fund from which to collect and distribute moneys to accomplish the goals set forth in this section. The moneys for such fund shall be based in part on unclaimed utility deposits.

**SECTION 305.** 40-8.5-103.5 (1), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-8.5-103.5. Commission created.** (1) There is hereby created the legislative commission on low-income energy assistance. The commission shall be composed of eleven members to be appointed by the governor, each to serve a term of two years; except that the governor shall select seven of the initially appointed members to serve for one-year terms. Of the eleven members, five members shall be from private sector energy-related enterprises, one member shall be the director of the low-income energy assistance program in the state department of ~~social services~~ HUMAN SERVICES, one member shall be from the Colorado office of energy conservation, two members shall be consumers who are low income energy assistance recipients, and two members shall be from the general public. Any interim appointment necessary to fill a vacancy which has occurred by any reason other than expiration of term shall be for the remainder of the term of the individual member whose office has become vacant.

**SECTION 306.** 40-8.5-104, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-8.5-104. Commencement of program - establishment of system for distribution of moneys to eligible recipients.** The commission shall establish a fund through a nonprofit corporation established for the purpose of collecting and distributing moneys to eligible recipients, who shall be designated by the administrator of the low-income energy assistance program in the department of ~~social services~~ HUMAN SERVICES, for use in the payment of electric and gas utility bills for services received.

**SECTION 307.** 40-8.5-105, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-8.5-105. Eligibility.** The department of ~~social services~~ HUMAN SERVICES shall promulgate rules and regulations establishing the criteria for eligibility for recipients of assistance pursuant to this article, which criteria shall be based in part on household size and income and the energy costs of the household residence for the preceding year.

**SECTION 308.** 40-8.5-107, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**40-8.5-107. Disbursement of moneys.** The nonprofit corporation designated by the commission pursuant to section 40-8.5-104 shall disburse moneys to the state department of ~~social services~~ HUMAN SERVICES to make energy assistance payments on behalf of or to persons determined by the department to be eligible for such assistance in accordance with section 40-8.5-105.

**SECTION 309.** 42-4-1504.5, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**42-4-1504.5. Juveniles - convicted - arrested and incarcerated - provisions for confinement.** (1) Notwithstanding any other provision of law, a child, as defined in section 19-1-103 (4), C.R.S., convicted of a misdemeanor traffic offense under this article, violating the conditions of probation imposed under this article, or found in contempt of court in connection with a violation or alleged violation under this article shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders if the court with jurisdiction is located in a county in which there is a juvenile detention facility operated by or under contract with the department of ~~institutions~~ HUMAN SERVICES which shall receive and provide care for such child or if the jail is located within forty miles of such facility. The court imposing penalties under this section may confine a child for a determinate period of time in a juvenile detention facility operated by or under contract with the department of ~~institutions~~ HUMAN SERVICES. If a juvenile detention facility operated by or under contract with the department of ~~institutions~~ HUMAN SERVICES is not located within the county or within forty miles of the jail, a child may be confined for up to forty-eight hours in a jail pursuant to section 19-2-204 (4), C.R.S.

(2) Notwithstanding any other provision of law, a child, as defined in section 19-1-103 (4), C.R.S., arrested and incarcerated for an alleged misdemeanor traffic offense under this article, and not released on bond, shall be taken before a county judge who has jurisdiction of such offense within forty-eight hours for fixing of bail and conditions of bond pursuant to section 19-2-204 (3), C.R.S. Such child shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders for longer than seventy-two hours, after which the child may be further detained only in a juvenile detention facility operated by or under contract with the department of ~~institutions~~ HUMAN SERVICES. In calculating time under this subsection (2), Saturdays, Sundays, and court holidays shall be included.

## DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

**SECTION 310.** 6-1-102 (4.6) (d), Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

**6-1-102. Definitions.** As used in this article, unless the context otherwise requires:

(4.6) "Health club" means an establishment which provides health club services or facilities which purport to improve or maintain the user's physical condition or appearance through exercise. The term may include, but shall not be limited to, a spa, exercise club, exercise gym, health studio, or playing courts. The term shall not apply to any of the following:

(d) Health care facilities licensed or certified by the department of PUBLIC health AND ENVIRONMENT pursuant to its authority under section 25-1-107, C.R.S.

**SECTION 311.** 8-1-145, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**8-1-145. Authority of department of public health and environment not affected.** Nothing in this article shall be construed to affect the authority of the department of PUBLIC health AND ENVIRONMENT relative to the public health.

**SECTION 312.** 8-20-223.5 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-20-223.5. Emission inspection.** (2) The state inspector of oils shall contract with the department of PUBLIC health AND ENVIRONMENT for the purpose of submitting inspection reports, determining the frequency of certain inspections, assisting in the enforcement of the "Colorado Air Quality Control Act" as it pertains to underground storage tank pollution control equipment violations, and transmitting the payment for the costs of administering the program aspects in the department of PUBLIC health AND ENVIRONMENT.

**SECTION 313.** 8-20-503 (2) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-20-503. Duties of the state inspector of oils.** (2) The state inspector of oils shall ensure that:

(d) All releases above reportable quantities are reported to the Colorado department of PUBLIC health AND ENVIRONMENT.

**SECTION 314.** 8-20-507 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-20-507. Reporting of releases - investigation.** (2) Upon detection of any release of reportable quantities of a regulated substance from an underground storage tank, the owner or operator shall report such release to the state inspector of oils within twenty-four hours of its detection. However, the local fire authority shall be notified immediately if such release exceeds reportable quantities. If the state inspector of oils determines that the release of such reportable quantity will affect subsurface soils, groundwater, or surface water, he shall immediately notify the department of PUBLIC health AND ENVIRONMENT, and the owner or operator may be required to take corrective action in accordance with section 25-18-104, C.R.S.

**SECTION 315.** 8-20-509 (3.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-20-509. Financial responsibility for petroleum underground storage tanks.**

(3.5) In lieu of seeking reimbursement directly from the fund, an owner, operator, or current property owner who bears no responsibility for the release, under the provisions of subsection (3) of this section, may request that the department of PUBLIC health AND ENVIRONMENT perform the cleanup using funds from the underground storage tank fund without further proving eligibility for such use. In addition to any purpose provided for in section 25-18-109, C.R.S., moneys in the underground storage tank fund may be appropriated by the general assembly to the department of PUBLIC health AND ENVIRONMENT for the purpose of providing for the cleanup authorized in this section.

**SECTION 316.** 8-20-705 (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-20-705. Financial responsibility for petroleum aboveground storage tanks.**

(4) In lieu of seeking reimbursement directly from the fund, an owner, operator, or current property owner who bears no responsibility for the release as set forth in subsection (3) of this section may request that the department of PUBLIC health AND ENVIRONMENT perform the cleanup using moneys from the underground storage tank fund without further proving eligibility for such use. In addition to any purpose provided for in section 25-18-109, C.R.S., moneys in the underground storage tank fund may be appropriated by the general assembly to the department of PUBLIC health AND ENVIRONMENT for the purpose of providing for the cleanup authorized in this section.

**SECTION 317.** 8-70-103 (14), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-70-103. Definitions.**

As used in articles 70 to 82 of this title, unless the context otherwise requires:

(14) "Hospital" means an institution which has been licensed, certified, or approved by the department of PUBLIC health AND ENVIRONMENT as a hospital.

**SECTION 318.** 10-3-1104.5 (3) (d) (II), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**10-3-1104.5. HIV testing - declaration - definitions - requirements for testing and limitations on disclosure of test results.** (3) No person shall request or require that an applicant submit to an HIV related test unless that person:

(d) Administers the HIV related test based upon the following test protocol, as a minimum:

(II) An equally reliable screening or confirmatory test protocol designated by the commissioner, with the approval of the department of PUBLIC health AND ENVIRONMENT; and

**SECTION 319.** 10-8-503 (10), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**10-8-503. Definitions.**

As used in this part 5, unless the context otherwise requires:

(10) "Hospital" means an institution licensed by the department of PUBLIC health AND ENVIRONMENT, as specified in section 25-3-101, C.R.S.

**SECTION 320.** 10-16-102 (6), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**10-16-102. Definitions.** As used in this article, unless the context otherwise requires:

(6) "Executive director" means the executive director of the department of PUBLIC health AND ENVIRONMENT.

**SECTION 321.** 10-16-104 (5) (a), (8) (a), (8) (c), and (8) (d), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended to read:

**10-16-104. Mandatory coverage provisions. (5) Mental illness.** Every group policy or contract providing hospitalization or medical benefits by an entity subject to the provisions of part 2 or 3 of this article shall provide benefits for conditions arising from mental illness at least equal to the following:

(a) In the case of basic coverage benefits based upon either confinement as an inpatient or partial hospitalization in a hospital or psychiatric hospital licensed by the department of PUBLIC health AND ENVIRONMENT, the period of confinement for which benefits are payable shall be at least forty-five days for inpatient care or ninety days for partial hospitalization in any one twelve-month benefit period. For the purpose of computing the period for which benefits are payable, each two days of partial hospitalization care shall reduce by one day the forty-five days available for inpatient care, and each day of inpatient care shall reduce by two days the ninety days available for partial hospitalization care. Each day of confinement as an inpatient or each two days of partial hospitalization shall reduce by one day the total days available for all other illnesses during any one twelve-month benefit period. Each day of confinement as an inpatient in a hospital or psychiatric hospital or each two days of partial hospitalization shall reduce by one day the available days provided under subsection (9) of this section. For the purpose of this subsection (5), "partial hospitalization" means continuous treatment for at least three hours, but not more than twelve hours, in any twenty-four-hour period.

(8) **Availability of hospice care coverage.** (a) As used in this subsection (8), unless the context otherwise requires:

(I) "Home health services" means home health services as defined in section 26-4-103 (6), C.R.S., which are provided by a home health agency certified by the department of PUBLIC health AND ENVIRONMENT.

(II) "Hospice care" means hospice services provided to a terminally ill individual

by a hospice care program, licensed and regulated by the department of PUBLIC health AND ENVIRONMENT pursuant to sections 25-1-107 (1) (I) (I) and 25-3-101, C.R.S., or by others under arrangements made by such hospice care program.

(c) The insurer or entity may adopt standards and criteria for eligibility to be applied to home health services programs and hospice care programs consistent with standards established in rules and regulations of the department of PUBLIC health AND ENVIRONMENT.

(d) The commissioner, in consultation with the department of PUBLIC health AND ENVIRONMENT, may establish by rule and regulation requirements for standard policy and plan provisions which state clearly and completely the criteria for and extent of insured coverage for home health services and hospice care. Such provisions shall be designed to facilitate prompt and informed decisions regarding patient placement and discharge.

**SECTION 322.** 12-8-108 (1) (c), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-8-108. Powers and duties of the board.** (1) The board has the following powers and duties:

(c) To prescribe, with the approval of the department of PUBLIC health AND ENVIRONMENT, such safety and sanitary rules as it may deem necessary to protect the health and safety of the public and of employees;

**SECTION 323.** 12-13-113, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-13-113. Article does not apply to facilities licensed by department of public health and environment.** The provisions of this article shall not apply to any hospital or other facility which the department of PUBLIC health AND ENVIRONMENT is authorized to license pursuant to part 1 of article 1 and part 1 of article 3 of title 25, C.R.S.

**SECTION 324.** 12-22-102 (14), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-22-102. Definitions.** As used in this part 1, unless the context otherwise requires:

(14) "Hospital" means a general hospital or specialty hospital having a license or certificate of compliance issued by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 325.** 12-22-120 (6), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-22-120. Registration of facilities.** (6) The board shall accept the licensure or certification of nursing care facilities and intermediate care facilities required by the department of PUBLIC health AND ENVIRONMENT as sufficient registration under this

section.

**SECTION 326.** 12-29.5-103 (1) (f), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

**12-29.5-103. Mandatory disclosure of information to patients - retention of records of disclosure.** (1) Every acupuncturist shall provide the following information in writing to each patient during the initial patient contact:

(f) A statement that the acupuncturist is complying with any rules and regulations promulgated by the department of PUBLIC health AND ENVIRONMENT with respect to this article, including those related to the proper cleaning and sterilization of needles used in the practice of acupuncture and the sanitation of acupuncture offices; and

**SECTION 327.** 12-29.5-106 (1) (h), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

**12-29.5-106. Grounds for disciplinary action.** (1) The director may deny registration to or take disciplinary action against an acupuncturist pursuant to section 24-4-105, C.R.S., if he finds that the acupuncturist has committed any of the following acts:

(h) Failed to comply with, or aided or abetted a failure to comply with, the requirements of this article or any lawful rules or regulations adopted by the executive director of the department of PUBLIC health AND ENVIRONMENT, including those regulations governing the proper cleaning and sterilization of acupuncture needles or the sanitary conditions of acupuncture offices, or any lawful orders of the department of PUBLIC health AND ENVIRONMENT or of court;

**SECTION 328.** 12-29.5-110 (1) (e), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-29.5-110. Director - powers and duties.** (1) In addition to any other powers and duties conferred by this article, the director shall have the following powers and duties:

(e) To contract with the department of PUBLIC health AND ENVIRONMENT or others to provide appropriate services as needed to carry out the inspections authorized with respect to the proper cleaning and sterilization of needles and the sanitation of acupuncture offices;

**SECTION 329.** 12-29.5-111, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-29.5-111. Powers and duties of the executive director of the department of public health and environment.** The executive director of the department of PUBLIC health AND ENVIRONMENT shall promulgate rules and regulations relating to the proper cleaning and sterilization of needles to be used in the practice of acupuncture and the sanitation of acupuncture offices.

**SECTION 330.** 12-30-101 (3), Colorado Revised Statutes, 1991 Repl. Vol., is

amended to read:

**12-30-101. Definitions.** As used in this article, unless the context otherwise requires:

(3) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 331.** 12-32-202 (3), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-32-202. Board authorized to issue regulations.** (3) The required number of hours of training and education for all unlicensed persons operating machine sources of ionizing radiation and administering such radiation to patients shall be established by the board by rule on or before July 1, 1992. This standard shall apply to all persons in podiatric settings other than hospitals and similar facilities licensed by the department of PUBLIC health AND ENVIRONMENT pursuant to section 25-1-107, C.R.S. Such training and education may be obtained through programs approved by the appropriate authority of any state or through equivalent programs and training experience including on-the-job training as determined by the board.

**SECTION 332.** 12-33-202 (3), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-33-202. Board authorized to issue regulations.** (3) The required number of hours of training and education for all unlicensed persons operating machine sources of ionizing radiation and administering such radiation to patients shall be established by the board by rule on or before July 1, 1992. This standard shall apply to all persons in chiropractic settings other than hospitals and similar facilities licensed by the department of PUBLIC health AND ENVIRONMENT pursuant to section 25-1-107, C.R.S. Such training and education may be obtained through programs approved by the appropriate authority of any state or through equivalent programs and training experience including on-the-job training as determined by the board.

**SECTION 333.** 12-34-102 (7.5), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-34-102. Definitions.** As used in this part 1, unless the context otherwise requires:

(7.5) "Procurement agency" means any agency that has been certified or recertified by the secretary of the United States department of health and human services or any agency certified by the executive director of the Colorado department of PUBLIC health AND ENVIRONMENT as a qualified organ or tissue agency.

**SECTION 334.** 12-34-108.5 (10), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-34-108.5. Anatomical gift protocol required.** (10) Any hospital which determines that its resources or geographical location makes it impractical to implement a protocol covering all types of organs and tissues for anatomical gifts in a particular situation may request an exemption from the requirements of this section.

When such a determination is made, the governing body of the hospital shall notify the executive director of the department of PUBLIC health AND ENVIRONMENT in writing as to the reasons for such determination. The executive director of the department of PUBLIC health AND ENVIRONMENT, upon receipt of a request from a hospital seeking an exemption, may grant or deny such request or, prior to denying or granting the request, may request additional information.

**SECTION 335.** 12-35-202 (3), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-35-202. Board authorized to issue regulations.** (3) The required number of hours of training and education for all unlicensed persons operating machine sources of ionizing radiation and administering such radiation to patients shall be established by the board by rule on or before July 1, 1992. This standard shall apply to all persons in dental settings other than hospitals and similar facilities licensed by the department of PUBLIC health AND ENVIRONMENT pursuant to section 25-1-107, C.R.S. Such training and education may be obtained through programs approved by the appropriate authority of any state or through equivalent programs and training experience including on-the-job training as determined by the board.

**SECTION 336.** 12-36-202 (3), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-36-202. Board authorized to issue regulations.** (3) The required number of hours of training and education for all unlicensed persons operating machine sources of ionizing radiation and administering such radiation to patients shall be established by the board by rule on or before July 1, 1992. This standard shall apply to all persons in medical settings other than hospitals and similar facilities licensed by the department of PUBLIC health AND ENVIRONMENT pursuant to section 25-1-107, C.R.S. Such training and education may be obtained through programs approved by the appropriate authority of any state or through equivalent programs and training experience including on-the-job training as determined by the board.

**SECTION 337.** 12-38.1-103 (2), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-38.1-103. Certification - state board of nursing.** (2) The department of PUBLIC health AND ENVIRONMENT, which is otherwise responsible for the regulation of certain medical facilities, shall, as necessary, assist the board in implementing the provisions of this article.

**SECTION 338.** 12-38.1-108 (1) and (5), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

**12-38.1-108. Approved nurse aide training programs.** (1) Except for any medical facility or program that has been explicitly disapproved by the department of PUBLIC health AND ENVIRONMENT, the board may approve any nurse aide training program offered by or held in a medical facility or offered and held outside a medical facility. Such approval by the board shall be sufficient to authorize and permit the operation of such training program.

(5) The board or its designee shall inspect and survey each nurse aide training program it approves during the first year following such approval and every two years thereafter. Such inspection or survey may be made in conjunction with surveys of medical facilities conducted by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 339.** 12-38.1-110 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

**12-38.1-110. Advisory committee.** (1) To assist in the performance of its duties under this article, the board may designate an advisory committee. Such committee shall be composed of five members. One member shall be a certified nurse aide, one member shall be a member of the state board of nursing, one member shall represent professional associations composed of home health agencies, one member shall be from a group representing the concerns of senior citizens, and one member shall represent professional associations composed of nursing homes. A department of PUBLIC health AND ENVIRONMENT employee shall serve as an ex officio member. Committee members shall be compensated for their services in accordance with the provisions of section 24-34-102 (13), C.R.S.

**SECTION 340.** 12-39-102 (4), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

**12-39-102. Definitions.** As used in this article, unless the context otherwise requires:

(4) "Nursing home facility" shall have the same meaning as that set forth in section 25-1-1002, C.R.S., and shall include nursing care facilities, whether proprietary or nonprofit, which are licensed under section 25-1-107 (1) (I), C.R.S., or pursuant to the rules for nursing homes promulgated by the department of PUBLIC health AND ENVIRONMENT. The term "nursing home" includes but is not limited to nursing homes owned or administered by the state government or any agency or political subdivision thereof.

**SECTION 341.** The introductory portion to 12-39-105 (2) (a) and 12-39-105 (3) (a), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

**12-39-105. Powers and duties of the board.** (2) (a) The board shall consider without limitation all of the following in making any determination to initiate disciplinary action whether based on a specific complaint or as an outcome of survey results by the department of PUBLIC health AND ENVIRONMENT:

(3) (a) On or before July 1, 1994, the board shall develop rules and regulations, with input from long-term care facility provider associations, the department of PUBLIC health AND ENVIRONMENT, the office of the state attorney general, and consumer representatives, concerning factors to be considered in determining performance which fails to meet generally accepted standards for nursing home administrators and whether or not remedial or disciplinary actions are warranted. The board may create an advisory committee to assist the board in developing standards that describe the responsibilities and duties of nursing home administrators.

**SECTION 342.** 12-39-108 (6), Colorado Revised Statutes, 1991 Repl. Vol., as

amended, is amended to read:

**12-39-108. Licenses.** (6) A temporary license shall be granted to an applicant who is employed as a hospital administrator by a general hospital licensed or certified by the department of PUBLIC health AND ENVIRONMENT. Such temporary permit shall be granted for a period not to exceed twelve months and shall be void at such time the license holder is no longer employed by the general hospital.

**SECTION 343.** 12-44-202 (3), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-44-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(3) "Department" means the department of PUBLIC health AND ENVIRONMENT and its authorized agents and employees.

**SECTION 344.** 12-44-203, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-44-203. Department of public health and environment licensing, certifying, and inspection agency.** For the purpose of regulating and controlling food service establishments, establishing of sanitary conditions therein, and ~~the enforcement and administration~~ ENFORCING AND ADMINISTERING THE PROVISIONS of this part 2, the department is hereby authorized as the state licensing, certifying, and inspection agency.

**SECTION 345.** 12-58-103 (2) (a), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-58-103. Examining board of plumbers - repeal of article.** (2) (a) The board shall consist of seven appointed members AS FOLLOWS, ~~one of whom shall be~~ a journeyman plumber, one a master plumber, two engaged in the construction of residential or commercial buildings as plumbing contractors, one engaged in the construction of residential or commercial buildings as a general contractor, one a member or employee of a local government agency conducting plumbing inspections, and one appointed from the public at large. ~~and a~~ A representative of the department of PUBLIC health AND ENVIRONMENT SHALL SERVE as an ex officio nonvoting member. At least one member shall be a resident of the western slope of the state, defined as that western part of the state separated from the eastern part of the state by the continental divide.

**SECTION 346.** 13-64-303.5, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-64-303.5. Exclusion - mental health care facilities.** The provisions of section 13-64-301 do not apply to any outpatient mental health care facility, including but not limited to a community mental health center or clinic, and to any extended care facility or hospice with sixteen or fewer inpatient beds, including but not limited to nursing homes or rehabilitation facilities. The department of PUBLIC health AND ENVIRONMENT shall by rule establish financial responsibility standards which are less

than those prescribed in this section for classes of health care institutions which have less risk of exposure to medical malpractice claims or for other reasons that render the limits provided in section 13-64-301 (1) (b) unreasonable or unattainable.

**SECTION 347.** The introductory portion to 14-2-105 (1) and 14-2-105 (2), Colorado Revised Statutes, 1987 Repl. Vol., are amended to read:

**14-2-105. Marriage license and marriage certificate.** (1) The executive director of the department of PUBLIC health AND ENVIRONMENT shall prescribe the form for an application for a marriage license, which shall include the following information:

(2) The executive director of the department of PUBLIC health AND ENVIRONMENT shall prescribe the forms for the marriage license, the marriage certificate, and the consent to marriage.

**SECTION 348.** 14-10-120 (3), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**14-10-120. Decree.** (3) The clerk of the court shall give notice of the entry of a decree of dissolution to the office of state registrar of vital statistics in the division of administration of the department of PUBLIC health AND ENVIRONMENT, which office shall make this information available to the public upon request.

**SECTION 349.** 15-18-103 (6), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**15-18-103. Definitions.** As used in this article, unless the context otherwise requires:

(6) "Hospital" means an institution holding a license or certificate of compliance as a hospital issued by the department of PUBLIC health AND ENVIRONMENT of this state and includes hospitals operated by the federal government in Colorado.

**SECTION 350.** 15-18.6-101 (3), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**15-18.6-101. Definitions.** As used in this article, unless the text otherwise requires:

(3) "Emergency medical service personnel" means any emergency medical technician at any level who is certified or licensed by the department of PUBLIC health AND ENVIRONMENT. "Emergency medical service personnel" includes a first responder certified by the department of PUBLIC health AND ENVIRONMENT or the division of fire safety, department of public safety, in accordance with section 24-33.5-1205 (2) (c), C.R.S.

**SECTION 351.** The introductory portion to 16-11.5-102 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-11.5-102. Substance abuse assessment - standardized procedure.** (1) The

judicial department, the department of corrections, the state board of parole, the division of criminal justice of the department of public safety, and the department of PUBLIC health AND ENVIRONMENT shall cooperate to develop and implement the following:

**SECTION 352.** 16-11.5-105 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-11.5-105. Departments shall develop testing programs - punitive sanctions.** (1) The judicial department, the department of PUBLIC health AND ENVIRONMENT, the department of corrections, the state board of parole, and the division of criminal justice of the department of public safety shall cooperate to develop programs for the periodic testing of offenders under the jurisdiction of each agency and programs for the periodic reassessment of appropriate offenders under the jurisdiction of each agency. Any such periodic testing or treatment of an offender shall be based upon recommendations of appropriate treatment and testing made in the initial substance abuse assessment required by section 16-11.5-103 or any subsequent reassessment.

**SECTION 353.** 16-11.5-107, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-11.5-107. Report to the general assembly.** On or before March 1, 1994, the judicial department, the department of corrections, the state board of parole, the division of criminal justice of the department of public safety, and the department of PUBLIC health AND ENVIRONMENT shall jointly make a report to a joint meeting of the judiciary committees of the senate and house of representatives regarding the implementation of this article, the results of the programs created by this article including any reduction in substance abuse by offenders while incarcerated, the standardized procedures developed pursuant to this article, and the number and kinds of punitive sanctions imposed upon offenders pursuant to this article.

**SECTION 354.** 16-13-305 (1) (e), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**16-13-305. Class 3 public nuisance.** (1) The following are a class 3 public nuisance:

(e) Any unlawful pollution or contamination of any surface or subsurface waters in this state, or of the air, or any water, substance, or material intended for human consumption, but no action shall be brought under this paragraph (e) if the state department of PUBLIC health AND ENVIRONMENT or any other agencies of state or local government charged by and acting pursuant to statute or duly adopted regulation has assumed jurisdiction by the institution of proceedings on that pollution or contamination. Nothing in this paragraph (e) shall abridge the right of any person to institute a private nuisance action or of any district attorney to institute a public nuisance action under the common law or other statutory law of this state; or

**SECTION 355.** 17-2-201 (5.5) (b) (II) and (5.5) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**17-2-201. State board of parole.** (5.5) (b) For purposes of this subsection (5.5), "drug" means:

(II) Any "drug" as defined in section 12-22-303 (13), C.R.S., if chemical testing conducted pursuant to paragraph (a) of this subsection (5.5) reveals such drug is present at such a level as to be considered abusive pursuant to regulations established by the board in consultation with the department of ~~health~~ HUMAN SERVICES.

(c) (I) The parole officer shall be responsible for acquiring at random, but within the time requirements of paragraph (a) of this subsection (5.5), a urine specimen from a parolee. The department of PUBLIC health AND ENVIRONMENT shall designate the container to be used for the collection of such specimen. A labeling system shall be established by the department to ensure compliance with evidentiary rules and requirements.

(II) The department of PUBLIC health AND ENVIRONMENT shall establish by rule and regulation the fee to be charged to the parolee pursuant to paragraph (a) of this subsection (5.5) for chemical testing of his urine. The parole officer shall collect such fee from the parolee at the same time he acquires a urine specimen pursuant to subparagraph (I) of this paragraph (c).

(III) The parole officer shall submit the urine specimen to the department of PUBLIC health AND ENVIRONMENT for testing. The department of PUBLIC health AND ENVIRONMENT shall return the results of such tests to the parole officer within five working days of receipt of the specimen. The results of the test shall be made available by the parole officer to the parolee or his attorney on request.

**SECTION 356.** 18-3-106 (4) (c), (4) (e), and (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**18-3-106. Vehicular homicide.** (4) (c) The tests shall be administered at the direction of a law enforcement officer having probable cause to believe that the person committed a violation of subparagraph (I) of paragraph (b) of subsection (1) of this section and in accordance with rules and regulations prescribed by the state board of health concerning the health of the person being tested and the accuracy of such testing. Strict compliance with such rules and regulations shall not be a prerequisite to the admissibility of test results at trial unless the court finds that the extent of noncompliance with a board of health rule has so impaired the validity and reliability of the testing method and the test results as to render the evidence inadmissible. In all other circumstances, failure to strictly comply with such rules and regulations shall only be considered in the weight to be given to the test results and not to the admissibility of such test results. It shall not be a prerequisite to the admissibility of test results at trial that the prosecution present testimony concerning the composition of any kit used to obtain blood, urine, saliva, or breath specimens. A sufficient evidentiary foundation concerning the compliance of such kits with the rules and regulations of the department of PUBLIC health AND ENVIRONMENT shall be established by the introduction of a copy of the manufacturer's or supplier's certificate of compliance with such rules and regulations if such certificate specifies the contents, sterility, chemical makeup, and amounts of chemicals contained in such kit.

(e) Any person who is dead or unconscious shall be tested to determine the alcohol

or drug content of his blood or any drug content of his system as provided in this subsection (4). If a test cannot be administered to a person who is unconscious, hospitalized, or undergoing medical treatment because the test would endanger the person's life or health, the law enforcement agency shall be allowed to test any blood, urine, or saliva which was obtained and not utilized by a health care provider and shall have access to that portion of the analysis and results of any tests administered by such provider which shows the alcohol or drug content of the person's blood or any drug content within his system. Such test results shall not be considered privileged communications and the provisions of section 13-90-107, C.R.S., relating to the physician-patient privilege shall not apply. Any person who is dead, in addition to the tests prescribed, shall also have his blood checked for carbon monoxide content and for the presence of drugs, as prescribed by the department of PUBLIC health AND ENVIRONMENT. Such information obtained shall be made a part of the accident report.

(5) In all actions, suits, and judicial proceedings in any court of this state concerning alcohol-related or drug-related traffic offenses, the court shall take judicial notice of methods of testing a person's alcohol or drug level and of the design and operation of devices, as certified by the department of PUBLIC health AND ENVIRONMENT, for testing a person's blood, breath, saliva, or urine to determine his alcohol or drug level. This subsection (5) shall not prevent the necessity of establishing during a trial that the testing devices used were working properly and that such testing devices were properly operated. Nothing in this subsection (5) shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

**SECTION 357.** 18-3-205 (4) (c), (4) (e), and (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**18-3-205. Vehicular assault.** (4) (c) The tests shall be administered at the direction of a law enforcement officer having probable cause to believe that the person committed a violation of ~~subsection (1) (b)~~ SUBPARAGRAPH (I) OF PARAGRAPH (B) OF SUBSECTION (1) of this section and in accordance with rules and regulations prescribed by the state board of health concerning the health of the person being tested and the accuracy of such testing. Strict compliance with such rules and regulations shall not be a prerequisite to the admissibility of test results at trial unless the court finds that the extent of noncompliance with a board of health rule has so impaired the validity and reliability of the testing method and the test results as to render the evidence inadmissible. In all other circumstances, failure to strictly comply with such rules and regulations shall only be considered in the weight to be given to the test results and not to the admissibility of such test results. It shall not be a prerequisite to the admissibility of test results at trial that the prosecution present testimony concerning the composition of any kit used to obtain blood, urine, saliva, or breath specimens. A sufficient evidentiary foundation concerning the compliance of such kits with the rules and regulations of the department of PUBLIC health AND ENVIRONMENT shall be established by the introduction of a copy of the manufacturer's or supplier's certificate of compliance with such rules and regulations if such certificate specifies the contents, sterility, chemical makeup, and amounts of chemicals contained in such kit.

(e) Any person who is dead or unconscious shall be tested to determine the alcohol

or drug content of his blood or any drug content of his system as provided in this subsection (4). If a test cannot be administered to a person who is unconscious, hospitalized, or undergoing medical treatment because the test would endanger the person's life or health, the law enforcement agency shall be allowed to test any blood, urine, or saliva which was obtained and not utilized by a health care provider and shall have access to that portion of the analysis and results of any tests administered by such provider which shows the alcohol or drug content of the person's blood or any drug content within his system. Such test results shall not be considered privileged communications, and the provisions of section 13-90-107, C.R.S., relating to the physician-patient privilege shall not apply. Any person who is dead, in addition to the tests prescribed, shall also have his blood checked for carbon monoxide content and for the presence of drugs, as prescribed by the department of PUBLIC health AND ENVIRONMENT. Such information obtained shall be made a part of the accident report.

(5) In all actions, suits, and judicial proceedings in any court of this state concerning alcohol-related or drug-related traffic offenses, the court shall take judicial notice of methods of testing a person's alcohol or drug level and of the design and operation of devices, as certified by the department of PUBLIC health AND ENVIRONMENT, for testing a person's blood, breath, saliva, or urine to determine his alcohol or drug level. This subsection (5) shall not prevent the necessity of establishing during a trial that the testing devices used were working properly and that such testing devices were properly operated. Nothing in this subsection (5) shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

**SECTION 358.** 18-6-101 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**18-6-101. Definitions.**

As used in sections 18-6-101 to 18-6-104, unless the context otherwise requires:

(2) "Licensed hospital" means one licensed or certificated by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 359.** 18-13-110 (2) (b) (II), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**18-13-110. Air pollution violations.** (2) (b) (II) Not later than July 1, 1980, all necessary Colorado state patrol officers shall complete the training course and take the qualification test developed by the division of administration of the department of PUBLIC health AND ENVIRONMENT as related to diesel emissions which create an unreasonable nuisance or danger to the public health, welfare, and safety. The Colorado state patrol shall schedule such training classes and shall report the progress of the training program to the general assembly by February 1, 1980.

**SECTION 360.** 18-13-122 (11) and (13), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**18-13-122. Illegal possession or consumption of ethyl alcohol by an underage person.** (11) The qualitative result of an alcohol test or tests shall be admissible at

the trial of any person charged with a violation of subsection (2) of this section upon a showing that the device or devices used to conduct such test or tests have been approved as accurate in detecting alcohol by the executive director of the department of PUBLIC health AND ENVIRONMENT.

(13) In any judicial proceeding in any court of this state concerning a charge under subsection (2) of this section, the court shall take judicial notice of methods of testing a person's blood, breath, saliva, or urine for the presence of alcohol and of the design and operation of devices certified by the department of PUBLIC health AND ENVIRONMENT for testing a person's blood, breath, saliva, or urine for the presence of alcohol. This subsection (13) shall not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this subsection (13) shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

**SECTION 361.** 18-18-102 (8), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-18-102. Definitions.** As used in this article:

(8) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 362.** 18-18-417, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-18-417. Notice of conviction.** Upon the conviction of any person for a violation of any provision of this part 4, a copy of the judgment, sentence, and opinion, if any, of the court shall be sent by the clerk of the court to the state board of pharmacy or the department of PUBLIC health AND ENVIRONMENT or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business.

**SECTION 363.** 19-1-116 (2) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-1-116. Funding - alternatives to placement out of the home - pilot project.**

(2) (a) The county commissioners in each county may appoint a placement alternatives commission consisting, where possible, of a physician or a licensed health professional, an attorney, representatives of a local law enforcement agency, representatives recommended by the court and probation department, representatives from the county department of social services, a local mental health clinic, and the LOCAL public health department, a representative of a local school district specializing in special education, a representative of a local community centered board, representatives of a local residential child care facility and a private not for profit agency providing nonresidential services for children and families, a representative specializing in occupational training or employment programs, a foster parent, and one or more representatives of the lay community. At least fifty percent of the commission members shall represent the private sector. The county commissioners of two or more counties may jointly establish a district placement alternatives commission.

**SECTION 364.** 19-3-307 (2.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3-307. Reporting procedures.** (2.5) Notwithstanding the requirements set forth in subsection (2) of this section, any officer or employee of a local DEPARTMENT OF HEALTH or state department of PUBLIC health AND ENVIRONMENT who makes a report pursuant to section 25-1-122 (4) (d) or 25-4-1404 (1) (d), C.R.S., shall include only the information described in said sections.

**SECTION 365.** 19-3.5-104 (2) (a.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-3.5-104. Colorado children's trust fund board - creation - assistance from Colorado state university - members.** (2) The board shall consist of nine members, as follows:

(a.5) The executive director of the department of PUBLIC health AND ENVIRONMENT or such director's designee;

**SECTION 366.** 19-4-106 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-4-106. Artificial insemination.** (1) If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination and shall file the husband's consent with the department of PUBLIC health AND ENVIRONMENT, where it shall be kept confidential and in a sealed file; however, the physician's failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

**SECTION 367.** 22-25-104 (1) and (3) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

**22-25-104. Colorado comprehensive health education program - role of department of education - recommended curriculum guidelines - allocation of funds - rules and regulations.** (1) There is hereby created the Colorado comprehensive health education program, which shall be a voluntary program in which school districts and boards of cooperative services may participate through the creation of local comprehensive health education programs. Implementation of the Colorado comprehensive health education program shall be a cooperative effort among the department of education, the Colorado commission on higher education, the department of PUBLIC health AND ENVIRONMENT and other health education professionals, and participating school districts and boards of cooperative services.

(3) (a) With the assistance of parents, school districts, the department of PUBLIC health AND ENVIRONMENT, the Colorado commission on higher education, and other

interested parties, the department of education shall develop recommended guidelines for the implementation of local comprehensive health education programs.

**SECTION 368.** 22-25-105 (2), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**22-25-105. Review of local comprehensive health education programs - allocation of funds by the state board of education.** (2) The commissioner or the commissioner's designee, with the assistance of the executive director of the department of PUBLIC health AND ENVIRONMENT or his designee, shall review all applications for review of local comprehensive health education programs submitted to the department of education.

**SECTION 369.** 22-25-107 (2), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**22-25-107. Reports required.** (2) With the assistance of the department of PUBLIC health AND ENVIRONMENT, participating school districts and boards of cooperative services, and other appropriate entities, the department of education shall develop an evaluation of the Colorado comprehensive health education program. The commissioner shall annually prepare a written report describing the results of such evaluation which shall include, but SHALL not be limited to, a review of the program's compliance with the expressed intent of this article and any evidence of changed outcomes and behaviors as a result of this article. The commissioner shall transmit such report to the governor, to the members of the general assembly, and to the chairmen of the senate and house committees on education and the senate and house committees on health, environment, welfare, and institutions.

**SECTION 370.** 23-21-203 (2) (a), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**23-21-203. Center created - committee established.** (2) (a) The governor shall appoint a committee, to be known as the sickle-cell anemia advisory committee, to consult with the university of Colorado school of medicine in the administration of this part 2. The committee shall be composed of eleven members representing hospitals, voluntary agencies interested in sickle-cell anemia, medical specialists in sickle-cell anemia patient care, and the general public; but no group shall have more than four members on the committee. Each member of the committee shall hold office for a term of four years and until his successor is appointed and qualified; except that, of those members first appointed, two shall be appointed for one-year terms, three shall be appointed for two-year terms, three shall be appointed for three-year terms, and three shall be appointed for four-year terms. Any vacancy occurring on the committee shall be filled by appointment by the governor for the unexpired term. The committee shall meet at least annually and at such other times as the executive director of the department of PUBLIC health AND ENVIRONMENT deems necessary. Members of the committee shall receive no compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

**SECTION 371.** 23-21-526, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**23-21-526. Psychiatric hospital.** The university of Colorado psychiatric hospital established under article 22 of this title shall remain the integrated psychiatric service for university hospital, and the department of PUBLIC health AND ENVIRONMENT shall issue a single license for the university of Colorado psychiatric hospital and university hospital.

**SECTION 372.** 23-35-102 (1), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**23-35-102. Advisory council on water resources research policy.** (1) There is hereby created the advisory council on water resources research policy consisting of ten members as follows: The presidents of the Colorado state university, the Colorado school of mines, and the university of Colorado, or their designees; the executive directors of the department of local affairs, the department of natural resources, the department of PUBLIC health AND ENVIRONMENT, and the department of agriculture, or their designees; and three citizens appointed by the governor representing potential users of water research and technological developments. The chairman of the advisory council shall be the president of the Colorado state university or his designee.

**SECTION 373.** 24-32-2603 (1) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-32-2603. Colorado emergency planning commission - creation - duties.** (1) (a) There is hereby created in the department of local affairs the Colorado emergency planning commission, which shall exercise its powers and perform its duties and functions under the department of local affairs as if the same were transferred to the department by a **type 2** transfer; except that the commission shall have full authority to promulgate rules and regulations related to the administration of this part 26. The commission shall consist of twelve members. Five of the twelve members shall be the following representatives of state government or their designees: The director of the division of fire safety in the department of public safety, the director of the division of local government in the department of local affairs, the director of the office of emergency management in the division of local government in the department of local affairs, who shall be a cochairperson, the director of the division in the department of PUBLIC health AND ENVIRONMENT responsible for hazardous materials and waste management, who shall also be a cochairperson, and a representative of the Colorado state patrol in the department of public safety. The remaining seven members of the commission shall be appointed by the governor for two-year terms. Of those seven members, two shall represent local governments, two shall be from either public interest groups or community groups, one shall represent a local emergency planning committee, and two shall represent affected industries. The governor shall fill any vacancy by appointment.

**SECTION 374.** 24-34-104 (22) (c) (I), (24.2), and (24.5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (22) (c) The following functions of the specified agencies shall terminate on July 1, 1993:

(I) The imposition of sanctions, including civil money penalties, upon a nursing facility when such a facility violates a federal regulation for participation in the medicaid program by the department of PUBLIC health AND ENVIRONMENT in accordance with section 25-1-107.5, C.R.S., and the department of ~~social services~~ HUMAN SERVICES in accordance with article 4 of title 26, C.R.S.;

(24.2) The functions of the division of administration in the department of PUBLIC health AND ENVIRONMENT relating to asbestos control performed in accordance with part 5 of article 7 of title 25, C.R.S., shall terminate on July 1, 1996.

(24.5) The functions of the division of administration in the department of PUBLIC health AND ENVIRONMENT relating to the training and certification requirements established under sections 25-7-105 (11) (c) and (11) (g), C.R.S., shall terminate on July 1, 1996.

**SECTION 375.** 24-34-904 (1) (o) (I), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-34-904. Powers and duties - repeal.** (1) The office has the following powers and duties:

(o) To provide assistance to small businesses in the implementation of the federal "Clean Air Act Amendments of 1990", P.L. No. 101-549, including but not limited to the following:

(I) In conjunction with assistance provided pursuant to paragraph (a) of this subsection (1), disseminate information to small businesses and other interested parties about the federal "Clean Air Act Amendments of 1990", P.L. No. 101-549, including responding to inquiries through a telephone hotline and making referrals to the air pollution control division in the division of administration of the department of PUBLIC health AND ENVIRONMENT for technical assistance;

**SECTION 376.** 24-60-2204 (1), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**24-60-2204. Definitions.** As used in sections 24-60-2205 to 24-60-2212, unless the context otherwise requires:

(1) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 377.** The introductory portion to 24-60-2210 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-60-2210. Colorado low-level radioactive waste advisory committee.** (1) There is hereby established the Colorado low-level radioactive waste advisory committee, which shall consist of thirteen members. One member shall be the Colorado member of the Rocky Mountain low-level radioactive waste board, who shall serve as the chairman. One member shall be the executive director of the department of PUBLIC health AND ENVIRONMENT or his designee. One member shall be the state geologist or the designee of such person. The other ten members of the committee shall be appointed as follows:

**SECTION 378.** 25-1-122 (2), the introductory portions to 25-1-122 (4) and (4) (d), and 25-1-122 (5) and (6), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-1-122. Named reporting of certain diseases and conditions - access to medical records - confidentiality of reports and records.** (2) When investigating diseases and conditions pursuant to subsection (1) of this section, authorized personnel of THE state DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT and local health departments, within their respective jurisdictions, may, without patient consent, inspect, have access to, and obtain information from pertinent patient medical, coroner, and laboratory records in the custody of all medical practitioners, veterinarians, coroners, institutions, hospitals, agencies, laboratories, and clinics, whether public or private, which are relevant and necessary to the investigation. Review and inspection of records shall be conducted at reasonable times and with such notice as is reasonable under the circumstances. Under no circumstances may personnel of the state DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT or local health departments, within their local jurisdictions, have access pursuant to this section to any medical record that is not pertinent, relevant, or necessary to the public health investigation. Nothing in this subsection (2) shall be construed to apply to cases of AIDS, HIV-related illness, or HIV infection, which shall be governed solely by the requirements relating to access to records and the release of information as set forth in part 14 of article 4 of this title.

(4) Reports and records resulting from the investigation of epidemic and communicable diseases, environmental and chronic diseases, reports of morbidity and mortality, reports of cancer in connection with the statewide cancer registry, and reports and records resulting from the investigation of venereal diseases, tuberculosis, and rabies and mammal bites held by THE state DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT or local departments of health shall be strictly confidential. Such reports and records shall not be released, shared with any agency or institution, or made public, upon subpoena, search warrant, discovery proceedings, or otherwise, except under any of the following circumstances:

(d) An officer or employee of the local DEPARTMENT OF HEALTH or THE state department of PUBLIC health AND ENVIRONMENT may make a report of child abuse to agencies responsible for receiving or investigating reports of child abuse or neglect in accordance with the applicable provisions of the "Child Protection Act of 1987" set forth in part 3 of article 3 of title 19, C.R.S. However, in the event a report is made by the state department of PUBLIC health AND ENVIRONMENT, only the following information shall be included in the report:

(5) No officer or employee or agent of the state DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT or local department of health shall be examined in any judicial, executive, legislative, or other proceeding as to the existence or content of any individual's report obtained by such department pursuant to subsection (1) or (2) of this section without that individual's consent. However, this provision shall not apply to individuals who are under isolation or quarantine, school exclusion, or other restrictive action taken pursuant to section 25-1-107 (1) (b) or part 4, 5, 6, or 9 of article 4 of this title.

(6) Any officer or employee or agent of the state DEPARTMENT OF PUBLIC HEALTH

AND ENVIRONMENT or local department of health who violates this section by releasing or making public confidential public health reports or records or by otherwise breaching the confidentiality requirements of subsection (4) or (5) of this section commits a class 1 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1-106 (1), C.R.S.

**SECTION 379.** 25-1-213, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-1-213. Alcohol and drug counseling and treatment - necessary components.** Any entity which qualifies to provide services pursuant to section 26-4-302 (1) (s), C.R.S., in regards to the treatment program for high-risk pregnant women, shall make available, in addition to alcohol and drug counseling and treatment: Risk assessment services; care coordination; nutrition assessment; psychosocial counseling; intensive health education, including but not limited to parenting education and education on risk factors and appropriate health behaviors; home visits; transportation services; and other services deemed necessary by the division of alcohol and drug abuse of the department of HUMAN SERVICES, THE DEPARTMENT OF PUBLIC health AND ENVIRONMENT, AND THE DEPARTMENT OF HEALTH CARE POLICY A D FINANCING.

**SECTION 380.** 25-1-401, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-401. Office of state chemist created.** The professor of food and drug chemistry in the department of chemistry at the university of Colorado shall be the state chemist of Colorado. The office and laboratory of the state chemist shall be in the department of chemistry at the university of Colorado. The office of state chemist shall be a section of the division of administration of the department of PUBLIC health AND ENVIRONMENT.

**SECTION 381.** 25-1-403, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-403. Analyses of food and drugs.** It is the duty of the state chemist to make or cause to be made chemical analyses of all such samples of foods and drugs as may be collected for the purpose of analysis by the department of PUBLIC health AND ENVIRONMENT. The state chemist shall make full and complete written reports, without unnecessary delay, of such analyses to the department of PUBLIC health AND ENVIRONMENT.

**SECTION 382.** 25-1-506 (1) (a), (1) (j), and (1) (k), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-1-506. Powers and duties of county and district health departments.** (1) Each county and district health department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(a) To administer and enforce the laws pertaining to public health, vital statistics, and water quality control and the orders, rules, regulations, and standards of the state board of health and the state water quality control commission and to enforce the

orders of the division of administration of the department of PUBLIC health AND ENVIRONMENT with respect to air pollution control;

(j) To make any necessary sanitary and health investigations and inspections, on its own initiative or in cooperation with the department of PUBLIC health AND ENVIRONMENT, as to any matters affecting public health within the jurisdiction and control of the department;

(k) To cooperate with the department of PUBLIC health AND ENVIRONMENT and the state board of health in all matters pertaining to the public health, with the state water quality control commission in all matters pertaining to water quality control, and with the air quality control commission and the division of administration of the department of PUBLIC health AND ENVIRONMENT in all matters pertaining to air pollution.

**SECTION 383.** The introductory portion to 25-1-516 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-516. Allocation of moneys.** (1) The department of PUBLIC health AND ENVIRONMENT is authorized to allocate moneys for local health services to each local department organized pursuant to this part 5 and to each county board of health in the state as provided for in section 25-1-608, as follows:

**SECTION 384.** 25-1-601, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-601. Local health officers - appointment.** The department of PUBLIC health AND ENVIRONMENT may call upon the board of county commissioners of any county or the mayor or other chief executive of any city, town, or village in Colorado to appoint some person to serve as local health officer for his respective jurisdiction or to name the person already legally appointed. Said officer shall act in cooperation with and under advice of the department of PUBLIC health AND ENVIRONMENT.

**SECTION 385.** 25-1-602, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-602. Local board refuses to act.** If the local board of health of any community is unable or unwilling to efficiently or promptly abate a nuisance or prevent the introduction or spread of any contagious or infectious disease, the department of PUBLIC health AND ENVIRONMENT has full power to take such measures as will insure the abatement of the nuisance or prevent the introduction or spread of disease. The department of PUBLIC health AND ENVIRONMENT, for this purpose, may assume all the powers conferred by law on the local board of health; or the department of PUBLIC health AND ENVIRONMENT, at its discretion, may bring suit against or prosecute any local board of health for a willful failure to enforce the laws of this state in regard to health. The expense of carrying out such orders shall be borne by the local board of health failing to enforce the law.

**SECTION 386.** 25-1-603, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-603. Disinfection and importation of material.** No rags or other dangerous material shall be sold or manufactured into articles to be sold for personal use unless such rags or material have been previously disinfected in a manner satisfactory to the department of PUBLIC health AND ENVIRONMENT. Rags or clothing which may be suspected of being infected, imported into the state of Colorado for the purpose of manufacture, shall be kept closely baled and not opened until they can be immediately submitted to thorough disinfection. The department of PUBLIC health AND ENVIRONMENT, at any time, for the protection of the public health, may completely prohibit the importation of such rags or clothing into the state.

**SECTION 387.** 25-1-604, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-604. Systems of inspection established.** At such places or on such lines of travel in which there may be danger of the introduction into this state of cholera or other dangerous communicable diseases, the department of PUBLIC health AND ENVIRONMENT has power to establish such systems of inspections as may be practicable and needful to ascertain the presence of the infection of cholera or other dangerous communicable diseases in the persons of immigrants or travelers, wearing apparel, baggage, or freight; to question on oath, without cost to the state or person so questioned, which oath a duly appointed inspector of the department of PUBLIC health AND ENVIRONMENT is authorized to administer to the immigrant, traveler, or other person, as to the place from which the suspected person, baggage, or freight came, the time elapsed since his or its exposure to cholera or other dangerous disease, and on other subjects on which information is needed. The department of PUBLIC health AND ENVIRONMENT has the power to order such disinfection of baggage or other articles which are infected or liable to be infected and to cause such isolation of persons or things infected or liable to be infected as may be necessary for the public safety by placing them in the care of the local board of health or by other practical methods.

**SECTION 388.** 25-1-607, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-607. Complaint - where filed.** The department of PUBLIC health AND ENVIRONMENT may cause a complaint to be filed before the county or district court in the county where a violation of section 25-1-611 is committed, and such courts have jurisdiction to try any cause arising under the provisions of this part 6.

**SECTION 389.** 25-1-641 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-641. Establishment of hospitals for contagious disease.** (1) Any town, city, or county, subject to prevailing local laws or ordinances and with the prior approval of the department of PUBLIC health AND ENVIRONMENT, may establish in such locality as the board of health deems best one or more hospitals for the reception of persons having contagious diseases which may be dangerous to the public health.

**SECTION 390.** 25-1-649, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-1-649. Notice of contagious disease by physician.** When any physician knows that any person whom he is called to visit or who is brought to him for examination is infected with smallpox, cholera, diphtheria, scarlet fever, or any other disease dangerous to public health, he shall give notice to the department of PUBLIC health AND ENVIRONMENT in accordance with section 25-1-122 (1).

**SECTION 391.** 25-1-650 (1) (h), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-1-650. Investigation by health officer.** (1) When the health officer of any county, city, or village in this state receives reliable notice or has good reason to believe that there is, within the county, city, or village of which he is the health officer, a case of smallpox, diphtheria, scarlet fever, or other communicable disease dangerous to the public health, it is the duty of the health officer, unless he is instructed by the board of health of which he is an executive officer to do otherwise:

(h) To keep the executive director of the department of PUBLIC health AND ENVIRONMENT constantly informed respecting every outbreak of a disease dangerous to the public health and of the facts so far as the same shall come to his knowledge respecting sources of danger of any such diseased person or infected article being brought into or taken out of the county, city, or village of which he is the health officer.

**SECTION 392.** 25-1-707 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-707. Regional health departments - personnel.** (1) The administrative and executive head of each regional health department shall be a public health administrator, which office is hereby created. The public health administrator shall be appointed by the regional board of health to serve at the pleasure of the board and shall possess such qualifications as may be prescribed by the state board of health. No person shall be excluded from such appointment or from continuing to serve as a public health administrator solely because that person is not a licensed physician. If the administrator is not a physician, the board may employ a licensed physician to advise the public health administrator on a full- or part-time basis on medical decisions. The public health administrator shall maintain his office at such place as the board may designate and shall be custodian of all property and records of the department. In addition, all other professional personnel of the local health department shall meet qualifications prescribed by the Colorado department of PUBLIC health AND ENVIRONMENT.

**SECTION 393.** 25-1-708 (1) (a), (1) (g), and (2) (b), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-1-708. Regional health departments - duties - powers.** (1) Each regional health department has, in addition to any other duties imposed upon it by law, the following duties:

(a) To administer and enforce the laws pertaining to public health, vital statistics, and water quality control and the orders, rules, regulations, and standards of the Colorado department of PUBLIC health AND ENVIRONMENT and the state air quality

control and water quality control commissions;

(g) To cooperate with the Colorado department of PUBLIC health AND ENVIRONMENT and the state board of health in all matters pertaining to the public health and with the state air quality control and water quality control commissions in all matters pertaining to air pollution and water quality control;

(2) A regional health department has power to:

(b) Make any necessary sanitary and health investigations and inspections, on its own initiative or in cooperation with the Colorado department of PUBLIC health AND ENVIRONMENT, as to any matters affecting public health within the jurisdiction and control of the regional health department;

**SECTION 394.** 25-1-710, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-710. Department of public health and environment to establish standards.** The Colorado department of PUBLIC health AND ENVIRONMENT shall establish minimum standards for regional health administration which must be met as a prerequisite for state assistance, including standards for qualification of personnel.

**SECTION 395.** 25-1-1003 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-1003. Grant program - requirements - use of medical assistance funds prohibited.** (1) The department of PUBLIC health AND ENVIRONMENT may encourage the development of a private grant program to provide start-up funds to nursing home facilities for the purpose of establishing child care centers located in such nursing home facilities.

**SECTION 396.** 25-1-1004 (1), the introductory portion to 25-1-1004 (2), and 25-1-1004 (2) (a), (3), and (4), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-1-1004. Study of statutes and rules and regulations pertaining to nursing home facilities and day care centers.** (1) The department of PUBLIC health AND ENVIRONMENT and the department of ~~social services~~ HUMAN SERVICES, in conjunction with representatives of the nursing home industry, child care operators, and experts on child care programs in nursing home facilities, shall examine and study the existing statutes and rules and regulations concerning the licensing of child care centers and of nursing home facilities to determine what statutory or regulatory changes or both would make it easier for a nursing home facility to operate a child care center. The study shall also include an examination of the advantages and disadvantages of operating such intergenerational programs and the most appropriate and practical ways to design such intergenerational child care programs which are beneficial both to the children and to the elderly persons.

(2) The study conducted by the department of PUBLIC health AND ENVIRONMENT and the department of ~~social services~~ HUMAN SERVICES shall include, but need not be

limited to, consideration of the following:

(a) The establishment of new rules and regulations by the department of PUBLIC health AND ENVIRONMENT and the department of ~~social services~~ HUMAN SERVICES which would allow nursing home facilities to operate a child care operation in the nursing home facilities;

(3) The department of PUBLIC health AND ENVIRONMENT and the department of ~~social services~~ HUMAN SERVICES shall report on the results of such study and make recommendations to the general assembly about the most appropriate methods for facilitating the development and operation of child care programs in nursing home facilities on or before January 1, 1989.

(4) The department of PUBLIC health AND ENVIRONMENT and the department of ~~social services~~ HUMAN SERVICES shall comply with the requirements of this part 10 within the current appropriation established for each department. No request for appropriations shall be made to the general assembly for the implementation of this part 10.

**SECTION 397.** 25-1-1112 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-1-1112. Limitations on services and programs provided - available funds.**

(2) The department of PUBLIC health AND ENVIRONMENT is authorized to accept, on behalf of the state of Colorado, and expend any grants of federal funds for all or any purposes of this part 11.

**SECTION 398.** 25-2-103, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-2-103. Centralized registration system for all vital statistics - appointment of registrar - regulations.** In order to provide for the maintenance of a centralized registry of the vital statistics of this state, the office of state registrar of vital statistics, referred to in this article as the "state registrar", is hereby created in the department of PUBLIC health AND ENVIRONMENT. The state registrar shall be appointed by the state board of health and shall have such staff and clerical help as reasonably may be required in the performance of his duties. The state registrar and his staff and clerical help shall be subject to the state constitution and state personnel system laws. The state board of health shall adopt, promulgate, amend, and repeal such rules and regulations and orders in accordance with the provisions of section 24-4-103, C.R.S., as are necessary and proper for carrying out the provisions of this article. The state registrar shall direct and supervise the operation of the vital statistics system, prepare and publish annual reports of vital statistics, and administer and enforce the provisions of this article and all rules and regulations issued under this article. Federal, state, local, and other public or private agencies may, upon request, be furnished copies of records of data for statistical purposes upon such terms and conditions as may be prescribed by regulation. The state registrar shall designate organized local health departments established pursuant to part 5 or 7 of article 1 of this title and may establish or designate additional offices throughout Colorado to aid in the efficient administration of the system of vital statistics. The state registrar may require departments or offices so designated or established to

comply with performance and accounting standards as set forth in rules and regulations promulgated by the state board of health. The state registrar may delegate such functions and duties vested in him to his staff and clerical help and to any offices established or designated by the state registrar pursuant to this section as he deems necessary or expedient. The state registrar may conduct training programs to promote the uniformity of the administration of this article throughout Colorado.

**SECTION 399.** 25-2-112.5 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-2-112.5. Social security account numbers - affidavits acknowledging paternity - to be furnished.** (2) The department of PUBLIC health AND ENVIRONMENT shall make the birth certificate, the mother's and father's social security account numbers, and the notarized affidavits acknowledging paternity furnished under this section and section 25-2-112 available to the state agency responsible for enforcing child support under Title IV-D of the federal "Social Security Act" upon request of that agency. The social security account numbers shall not be recorded on the birth certificate and may not be used for any purpose other than for the establishment and enforcement of child support orders.

**SECTION 400.** 25-2-113.5 (4) (c), (10) (a), and (10) (b), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-2-113.5. Limited access to information upon consent of all parties.** (4) The registrar shall maintain a confidential list of qualified birth parents who have presented a consent regarding the release of identifying information about themselves. Any consent by a qualified birth parent shall be accompanied by the birth parent's desired method of notification in the event that a match occurs; however, the state shall not incur costs of notification in excess of that part of the fee charged to the applicant for the purpose of notification. Any consent shall also indicate whether the qualified birth parent desires release of his identifying information if a match occurs after his death. The qualified birth parent may revise his consent with respect to change of address or method of notification. Any name and accompanying information shall be removed from the list upon the verified written request of the listed birth parent. The registrar shall maintain a closed record of such list and accompanying information, except as provided in accordance with this section. Any birth parent who in terminating his parental rights used an alias, and this alias is listed in the original sealed birth certificate, may also file a consent with the registry. A birth parent shall not be matched with the qualified adult adoptee without the consent of the other birth parent unless:

(c) The other birth parent is unable to be located by the department of PUBLIC health AND ENVIRONMENT after an exhaustive search, the cost of said search to be fully funded by the birth parent seeking a match, said search to be in accordance with the rules and regulations promulgated by the department.

(10) (a) The executive director of the department of PUBLIC health AND ENVIRONMENT shall establish fees to be charged each person requesting that his name be placed on the list provided for in subsection (3), (4), or (5) of this section and for the services provided by the registrar in establishing and implementing the registry pursuant to this section. It is the intent of the general assembly that the fees shall

cover all direct and indirect costs incurred pursuant to this section.

(b) The fees collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the general fund. The general assembly shall annually appropriate from the general fund to the department of PUBLIC health AND ENVIRONMENT an amount sufficient to meet expenses incurred pursuant to this section.

**SECTION 401.** 25-2-117 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-2-117. Certified copies furnished - fee.** (1) Vital statistics records shall be treated as confidential, but the department of PUBLIC health AND ENVIRONMENT shall, upon request, furnish to any applicant having a direct and tangible interest in a vital statistics record a certified copy of any record registered under the provisions of this article. Any copy of the record of a birth or death, when properly certified by the state registrar or as otherwise directed by the state registrar to be a true copy thereof, shall be prima facie evidence in all courts and places of the facts therein stated.

**SECTION 402.** 25-2-120 (1) and (2), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-2-120. Reports of electroconvulsive treatment.** (1) Any person who performs electroconvulsive treatment in the state of Colorado shall file a report with the department of PUBLIC health AND ENVIRONMENT setting forth the data required by subsection (2) of this section. An institution in which electroconvulsive treatment is performed shall be the reporting entity for all electroconvulsive treatments performed at that institution.

(2) Such reports shall be made to the department of PUBLIC health AND ENVIRONMENT on forms prescribed by the department within thirty days after January 1 and July 1 of each year on a semiannual basis and shall contain the following detailed information for each reporting period:

**SECTION 403.** 25-2-121 (1) and (2) (b) (I), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-2-121. Fee adjustments - vital statistics records cash fund created.** (1) This section shall apply to all activities of the office of the state registrar in the department of PUBLIC health AND ENVIRONMENT.

(2) (b) (I) Based upon the appropriation made and subject to the approval of the executive director of the department of PUBLIC health AND ENVIRONMENT, the office of the state registrar shall adjust its fees so that the revenue generated from said fees approximates its direct and indirect costs. Such fees shall remain in effect for the fiscal year for which the budget request applies. All fees collected by the office of the state registrar shall be transmitted to the state treasurer, who shall credit the same to the vital statistics records cash fund, which fund is hereby created. All moneys credited to the vital statistics records cash fund and all interest earned thereon shall be subject to appropriation by the general assembly to be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or

any other fund.

**SECTION 404.** 25-3-101 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3-101. Hospitals - licensed.** (1) It is unlawful for any person, partnership, association, or corporation to open, conduct, or maintain any general hospital, hospital unit, psychiatric hospital, community clinic, rehabilitation center, convalescent center, community mental health center, facility for the mentally retarded, habilitation center for brain-damaged children, chiropractic center, chiropractic hospital, maternity hospital, nursing care facility, intermediate care facility, residential care facility, pilot project rehabilitative nursing facility, hospice care facility for terminally ill individuals, or other institution of a like nature, except those wholly owned and operated by any governmental unit or agency, without first having obtained a license therefor from the department of PUBLIC health AND ENVIRONMENT.

**SECTION 405.** 25-3-102 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3-102. License - application - issuance.** (1) An application for such license shall be made to the department of PUBLIC health AND ENVIRONMENT annually upon such form and in such manner as prescribed by the department. The department has authority to administer oaths, subpoena witnesses, and take testimony in all matters relating to issuing, refusing, or revoking such license. The department shall issue licenses to applicants furnishing satisfactory evidence of fitness to conduct and maintain such institution in accordance with the provisions of this part 1 and the rules and regulations adopted by such department. The license shall be signed by the president and attested by the secretary of the state board of health and have the seal thereof affixed thereto. Such license expires one year from the date of issuance.

**SECTION 406.** 25-3-103 (1), (3), (4), and (5), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-3-103. License denial or revocation - provisional license.** (1) Application for a new or renewal license under this part 1 may be refused to an applicant not meeting the requirements of this part 1 and the rules and regulations of the department of PUBLIC health AND ENVIRONMENT. A license may be revoked for like reasons. The department of PUBLIC health AND ENVIRONMENT may, upon such refusal or revocation, grant a provisional license, valid for ninety days, upon payment of a fee of ten dollars to allow such applicant to comply with the requirements for a regular license. A second provisional license may be issued, for a like term and fee, if necessary in the opinion of the department of PUBLIC health AND ENVIRONMENT, to effect compliance. No further provisional licenses may be issued for the then current year after the second issuance.

(3) No denial of a renewal license shall be lawful unless, before institution of such proceedings by the department of PUBLIC health AND ENVIRONMENT, said department has given the licensee notice in writing of facts on conduct that may warrant denial, has afforded the applicant opportunity to submit written data, views, and arguments with respect to such facts on conduct, and, except in cases of deliberate and willful

violation, has given the applicant a reasonable opportunity to comply with all lawful requirements for licensure.

(4) No application for renewal of a license shall be denied by the department of PUBLIC health AND ENVIRONMENT and no previously issued license shall be revoked, suspended, annulled, limited, or modified until after a hearing as provided in section 24-4-105, C.R.S.

(5) The department of PUBLIC health AND ENVIRONMENT may suspend or revoke the license for the operation of a nursing care facility or intermediate care facility of any licensee convicted of violating any provision of section 26-1-127 or section 26-4-504 (8), C.R.S., if the department finds such suspension or revocation necessary to safeguard the rights of patients in the future. No license or permit shall thereafter be issued to any person so convicted, except upon a specific finding by the department that the rights of the patients will have adequate safeguards.

**SECTION 407.** 25-3-103.7 (1) (a) and (6), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-3-103.7. Employment of physicians - when permissible - conditions.**

(1) For purposes of this section:

(a) "Hospital" means a hospital currently licensed or certified by the department of PUBLIC health AND ENVIRONMENT pursuant to the department's authority under section 25-1-107 (1) (1) and located in a county with a population of less than one hundred thousand as determined by the most recent available estimate by the division of planning in the department of local affairs.

(6) Every hospital which employs a physician shall report to the department of PUBLIC health AND ENVIRONMENT when applying for initial facility licensure and upon each application for license renewal, the number of physicians on the hospital's medical staff and shall separately identify the number of such physicians who are employed by the hospital, under separate contract to the hospital, and independent of the hospital.

**SECTION 408.** 25-3-104, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3-104. Quarterly report.** Any person, partnership, association, or corporation maintaining any hospital, dispensary, or other institution for the treatment or care of the sick or injured on the first day of January, April, July, and October shall make a report to the department of PUBLIC health AND ENVIRONMENT of the number and names of the people in charge or employed in such institution. If any such persons are physicians, the report shall include the number of their licenses to practice medicine in this state and such other information as required by the rules and regulations of the department of PUBLIC health AND ENVIRONMENT. The department of PUBLIC health AND ENVIRONMENT shall have power to investigate and shall have free access to such institutions at any time.

**SECTION 409.** 25-3-108 (1), (2), (3), (5), (7), (8), and (10), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-3-108. Receivership.** (1) It is the purpose of this section to establish a receivership mechanism which will be available as a remedy for such violations of applicable laws and regulations by a licensee of a long-term health care facility which require facility closure by the department of PUBLIC health AND ENVIRONMENT in order to safeguard against potential transfer trauma resulting from relocation of its residents as a result of closure of the facility. For the purposes of this section, "long-term health care facility" has the meaning specified in section 25-3-603 (4).

(2) The department of PUBLIC health AND ENVIRONMENT, the licensee or owner of a long-term health care facility, or the lessee of such facility with the approval of the owner may apply to the district court for the appointment of a receiver to operate the long-term health care facility when:

(a) The department of PUBLIC health AND ENVIRONMENT has refused to issue a renewal license or has revoked the license of such facility and the action of the department is final; or

(b) The department of PUBLIC health AND ENVIRONMENT, through the executive director thereof, has taken summary action to suspend the license of any such facility in accordance with the provisions of section 24-4-104 (4), C.R.S.

(3) The action of the department of PUBLIC health AND ENVIRONMENT with respect to nonrenewal or revocation of a license and RECOMMENDATION FOR certification for medicaid participation shall not be final for the purposes of paragraph (a) of subsection (2) of this section until all administrative hearings and judicial appeals sought by a licensee of a long-term health care facility have been exhausted or the time permitted for the same has expired and until the decisions resulting from any such appeals, if any, sustain the action of said department.

(5) For the purposes of this section the action of the department of PUBLIC health AND ENVIRONMENT exercised pursuant to subsection (2) of this section shall become effective upon appointment of the receiver of the court.

(7) The department of PUBLIC health AND ENVIRONMENT shall grant the receiver a license pursuant to section 25-3-102 and certification for medicaid participation, and the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING shall reimburse the receiver for the long-term health care facility's medicaid residents pursuant to section 26-4-410, C.R.S.

(8) The appointment of the receiver shall be in accordance with and governed by the provisions of rule 66 of the Colorado rules of civil procedure. The court shall enter an order of appointment and fix the fees and expenses of the receiver. The receiver shall be a licensed nursing home administrator and shall post a bond with adequate sureties as determined by the court, and the receiver may be sued upon the same in the name of the people of the state of Colorado at the instance and for the use of any party injured. The receiver shall perform duties, assume responsibilities, and preserve the long-term health care facility property in accordance with established principles of law for receivers of real property. Such duties and responsibilities shall be determined by the court following a hearing, at which time the parties may appear and be heard. The court shall specify the duties and responsibilities of the receiver in the order of appointment. No security interest in any real or personal property

comprising said facility or contained within the facility nor any fixture of the facility shall be impaired or diminished by the receiver, but the receiver shall comply with the standards of the department of PUBLIC health AND ENVIRONMENT in providing health care to patients.

(10) A receivership established pursuant to this section may be terminated by the court upon application therefor by the licensee of a long-term health care facility, the department of PUBLIC health AND ENVIRONMENT, or the receiver. The receivership may be terminated upon a finding by the court that the receivership is no longer necessary, but in no case shall the receivership continue for longer than one hundred eighty days from the date of the initial appointment of the receiver unless extended by written agreement of the parties as provided in subsection (9) of this section.

**SECTION 410.** 25-3-109 (1), (2), (3), (4) (a), the introductory portion to 25-3-109 (7), and 25-3-109 (8), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-3-109. Quality management functions - confidentiality and immunity.**

(1) The general assembly hereby finds and declares that the implementation of quality management functions to evaluate and improve patient and resident care is essential to the operation of health care facilities licensed or certified by the department of PUBLIC health AND ENVIRONMENT pursuant to section 25-1-107 (1) (l). For this purpose, it is necessary that the collection of information and data by such licensed or certified health care facilities be reasonably unfettered so a complete and thorough evaluation and improvement of the quality of patient and resident care can be accomplished. To this end, quality management information relating to the evaluation or improvement of the quality of health care services shall be confidential, and persons performing such functions shall be granted qualified immunity. It is the intent of the general assembly that nothing in this section revise, amend, or alter article 36 or part 1 of article 36.5 of title 12, C.R.S.

(2) For purposes of this section, a "quality management program" means a program which includes quality assurance and risk management activities, the peer review of licensed health care professionals not otherwise provided for in part 1 of article 36.5 of title 12, C.R.S., and other quality management functions which are described by a facility in a quality management program approved by the department of PUBLIC health AND ENVIRONMENT. Nothing in this section shall revise, amend, or alter article 36 or part 1 of article 36.5 of title 12, C.R.S.

(3) Except as otherwise provided in this section, any records, reports, or other information of a licensed or certified health care facility which are part of a quality management program designed to identify, evaluate, and reduce the risk of patient or resident injury associated with care or to improve the quality of patient care shall be confidential information; except that such information shall be subject to any right of inspection or investigation as otherwise provided by law by the department of PUBLIC health AND ENVIRONMENT or other appropriate regulatory agency.

(4) The records, reports, and other information described in subsection (3) of this section shall not be subject to subpoena or discoverable or admissible as evidence in any civil or administrative proceeding. No person who participates in the reporting, collection, evaluation, or use of such quality management information with regard to

a specific circumstance shall testify thereon in any civil or administrative proceeding. However, this subsection (4) shall not apply to:

(a) Any civil or administrative proceeding, inspection, or investigation as otherwise provided by law by the department of PUBLIC health AND ENVIRONMENT or other appropriate regulatory agency having jurisdiction for disciplinary or licensing sanctions;

(7) Nothing in this section shall limit the department of PUBLIC health AND ENVIRONMENT from:

(8) A summary report may not identify a health care professional. Prior to releasing a summary report which contains information identifying a health care facility, the department of PUBLIC health AND ENVIRONMENT shall notify the health care facility, and the facility shall be allowed a reasonable time to comment. If immediate release of information is necessary and prior oral notification cannot be given, notification shall be given as soon as reasonably possible and shall state why prior notice could not be given.

**SECTION 411.** 25-3-202, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3-202. Enforcement of regulations.** The department of PUBLIC health AND ENVIRONMENT has the power to direct and enforce regulations concerning maternity hospitals in the state of Colorado.

**SECTION 412.** 25-3-203, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3-203. Adoption of children.** No person licensed by the department of PUBLIC health AND ENVIRONMENT to maintain a maternity hospital shall advertise, undertake, or promise that he will adopt any child received or born in any such hospital, nor shall he hold out any promise, reward, or inducement to any parent to part with any such child. No such child shall be given away by any parent or in any manner given out for adoption except in compliance with part 2 of article 5 of title 19, C.R.S., pertaining to adoption.

**SECTION 413.** 25-3-204, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3-204. Records not public.** No officer, member, or agent of the department of PUBLIC health AND ENVIRONMENT or of any local board of health where any such licensed home or hospital is located nor any keeper of such home or hospital shall divulge or disclose any of the contents of its records relating to illegitimate children born therein or brought thereto as inmates, except as required by a court or for the information of the department of PUBLIC health AND ENVIRONMENT or of the local board of health where said home or hospital is located.

**SECTION 414.** 25-3-205, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3-205. License required.** No person, firm, association, or corporation shall conduct a maternity hospital that receives unmarried women for confinement without a license so to do from the department of PUBLIC health AND ENVIRONMENT. Said department is empowered to prescribe and enforce reasonable regulations for the granting, refusing, revoking, or suspending of any such license. Any violation of this part 2 by a licensee shall be grounds for the revocation of any such license, and any such license may be revoked in any instance where, in the opinion of the department of PUBLIC health AND ENVIRONMENT, the public welfare requires such action.

**SECTION 415.** 25-3-401, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3-401. Department of public health and environment to administer plan.**

(1) The department of PUBLIC health AND ENVIRONMENT is designated as the sole agency for carrying out the purposes of the federal "Hospital Survey and Construction Act", Public Law 79-725 of the 79th Congress of the United States, approved August 13, 1946, or any amendments thereto, and the successor provisions thereof of Public Law 93-641, and is authorized to formulate, submit, and administer a state plan for carrying out the provisions thereof and to accept on behalf of the state any funds allotted to the state under the provision of the said federal acts, or any amendments thereto. In carrying out the purposes of this section, the department of PUBLIC health AND ENVIRONMENT is authorized to make such reports as may be required by the said federal acts, or any amendments thereto, and to do all things that may be required as a condition precedent to the proper application for the receipt of federal grants under the said federal acts, and any amendments thereto and regulations thereof, and to administer and supervise the expenditure of such grants for the purposes of this section.

(2) The state plan established under subsection (1) of this section shall provide for adequate hospital facilities for the people residing in the state, without discrimination on account of race, creed, or color, and shall provide for adequate hospital facilities for persons unable to pay therefor. The department of PUBLIC health AND ENVIRONMENT shall, after consultation with the Colorado health facilities review council established in section 25-3-504, provide minimum standards for the maintenance and operation of hospitals which receive federal aid under this part 4, and compliance with such standards shall be required in the case of hospitals which have received federal aid under the provisions of said federal acts, or any amendments thereto.

**SECTION 416.** 25-3-403, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3-403. Department of public health and environment to administer federal mental retardation and mental health construction funds.** The department of PUBLIC health AND ENVIRONMENT is designated as the sole agency for carrying out the purposes of Part C of Title I and Title II of the federal "Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963", Public Law 88-164 of the 88th congress of the United States, approved October 31, 1963, or any amendments thereto, and is authorized to administer a state plan for carrying out the provisions thereof and to accept, on behalf of the state, all funds allotted to the state under the provisions of said federal act, or any amendments

thereto. Such state plan shall be formulated by the state mental health and mental retardation authority. In carrying out the purposes hereof, the department of PUBLIC health AND ENVIRONMENT is authorized to make such reports as may be required by said federal act, or any amendments thereto, and to do all things that may be required as a condition precedent to the proper application for the receipt of federal grants under said federal act, and any amendments thereto and regulations thereof, and to administer and supervise the expenditure of such grants for the purposes hereof in consultation with the mental health and mental retardation authority of the state of Colorado.

**SECTION 417.** 25-3.5-102 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3.5-102. Legislative declaration.** (2) To effect this end, the general assembly finds it necessary that the department of PUBLIC health AND ENVIRONMENT assist, when requested by local government entities, in planning and implementing any one of such subsystems so that it meets local needs and requirements and that the department coordinate local systems so that they interface with an overall state system providing maximally effective emergency medical systems.

**SECTION 418.** 25-3.5-103 (5) and (6), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-3.5-103. Definitions.** As used in this article, unless the context otherwise requires:

- (5) "Department" means the department of PUBLIC health AND ENVIRONMENT.  
(6) "Director" means the executive director of the department of PUBLIC health AND ENVIRONMENT.

**SECTION 419.** 25-3.5-104 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-3.5-104. State advisory council - duties.** (1) There is hereby created, in the department of PUBLIC health AND ENVIRONMENT, a state advisory council on emergency medical services, referred to in this article as the "council", to be composed of seventeen members appointed by the governor, at least one of whom shall be from each of the planning and management regions established by executive proclamation. Of the seventeen members of the council, one shall be a medical doctor actively involved in emergency medical services, one shall be a registered professional nurse actively involved in emergency medical services, one shall be a hospital administrator, one shall represent volunteer ambulance services, one shall represent ambulance services with full-time, paid personnel, one shall represent rescue units, one shall be a fire chief involved in emergency medical services, and six shall be consumers, representative of the public at large, one of whom shall be from each congressional district. A vacancy on the council occurs whenever a consumer member moves out of the congressional district from which he was appointed. A consumer member who moves out of such congressional district shall promptly notify the governor of the date of such move, but such notice is not a condition precedent to the occurrence of the vacancy. The governor shall fill the vacancy as provided in subsection (2) of this section. Not more than nine members of the council shall be

members of the same major political party. Appointments made to take effect on January 1, 1983, shall be made in accordance with section 24-1-135, C.R.S. Ex officio members, who shall have no vote, shall be the director of the office of emergency management in the division of local government in the department of local affairs, the vice-president of the university of Colorado medical center, the executive director of the department of PUBLIC health AND ENVIRONMENT, and the director of the office of transportation safety in the department of transportation, or their respective designees.

**SECTION 420.** 25-3.5-203 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3.5-203. Emergency medical technicians - certification - renewal of certificate.** (1) The duties and functions of emergency medical technicians, including the acts which they are authorized to perform, shall be regulated by rules and regulations adopted by the Colorado state board of medical examiners. The council shall advise and make recommendations to said board concerning such rules and regulations before final adoption. An emergency medical technician certificate shall be issued by the emergency medical services division of the department of PUBLIC health AND ENVIRONMENT and shall be valid for a period of three years after the date of issuance. Such certificate shall be renewable at its expiration upon the certificate holder's satisfactory completion of a refresher course established pursuant to subsection (2) of this section.

**SECTION 421.** 25-3.5-601 (3), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3.5-601. Legislative declaration.** (3) Therefore, it is the purpose of this part 6 to enhance emergency medical services statewide by financially assisting local emergency medical service providers who operate or wish to operate in the counties in their efforts to improve the quality and effectiveness of local emergency medical services, including emergency medical equipment and communications, and by supporting the overall coordination of such efforts by the emergency medical services division in the department of PUBLIC health AND ENVIRONMENT.

**SECTION 422.** 25-3.5-602 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3.5-602. Definitions.** As used in this part 6, unless the context otherwise requires:

(2) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 423.** 25-4-109, Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-4-109. Enforcement.** (1) It is the duty of the department of PUBLIC health AND ENVIRONMENT to enforce this part 1, and, for that purpose, the department has full power at all times to enter every such building, room, basement, enclosure, or premises occupied or used or suspected of being occupied or used for the production, preparation, or manufacture for sale, or the storage, sale, distribution, or

transportation of such food, to inspect the premises and all utensils, fixtures, furniture, and machinery used as aforesaid PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (1). Any refusal to permit such inspection shall be deemed a violation of this part 1. If upon inspection any such food producing or distributing establishment, conveyance, or employer, employee, clerk, driver, or other person is found to be violating any of the provisions of this part 1, or if the production, preparation, manufacture, packing, storage, sale, distribution, or transportation of such food is being conducted in a manner detrimental to the health of the employees and operatives or to the character or quality of the food therein produced, prepared, manufactured, packed, stored, sold, distributed, or conveyed, the department of PUBLIC health AND ENVIRONMENT shall issue a written order to the person, firm, or corporation responsible for the violation or condition to abate such condition or violation or to make such changes or improvements as may be necessary to abate them within a reasonable time. Notice of such order may be served by delivering a copy thereof to said person, firm, or corporation or by sending a copy thereof by registered mail, and the receipt thereof through the post office shall be prima facie evidence that notice of said order has been received.

(2) Such person, firm, or corporation has the right to appear in person or by attorney before the department of PUBLIC health AND ENVIRONMENT, or the person appointed by it for such purpose, within the time limited in the order and shall be given an opportunity to be heard and to show why such order or instructions should not be obeyed. Such hearing shall be under such rules and regulations as may be prescribed by the department. If after such hearing it appears that the provisions or requirements of this part 1 have not been violated, said order shall be rescinded. If it appears that the requirements or provisions of this part 1 are being violated and that the person, firm, or corporation notified is responsible therefor, said previous order shall be confirmed or amended, as the facts shall warrant, and shall thereupon be final, but such additional time as is necessary may be granted within which to comply with said final order. If such person, firm, or corporation is not present or represented when such final order is made, notice thereof shall be given as provided in subsection (1) of this section. Upon failure of the parties to comply with the first order of the department within the time prescribed when no hearing is demanded or upon failure to comply with the final order within the time specified, the department of PUBLIC health AND ENVIRONMENT shall certify the facts to the district attorney of the county in which such violation occurred, and such district attorney shall proceed against the parties for the fines and penalties provided by this part 1 and also for the abatement of the nuisance. The proceedings prescribed in this section for the abatement of nuisance as defined in section 25-4-106 shall not in any manner relieve the violator from prosecution in the first instance for any such violation or from the penalties for such violation prescribed by section 25-4-111.

**SECTION 424.** 25-4-111, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-111. Penalty.** Any person who violates any of the provisions of this part 1 or refuses to comply with any lawful order or requirement of the department of PUBLIC health AND ENVIRONMENT, duly made in writing as provided in section 25-4-109, is guilty of a misdemeanor and, upon conviction thereof, shall be punished for the first offense by a fine of not more than two hundred dollars and for the second and subsequent offenses by a fine of not more than two hundred dollars, or by

imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment. Each day of noncompliance after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions, as ordered by the department of PUBLIC health AND ENVIRONMENT, constitutes a separate offense.

**SECTION 425.** 25-4-202, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-202. Tests approved by department.** For the purposes of this part 2, a standard serological test shall be a test for syphilis approved by the department of PUBLIC health AND ENVIRONMENT and shall be made at a laboratory approved to make such tests. Such laboratory tests as are required by this part 2 may be made on request, without charge, at the department of PUBLIC health AND ENVIRONMENT laboratory.

**SECTION 426.** The introductory portion to 25-4-302 (1) and 25-4-302 (1) (c), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-4-302. Duties of department.** (1) It is the duty of the department of PUBLIC health AND ENVIRONMENT:

(c) To promulgate such rules and regulations as shall be necessary for the purpose of this part 3 and such as the department of PUBLIC health AND ENVIRONMENT deems necessary for the further and proper guidance of local health officers;

**SECTION 427.** 25-4-303, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-303. Duty to treat eyes.** It is the duty of any physician, nurse, or other person who assists or is in charge at the birth of any infant or has the care of the same after birth to treat the eyes of the infant with a prophylaxis approved by the department of PUBLIC health AND ENVIRONMENT. Such treatment shall be given as soon as practicable after the birth of the infant and always within one hour. If any redness, swelling, inflammation, or gathering of pus appears in the eyes of such infant, or upon the lids or about the eyes, within two weeks after birth, any nurse or other person having care of the infant shall report the same to some competent practicing physician within six hours after its discovery.

**SECTION 428.** 25-4-405, Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-4-405. Examination of persons confined.** (1) All persons who are confined, detained, or imprisoned in any state, county, or city hospital for the insane, any institution for the mentally deficient, the Mount View school or Lookout Mountain school, any home for dependent children, any reformatory or prison, or any private or charitable institution where any person may be confined, detained, or imprisoned by order of court in this state shall be examined for and, if infected, treated for venereal diseases by the health authorities having jurisdiction. The managing authorities of any such institutions are directed to make available to the health authorities such portion of their respective institutions as may be necessary for a

clinic or hospital, wherein all persons who may be confined or detained or imprisoned in any such institution and who are infected with venereal diseases may be treated in a manner as prescribed by the director of the agency within the department of PUBLIC health AND ENVIRONMENT responsible for control of venereal diseases.

(2) All persons who are suffering with venereal disease at the time of the expiration of their terms of imprisonment or confinement and other persons who may be isolated, quarantined, or treated under the provisions of section ~~25-4-404~~ 25-4-405 shall be isolated and treated at public expense until cured. In lieu of such isolation, any of such persons may, in the discretion of the department of PUBLIC health AND ENVIRONMENT, be required to report for treatment to a licensed physician or submit to treatment provided at public expense as provided in section ~~25-4-404~~ 25-4-405. The department of PUBLIC health AND ENVIRONMENT is authorized to arrange for hospitalization and to provide and furnish such medical treatment as may be determined to be necessary. Nothing in this section shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

**SECTION 429.** 25-4-406, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-406. Rules and regulations.** The department of PUBLIC health AND ENVIRONMENT is directed to make such rules and regulations as are in its judgment necessary for the carrying out of the provisions of this part 4, including rules and regulations providing for the control and treatment of persons isolated or quarantined under the provisions of section ~~25-4-404~~ 25-4-405, and such other rules and regulations not in conflict with provisions of this part 4 concerning the control of venereal disease and the care, treatment, and quarantine of persons infected therewith as it may from time to time deem advisable. All such rules and regulations so made shall be of force and binding upon all county and municipal health officers and other persons affected by this part 4 and shall have the force and effect of law.

**SECTION 430.** 25-4-407, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-407. Penalty.** Any person, firm, or corporation violating any of the provisions of this part 4, other than section 25-4-408, or any lawful rule or regulation made by the department of PUBLIC health AND ENVIRONMENT pursuant to the authority granted in this part 4 or failing or refusing to obey any lawful order issued by any state, county, or municipal health officer pursuant to the authority granted in this part 4 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

**SECTION 431.** 25-4-408, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-408. Distribution of information.** The department of PUBLIC health AND ENVIRONMENT shall prepare for free distribution among the residents of the state printed information and instructions concerning the dangers from venereal diseases, their prevention, and the necessity for treatment. It is the duty of every physician

who, during the course of an examination, discovers the existence of a venereal disease or who treats a person for venereal disease to instruct him in measures for preventing the spread of such disease, to inform him of the necessity for treatment until cured, and to hand him a copy of the circular of information regarding venereal disease from the department of PUBLIC health AND ENVIRONMENT.

**SECTION 432.** 25-4-501, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-501. Tuberculosis declared to be an infectious and communicable disease.** It is hereby declared that tuberculosis is an infectious and communicable disease, that it endangers the population of this state, and that the treatment and control of said disease is a state responsibility. To the end that tuberculosis may be brought better under control, it is further declared that it is the duty of the department of PUBLIC health AND ENVIRONMENT to conduct an active program of hospitalization and treatment of persons suffering from said disease.

**SECTION 433.** 25-4-502 (1) and (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-4-502. Tuberculosis to be reported.** (1) Every attending physician in this state shall make a report to the department of PUBLIC health AND ENVIRONMENT in accordance with the provisions of section 25-1-122 (1) on every person known by said physician to have tuberculosis after such fact comes to the knowledge of said physician.

(2) Any hospital, dispensary, asylum, or other similar private or public institution in this state shall make a report to the department of PUBLIC health AND ENVIRONMENT in accordance with the provisions of section 25-1-122 (1) on every patient having tuberculosis who comes into the care or the observation of the hospital.

**SECTION 434.** 25-4-503, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-503. Examination of sputum.** The chief medical health officer of a county, city and county, town, or city, when so requested by any physician or by the authorities of any hospital or dispensary, shall make or cause to be made a microscopical examination of the sputum or other bodily excretion or discharge forwarded to him as that of a person having symptoms of tuberculosis. The specimen shall be forwarded to such officer in a package supplied by the department of PUBLIC health AND ENVIRONMENT, accompanied by forms having spaces for the name, age, sex, race, occupation, place where person was last employed if known, and address of the person on whom reported. Said officer shall promptly make a report of the result of such examination free of charge to the physician or person upon whose application the same is made. The examination provided for in this section shall be made by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 435.** 25-4-504, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-504. Statistical case register.** The chief medical health officer of a county,

city and county, town, or city shall cause all reports made in accordance with the provisions of section 25-4-502 and all results of examinations showing the presence of the bacilli of tuberculosis made in accordance with the provisions of section 25-4-503 to be recorded in a register to be furnished by the department of PUBLIC health AND ENVIRONMENT, of which he shall be the custodian and a copy of which he shall transmit quarterly to the department of PUBLIC health AND ENVIRONMENT. Such register shall not be opened to inspection by any person other than the health authorities of the state and of the said county, city and county, town, or city, and said health authorities shall not permit any such report or record to be divulged so as to disclose the identity of the person to whom it relates, except as may be necessary to carry into effect the provisions of this part 5. All forms, vouchers, registers, and receptacles required by this part 5 shall be furnished by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 436.** 25-4-505, Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-4-505. Laboratories to report.** (1) All bacteriological laboratories and pathological laboratories rendering diagnostic service shall report to the department of PUBLIC health AND ENVIRONMENT, within twenty-four hours after diagnosis, the full name and other available data relating to the person whose sputa, gastric contents, or other specimens submitted for examination reveal the presence of tubercule bacilli. Such report shall include the name and address of the physician or any other person or agency referring such positive specimen for clinical diagnosis.

(2) All reports and records of clinical or laboratory examination for or indicating the presence of tuberculosis shall be confidential and recorded in a register maintained by the department of PUBLIC health AND ENVIRONMENT as provided in section 25-4-504.

**SECTION 437.** 25-4-508, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-508. Inspection of records.** Authorized personnel of the department of PUBLIC health AND ENVIRONMENT may inspect and have access to all medical records of all medical practitioners, hospitals, institutions, and clinics, both public and private, where tuberculosis patients are treated and shall provide consultation services to officers of state educational, correctional, and medical institutions regarding the control of tuberculosis and the care of patients or inmates having tuberculosis.

**SECTION 438.** 25-4-511 (1) (a), the introductory portion to 24-4-511 (2), and 25-4-511 (3), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-4-511. Duties of the state board of health and the department of public health and environment.** (1) (a) With respect to the tuberculosis program provided for in section 25-4-501, the state board of health is authorized to adopt such rules and regulations as are deemed necessary, appropriate, and consistent with good medical practice in the state of Colorado, in order to insure adequate hospitalization and treatment of tubercular patients. The state board is further authorized to establish criteria to be considered by the executive director of the department of PUBLIC health AND ENVIRONMENT in determining the eligibility of persons applying for assistance

under the program provided for in section 25-4-501.

(2) The executive director of the department of PUBLIC health AND ENVIRONMENT, with respect to the tuberculosis program provided for in section 25-4-501, shall:

(3) The department of PUBLIC health AND ENVIRONMENT shall cooperate with the state and local medical societies, other state and local medical organizations, the secretary of the United States department of health, education, and welfare, or any other agency of the United States government in order to qualify for and procure the aid of the federal government in caring for tuberculosis patients under the program provided for in section 25-4-501. The department of PUBLIC health AND ENVIRONMENT shall make such applications and submit such reports as may be required by agencies of the federal government.

**SECTION 439.** 25-4-601 (4), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-601. Definitions.** As used in this part 6, unless the context otherwise requires:

(4) "Inoculation against rabies" means the administration of the antirabies vaccine as approved by the department of PUBLIC health AND ENVIRONMENT OR THE COUNTY OR DISTRICT DEPARTMENT OF HEALTH.

**SECTION 440.** 25-4-604, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-604. Animal attacking or biting person to be confined - examination.** The health department or health officer shall serve notice upon the owner of a dog, cat, other pet animal, or other mammal which has attacked or bitten a person to confine the animal at the expense of the owner upon his premises or at a pound or other place designated in the notice for a period designated by the department of PUBLIC health AND ENVIRONMENT. The health department, health officer, or his representative shall be permitted by the owner of such dog, cat, other pet animal, or other mammal to examine the animal at any time within the period of confinement to determine whether such animal shows symptoms of rabies. No person shall obstruct or interfere with the authorized person in making such examination.

**SECTION 441.** 25-4-605, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-605. Animals bitten by animals known or suspected of having rabies to be confined.** The health department or health officer shall serve notice in writing upon the owner of a dog, cat, other pet animal, or other mammal known to have been bitten by an animal known or suspected of having rabies requiring the owner to immediately treat and confine such animal by procedures outlined by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 442.** 25-4-606, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-606. Animals to be confined to prevent spread of rabies.** Whenever the board of health of a health department or the county board of health has reason to believe or has been notified by the department of PUBLIC health AND ENVIRONMENT that there is imminent danger that rabies may spread within that county or district, such board shall serve public notice by publication in a newspaper of general circulation in such county or district covered by such department requiring the owners of dogs, cats, other pet animals, or other mammals specified to confine such dogs, cats, pet animals, or mammals for such period as may be necessary to prevent the spread of rabies in such county or district.

**SECTION 443.** 25-4-611, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-611. Report to state department.** Each health department or health officer shall furnish information to the department of PUBLIC health AND ENVIRONMENT concerning all cases of rabies and the prevalence of rabies within the county at any time such information is requested by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 444.** 25-4-613, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-613. Liability for accident or subsequent disease from inoculation.** The health departments, their assistants and employees, the department of PUBLIC health AND ENVIRONMENT, health officers, or anyone enforcing the provisions of this part 6 shall not be held responsible for any accident or subsequent disease that may occur in connection with the administration of this part 6.

**SECTION 445.** 25-4-701 (3), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-701. Definitions.** As used in this part 7, unless the context otherwise requires:

(3) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 446.** 25-4-802 (1), (3), and (4), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-4-802. Tests for metabolic defects.** (1) It is the duty of either the chief medical staff officer or other person in charge of each institution caring for newborn infants or, if a newborn infant is not born in an institution or is discharged therefrom prior to the time prescribed for the taking of the specimen designated in this section, the person responsible for the signing of the birth certificate of such child to cause to be obtained from every such infant a specimen of the type designated by the state board of health, which specimen shall be forwarded to the department of PUBLIC health AND ENVIRONMENT or other laboratory approved by it for testing for phenylketonuria and testing for such other metabolic defects which may be prescribed from time to time by the state board of health to be conducted with respect to such specimen.

(3) The performance of such tests and the reporting of results shall be done at such times and places and in such manner as may be prescribed by the department of PUBLIC health AND ENVIRONMENT.

(4) It is the duty of the department of PUBLIC health AND ENVIRONMENT to contact as soon as possible all cases suspected of having any such disorders or defects and to do any additional testing required to confirm or disprove the suspected disorder or defect.

**SECTION 447.** 25-4-803 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-803. Rules and regulations.** (2) The department of PUBLIC health AND ENVIRONMENT shall furnish all physicians, public health nurses, hospitals, maternity homes, ~~and~~ COUNTY departments of social services, AND THE STATE DEPARTMENT OF HUMAN SERVICES available medical information concerning the nature and effects of phenylketonuria and other metabolic disorders and defects found likely to cause mental retardation.

**SECTION 448.** 25-4-902, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-902. Immunization prior to attending school.** Except as provided in section 25-4-903, no child shall attend any school in the state of Colorado on or after the dates specified in section 25-4-906 (4) unless such child can present to the appropriate official of the school a certificate of immunization from a licensed physician or authorized representative of the department of PUBLIC health AND ENVIRONMENT or local health department stating that such child has received immunization against communicable diseases as specified by the state board of health or a written authorization signed by one parent or guardian or the emancipated child requesting that local health officials administer the immunizations or a plan signed by one parent or guardian or the emancipated child for receipt by the child of the required inoculation or the first or the next required of a series of inoculations within thirty days.

**SECTION 449.** 25-4-902.5 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-902.5. Immunization prior to attending a college or university.**  
(1) Except as provided in section 25-4-903, no student shall attend any college or university in the state of Colorado on or after the dates specified in section 25-4-906 (4) unless such student can present to the appropriate official of the school a certificate of immunization from a licensed physician or authorized representative of the department of PUBLIC health AND ENVIRONMENT or local health department stating that such student has received immunization against communicable diseases as specified by the state board of health or a written authorization signed by one parent or guardian or the emancipated student or the student eighteen years of age or older requesting that local health officials administer the immunizations or a plan signed by one parent or guardian or the emancipated student or the student eighteen years of age or older for receipt by the student of the required inoculation or the first or the next required of a series of inoculations within thirty days.

**SECTION 450.** 25-4-904 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-904. Rules and regulations - immunization rules - rule-making authority of state board of health.** (1) The state board of health shall establish rules and regulations for administering this part 9. Such rules and regulations shall establish which immunizations shall be required and the manner and frequency of their administration and shall conform to recognized standard medical practices. Such rules and regulations may also require the reporting of statistical information and names of noncompliers by the schools. The department of PUBLIC health AND ENVIRONMENT shall administer and enforce the immunization requirements.

**SECTION 451.** 25-4-905, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-905. Immunization of indigent children.** The local health department, a public health or school nurse (under the supervision of a licensed physician), or the department of PUBLIC health AND ENVIRONMENT in the absence of a local health department or public health nurse shall provide, at public expense to the extent that funds are available, immunizations required by this part 9 to each child whose parents or guardians cannot afford to have the child immunized or, if emancipated, who cannot himself afford immunization and who has not been exempted. The department of PUBLIC health AND ENVIRONMENT shall provide all vaccines necessary to comply with this section as far as funds will permit. Nothing in this section shall preclude the department of PUBLIC health AND ENVIRONMENT from distributing vaccines to physicians or others as required by law or the regulations of the department. No indigent child shall be excluded, suspended, or expelled from school unless the immunizations have been available and readily accessible to the child at public expense.

**SECTION 452.** 25-4-906 (1) and (3), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-4-906. Certificate of immunization - forms.** (1) The department of PUBLIC health AND ENVIRONMENT shall provide official certificate of immunization forms to the schools, private physicians, and local health departments. Any immunization record provided by a licensed physician, registered nurse, or public health official may be accepted by the school official as certification of immunization if the information is transferred to the official certificate of immunization and verified by the school official.

(3) The department of PUBLIC health AND ENVIRONMENT may examine, audit, and verify the records of immunizations maintained by each school.

**SECTION 453.** 25-4-907 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-907. Noncompliance.** (2) In the event of suspension or expulsion of a student, school officials shall notify the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT OR LOCAL DEPARTMENT OF HEALTH. An agent of ~~the~~ SAID department shall then contact the parent or guardian or the emancipated student or

student eighteen years of age or older in an effort to secure compliance with this part 9 in order that the student may be reenrolled in school.

**SECTION 454.** 25-4-908, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-908. When exemption from immunization not recognized.** If at any time there is, in the opinion of the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT OR LOCAL DEPARTMENT OF HEALTH, danger of an epidemic from any of the communicable diseases for which an immunization is required pursuant to the rules and regulations promulgated pursuant to section 25-4-904, no exemption or exception from immunization against such disease shall be recognized. Quarantine by the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT OR LOCAL DEPARTMENT OF HEALTH is hereby authorized as a legal alternative to immunization.

**SECTION 455.** The introductory portions to 25-4-1003 (1) and (2) and 25-4-1003 (2) (e), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-4-1003. Powers and duties of executive director - newborn screening programs - genetic counseling and education programs.** (1) The executive director of the department of PUBLIC health AND ENVIRONMENT shall have the authority to:

(2) The executive director of the department of PUBLIC health AND ENVIRONMENT shall comply with the following provisions:

(e) All information gathered by the department of PUBLIC health AND ENVIRONMENT, or by other agencies, entities, and individuals conducting programs and projects on newborn screening and genetic counseling and education, other than statistical information and information which the individual allows to be released through his informed consent, shall be confidential. Public and private access to individual patient data shall be limited to data compiled without the individual's name.

**SECTION 456.** 25-4-1004 (1) (b) and (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-4-1004. Newborn screening.** (1) (b) On or after April 1, 1989, all infants born in the state of Colorado shall be tested for the following conditions: Phenylketonuria, hypothyroidism, abnormal hemoglobins, galactosemia, homocystinuria, maple syrup urine disease, cystic fibrosis, biotinidase deficiency, and such other conditions as the board of health may determine meet the criteria set forth in paragraph (c) of this subsection (1). Appropriate specimens for such testing shall be forwarded by the hospital in which the child is born to the laboratory operated or designated by the department of PUBLIC health AND ENVIRONMENT for such purposes. The physician, nurse, midwife, or other health professional attending a birth outside a hospital shall be responsible for the collection and forwarding of such specimens. The results of the testing shall be forwarded directly to the physician or other primary health care provider for the provision of such information to the parent or parents of the child. The board of health may discontinue testing for any condition listed in this paragraph (b) if, upon consideration of criteria set forth in paragraph (c) of this

subsection (1), the board finds that the public health is better served by not testing infants for that condition. The health department shall submit a report to the house and senate health, environment, welfare, and institutions committees on or before January 15, 1993, concerning the newborn screening program. Such report shall include the history of the newborn screening program and criteria used for the addition or deletion of tests utilized under this section.

(2) The executive director of the department of PUBLIC health AND ENVIRONMENT shall assess a fee which is sufficient to cover the costs of such testing and to accomplish the other purposes of this part 10. Hospitals shall assess a reasonable fee to be charged the parent or parents of the infant to cover the costs of handling the specimens, the reimbursement of laboratory costs, and the costs of providing other services necessary to implement the purposes of this part 10.

**SECTION 457.** 25-4-1101 (5) and (6), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-4-1101. Definitions.** As used in this part 11, unless the context otherwise requires:

(5) "Department" means the department of PUBLIC health AND ENVIRONMENT.

(6) "Director" means the executive director of the department of PUBLIC health AND ENVIRONMENT.

**SECTION 458.** The introductory portion to 25-4-1201 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-1201. Powers and duties of executive director.** (1) The executive director of the department of PUBLIC health AND ENVIRONMENT shall have the authority to:

**SECTION 459.** 25-4-1202 (1) and (3), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-4-1202. Streptococcus cash fund.** (1) The executive director of the department of PUBLIC health AND ENVIRONMENT shall establish the fees to be collected for any streptococcus culture test performed by the department.

(3) (a) The executive director of the department of PUBLIC health AND ENVIRONMENT shall propose, as part of the annual budget request of the department of PUBLIC health AND ENVIRONMENT, an adjustment in the amount of the fee for the streptococcus culture test which the department is authorized by law to collect. The budget request and the adjusted fees for the streptococcus culture test shall reflect direct and indirect costs.

(b) Based upon the appropriation made by the general assembly, the executive director of the department of PUBLIC health AND ENVIRONMENT shall adjust the streptococcus fee so that the revenue generated from said fee approximates the department's direct and indirect costs. Such fee shall remain in effect for the fiscal year for which the budget request applies.

(c) Beginning July 1, 1984, and each July 1 thereafter, whenever moneys appropriated to the department of PUBLIC health AND ENVIRONMENT for its activities pursuant to this part 12 for the prior fiscal year are unexpended, said moneys shall be made a part of the appropriation to the department for the next fiscal year, and such amount shall not be raised from fees collected by such department. If a supplemental appropriation is made to the department for such activities, the streptococcus fee of the department, when adjusted for the fiscal year next following the year in which the supplemental appropriation was made, shall be adjusted by an additional amount which is sufficient to compensate for such supplemental appropriation. Moneys to be appropriated annually to the department in the general appropriation bill for the purposes of this part 12 shall be designated as cash funds and shall not exceed the amount anticipated to be raised from such fee collected by the department.

**SECTION 460.** 25-4-1302 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-1302. Definitions.** As used in this part 13, unless the context otherwise requires:

(2) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 461.** 25-4-1402 (1), (2), and (6), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-4-1402. Reports of HIV infection.** (1) Every attending physician in this state shall make a report to the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT OR LOCAL DEPARTMENT OF HEALTH, in a form and within a time period designated by the state department of PUBLIC health AND ENVIRONMENT, on every individual known by said physician to have a diagnosis of AIDS, HIV-related illness, or HIV infection, including death from HIV infection.

(2) All other persons treating a case of HIV infection in hospitals, clinics, sanitariums, penal institutions, and other private or public institutions shall make a report to the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT OR LOCAL DEPARTMENT OF HEALTH, in a form and within a time period designated by the state department of PUBLIC health AND ENVIRONMENT, on every individual having a diagnosis of AIDS, HIV-related illness, or HIV infection, including death from HIV infection.

(6) Any person who in good faith complies completely with this part 14 shall be immune from civil and criminal liability for any action taken in compliance with the provisions of this part 14. Compliance by a physician with the reporting requirements of this part 14 and with any regulations promulgated by the state department of PUBLIC health AND ENVIRONMENT relating thereto shall fulfill any duty of such physician to a third party.

**SECTION 462.** 25-4-1402.5 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-1402.5. Exemption from reporting.** (1) The reporting of the name, address, date of birth, or sex of research subjects with AIDS, HIV-related illness, or

HIV infection to the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT OR LOCAL DEPARTMENT OF HEALTH pursuant to the provisions of sections 25-4-1402 and 25-4-1403 shall not be required of any researcher conducting a medical research study of HIV treatment or vaccine effectiveness or conducting basic biomedical research into the cellular mechanisms causing HIV infection or HIV-related disease pursuant to an approved research protocol. For the purposes of the research exemption authorized in this section, "approved research protocol" means any activity which has been reviewed and approved by the state board of health. The research exemption authorized in this section does not alter the reporting requirements of persons and researchers otherwise required to make reports when engaged in any treatment or testing outside the scope of or prior to enrollment in an approved research protocol. The research exemption authorized in this section does not alter the reporting requirement of persons otherwise required to make reports when engaged in any treatment or testing outside the scope of a research protocol and such exemption does not exempt the researcher from reporting other reportable diseases. The research exemption authorized in this section does not exempt medical researchers from meeting the requirements of section 25-4-1405 (5) to provide post-test counseling to infected enrolled research subjects and referral of such subjects to THE state DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT or local ~~departments~~ DEPARTMENT of health for partner notification services.

**SECTION 463.** 25-4-1403, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-1403. Reports of positive HIV tests.** All laboratories or persons performing laboratory tests for HIV shall report to the state department of PUBLIC health AND ENVIRONMENT or appropriate local department of health, in a form and within a time period designated by the state department of PUBLIC health AND ENVIRONMENT, the name, date of birth, sex, and address of any individual whose specimen submitted for examination tests positive for HIV as defined by the state board of health. Such report shall include the test results and the name and address of the attending physician and any other person or agency referring such positive specimen for testing.

**SECTION 464.** The introductory portions to 25-4-1404 (1) and (1) (d) and 25-4-1404 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-4-1404. Use of reports.** (1) The public health reports required to be submitted by sections 25-4-1402 and 25-4-1403 and records resulting from compliance with section 25-4-1405 (1) and held by the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT, ANY LOCAL DEPARTMENT OF HEALTH, or any health care provider or facility, third-party payor, physician, clinic, laboratory, blood bank, or other agency shall be strictly confidential information. Such information shall not be released, shared with any agency or institution, or made public, upon subpoena, search warrant, discovery proceedings, or otherwise, except under any of the following circumstances:

(d) An officer or employee of the local DEPARTMENT OF HEALTH or state department of PUBLIC health AND ENVIRONMENT may make a report of child abuse to agencies responsible for receiving or investigating reports of child abuse or neglect in accordance with the applicable provisions of the "Child Protection Act of 1987"

set forth in part 3 of article 3 of title 19, C.R.S. However, in the event a report is made, only the following information shall be included in the report:

(2) No officer or employee of the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT OR LOCAL DEPARTMENT OF HEALTH shall be examined in any judicial, executive, legislative, or other proceeding as to the existence or content of any individual's report retained by such department pursuant to this part 14 or as to the existence of the contents of reports received pursuant to sections 25-4-1402 and 25-4-1403 or the results of investigations in section 25-4-1405. This provision shall not apply to individuals who are under restrictive actions pursuant to section 25-4-1406 or 25-4-1407.

**SECTION 465.** The introductory portion to 25-4-1405 (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-1405. Disease control by the state department of public health and environment and local health departments.** (3) The state department of PUBLIC health AND ENVIRONMENT shall develop and implement programs under which state and local health departments may perform the following tasks:

**SECTION 466.** 25-4-1406 (1), the introductory portion to 25-4-1406 (2), and 25-4-1406 (3) and (4), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-4-1406. Public health procedures for persons with HIV infection.** (1) Orders directed to individuals with HIV infection or restrictive measures on individuals with HIV infection, as described in this part 14, shall be used as the last resort when other measures to protect the public health have failed, including all reasonable efforts, which shall be documented, to obtain the voluntary cooperation of the individual who may be subject to such an order. The orders and measures shall be applied serially with the least intrusive measures used first. The burden of proof shall be on the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT OR LOCAL HEALTH DEPARTMENT to show that specified grounds exist for the issuance of the orders or restrictive measures and that the terms and conditions imposed are no more restrictive than necessary to protect the public health.

(2) When the executive director of the state department of PUBLIC health AND ENVIRONMENT or the director of the local department of health, within his respective jurisdiction, knows or has reason to believe, because of medical or epidemiological information, that a person has HIV infection and is a danger to the public health, he may issue an order to:

(3) If a person violates a cease and desist order issued pursuant to paragraph (c) of subsection (2) of this section and it is shown that the person is a danger to others, the executive director of the state department of PUBLIC health AND ENVIRONMENT or the director of the local department of health may enforce the cease and desist order by imposing such restrictions upon the person as are necessary to prevent the specific conduct which endangers the health of others. Restrictions may include required participation in evaluative, therapeutic, and counseling programs. Any restriction shall be in writing, setting forth the name of the person to be restricted and the initial period of time, not to exceed three months, during which the order shall remain

effective, the terms of the restrictions, and such other conditions as may be necessary to protect the public health. Restrictions shall be imposed in the least restrictive manner necessary to protect the public health. The executive director or the director issuing an order pursuant to this subsection (3) shall review petitions for reconsideration from the person affected by the order. Restriction orders issued by directors of local departments of health shall be submitted for review and approval of the executive director of the state department of PUBLIC health AND ENVIRONMENT.

(4) (a) Upon the issuance of any order by the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT OR THE LOCAL DEPARTMENT OF HEALTH pursuant to subsection (2) or (3) of this section, such department ~~of health~~ shall give notice promptly, personally, and confidentially to the person who is the subject of the order stating the grounds and provisions of the order and notifying the person who is the subject of the order that he has a right to refuse to comply with such order and a right to be present at a judicial hearing in the district court to review the order and that he may have an attorney appear on his behalf in said hearing. If the person who is the subject of the order refuses to comply with such order and refuses to cooperate voluntarily with the executive director of the state department of PUBLIC health AND ENVIRONMENT or the director of the local department of health, the executive director or local director may petition the district court for an order of compliance with such order. The executive director or local director shall request the district attorney to file such petition in the district court, but, if the district attorney refuses to act, the executive director or local director may file such petition and be represented by the attorney general. If an order of compliance is requested, the court shall hear the matter within ten days after the request. Notice of the place, date, and time of the court hearing shall be made by personal service or, if the person is not available, shall be mailed to the person who is the subject of the order by prepaid certified mail, return receipt requested, at his last-known address. Proof of mailing by the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT OR LOCAL DEPARTMENT OF HEALTH shall be sufficient notice under this section. The burden of proof shall be on the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT OR THE LOCAL DEPARTMENT OF HEALTH to show by clear and convincing evidence that the specified grounds exist for the issuance of the order and for the need for compliance and that the terms and conditions imposed therein are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order.

(b) If the executive director or local director does not petition the district court for an order of compliance within thirty days after the person who is the subject of the order refuses to comply, such person may petition the court for dismissal of the order. If the district court dismisses the order, the fact that such order was issued shall be expunged from the records of the state DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT or local department of health.

**SECTION 467.** 25-4-1407 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-1407. Emergency public health procedures.** (1) When the procedures of section 25-4-1406 have been exhausted or cannot be satisfied as a result of threatened criminal behavior and the executive director of the state department of PUBLIC health AND ENVIRONMENT or the director of a local department of health,

within his respective jurisdiction, knows or has reason to believe, because of medical information, that a person has HIV infection and that such person presents an imminent danger to the public health, the executive director or local director may bring an action in district court, pursuant to rule 65 of the Colorado rules of civil procedure, to enjoin such person from engaging in or continuing to engage in specific conduct which endangers the public health. The executive director or local director shall request the district attorney to file such action in the district court, but, if the district attorney refuses to act, the executive director or local director may file such action and be represented by the attorney general.

**SECTION 468.** 25-4-1409 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-1409. Penalties.** (2) Any physician or other health care provider, any officer or employee of the state department OF PUBLIC HEALTH AND ENVIRONMENT or a local department of health, or any person, firm, or corporation which violates section 25-4-1404 by releasing or making public confidential public health reports or by otherwise breaching the confidentiality requirements of said section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars, or by imprisonment in the county jail for not less than six months nor more than twenty-four months, or by both such fine and imprisonment.

**SECTION 469.** 25-4-1502 (3), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-1502. Definitions.** As used in this part 15, unless the context otherwise requires:

(3) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 470.** 25-4-1504 (1) (a), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-1504. Allocation of fund.** (1) All moneys in the fund shall be used by the department for the following purposes:

(a) The creation and development of a breast cancer screening program, undertaken by private contract for services or operated by the department, ~~of health~~, that will improve the availability of breast cancer screening and which may include the purchase, maintenance, and staffing of a truck, a van, or any other vehicle suitably equipped to perform breast cancer screening for asymptomatic women; and

**SECTION 471.** 25-4-1505 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-4-1505. Powers and duties of the department and the advisory board.** (1) The executive director of the department ~~of health~~ shall appoint an advisory board which shall recommend guidelines for the services of the program and such rules and regulations as may be necessary to effect the purposes of this part 15. Members of the advisory board shall be persons interested in health care and the

promotion of breast cancer screening drawn from both the private and public sectors. The board of health shall have the authority to approve recommendations of the advisory board and the authority to promulgate rules and regulations recommended by the advisory board.

**SECTION 472.** 25-4-1602 (1) and (4), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-4-1602. Definitions.** As used in this part 16, unless the context otherwise requires:

(1) "Department" means the department of PUBLIC health AND ENVIRONMENT and its employees.

(4) "Inspection" means an inspection of a retail food establishment conducted by the department or local board of health to ensure compliance by such retail food establishment with the sanitary standards promulgated by the department of PUBLIC health AND ENVIRONMENT pursuant to this part 16, and for which a fee is paid by such retail food establishment.

**SECTION 473.** 25-4-1603, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-1603. Department of public health and environment - inspection and regulatory agency.** For the purpose of regulating and controlling retail food establishments, establishing sanitary conditions therein, and ~~the enforcement~~ ENFORCING and ~~administration of~~ ADMINISTERING the provisions of this part 16, the department is hereby authorized to act as the state regulatory and inspection agency.

**SECTION 474.** 25-4-1703 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-1703. Definitions.** As used in this part 17, unless the context otherwise requires:

(2) "Department" means the state department of PUBLIC health AND ENVIRONMENT.

**SECTION 475.** The introductory portion to 25-4-1705 (5) and 25-4-1705 (5) (b) and (5) (e) (IV), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-4-1705. Department of public health and environment - powers and duties.** (5) The board of health, in consultation with the MEDICAL SERVICES BOARD IN THE state department of ~~social services~~ HEALTH CARE POLICY AND FINANCING, and such other persons, agencies, or organizations that the board of health deems advisable, shall formulate, adopt, and promulgate rules and regulations governing the implementation and operation of the infant immunization program. Such rules shall address the following:

(b) Requirements that providers, hospitals, and health care clinics must meet before entering into a contract with the department, ~~of health~~, making such provider,

hospital, or clinic an agent of the department ~~of health~~ for the purposes of the infant immunization program;

(e) The gathering of epidemiological information, including the establishment of a comprehensive immunization tracking system. Records containing epidemiological information shall be strictly confidential and shall not be released, shared with any agency or institution, or made public, except under the following circumstances:

(IV) No officer or employee or agent of the state ~~or local~~ department of PUBLIC health AND ENVIRONMENT OR LOCAL DEPARTMENT OF HEALTH shall be examined in any judicial, executive, legislative, or other proceeding as to the existence or content of any infant's report obtained by such department without consent of the infant's parent. However, this provision shall not apply to infants who are under isolation, quarantine, or other restrictive action taken pursuant to section 25-1-107 (1) (b).

**SECTION 476.** 25-4-1708 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-4-1708. Fund created.** (1) There is hereby established in the state treasury a fund to be known as the infant immunization fund, which fund shall be subject to annual appropriation to the department of PUBLIC health AND ENVIRONMENT by the general assembly for the purpose of purchasing vaccines and implementing, developing, and operating the infant immunization program. The fund shall be credited with such appropriations as the general assembly may make from the general fund for the infant immunization program, any gifts, grants, or awards received pursuant to section 25-4-1705 (6), and moneys received from the state department of ~~social services~~ HEALTH CARE POLICY AND FINANCING as reimbursement pursuant to section 25-4-1707. All income from the investment of moneys in the fund shall be credited to the fund.

**SECTION 477.** 25-5-202 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Department" means the department of PUBLIC health AND ENVIRONMENT of the state of Colorado.

**SECTION 478.** 25-5-305 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-5-305. Disinfection.** (1) No person engaged in manufacturing, remaking, or renovating bedding for sale or distribution shall use any previously used material which since last used has not been disinfected by a method approved by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 479.** 25-5-309 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-5-309. Administered by department.** (1) The department of PUBLIC health

AND ENVIRONMENT is charged with the administration and enforcement of this part 3.

**SECTION 480.** 25-5-314, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-5-314. Enforcement.** The department of PUBLIC health AND ENVIRONMENT shall enforce this part 3 upon complaint or upon request by a consumer. The department of PUBLIC health AND ENVIRONMENT, as often as necessary, may inspect any place where bedding is made, remade, renovated, or sold or where material is disinfected under this part 3. If the department has reason to believe that any article of bedding is not tagged as required by this part 3, the department has the authority to open the same and examine the materials therein to determine if said filling is as stated on said tag; except that, in opening such bedding, the department shall use reasonable means not to damage the same or destroy the value thereof. The department also has the power to examine any purchase records necessary to determine definitely the kind of material used in said bedding, and the department has the power to seize and hold for evidence any article or material therein possessed or offered for sale contrary to this part 3. The department of PUBLIC health AND ENVIRONMENT may thereafter commence an action against any violator pursuant to section 25-5-316.

**SECTION 481.** 25-5-316, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-5-316. Penalty for violation.** Any person who violates any provision of this part 3 shall be subject to a civil penalty of not more than one thousand dollars. Such penalty shall be determined and collected by the district court for the judicial district in which such violation occurs upon an action instituted by the department of PUBLIC health AND ENVIRONMENT. In determining the amount of any such penalty, the court shall take into account the seriousness of the violation, whether the violation was willful or due to a mistake, the economic impact of the penalty upon the violator, and any other relevant factors. All penalties collected pursuant to this section shall be transmitted to the state treasurer and credited to the general fund. The court may also order that the violator pay any court costs of such action, and the court may order that the violator pay restitution to any person damaged by such violation. Any person damaged by a violation of this part 3 may maintain a civil suit for damages against any violator responsible for such damages.

**SECTION 482.** 25-5-317, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5-317. Rules and regulations.** The department of PUBLIC health AND ENVIRONMENT shall have the right to promulgate rules and regulations deemed necessary for the proper enforcement of this part 3 and not inconsistent therewith.

**SECTION 483.** 25-5-402 (7), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5-402. Definitions.** As used in this part 4, unless the context otherwise requires:

(7) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 484.** 25-5-502 (5) and (7), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-5-502. Definitions.** As used in this part 5, unless the context otherwise requires:

(5) "Department" means the department of PUBLIC health AND ENVIRONMENT.

(7) "Executive director" means the executive director of the department of PUBLIC health AND ENVIRONMENT.

**SECTION 485.** 25-5-802, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5-802. Submission of plans and specifications.** Prior to the construction, extension, enlarging, remodeling, or modification of a swimming area, the plans and specifications for the work to be done shall be submitted for review and recommendation to the department of PUBLIC health AND ENVIRONMENT by the owner of the swimming area. The department of PUBLIC health AND ENVIRONMENT may direct that such plans and specifications be submitted to the municipality or other political subdivision in which the swimming area is or may be located rather than to the department of PUBLIC health AND ENVIRONMENT. This section does not prohibit any municipality from requiring that the plans also be submitted to the proper authority of the municipality.

**SECTION 486.** 25-5-806, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5-806. Inspection.** All swimming areas shall be open to inspection at any time they are in use and at any other reasonable time by agents of the department of PUBLIC health AND ENVIRONMENT.

**SECTION 487.** 25-5-807, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5-807. Injunctive relief.** The operation of a swimming area in violation of any provision of this part 8 may be restrained by the executive director of the department of PUBLIC health AND ENVIRONMENT; by any city, county, city and county, or district health officer; or by any of their authorized agents in an action brought in a court of competent jurisdiction pursuant to the Colorado rules of civil procedure.

**SECTION 488.** 25-5-810, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5-810. Rules and regulations.** The department of PUBLIC health AND ENVIRONMENT may adopt any rules and regulations necessary for the proper administration and enforcement of this part 8.

**SECTION 489.** 25-5-1003 (3), Colorado Revised Statutes, 1989 Repl. Vol., as

amended, is amended to read:

**25-5-1003. Definitions.** As used in this part 10, unless the context otherwise requires:

(3) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 490.** 25-5.5-101 (6), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5.5-101. Definitions.** As used in this part 1, unless the context otherwise requires:

(6) "Department" means the department of PUBLIC health AND ENVIRONMENT or its authorized representative.

**SECTION 491.** 25-5.5-203 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5.5-203. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Department" means the department of PUBLIC health AND ENVIRONMENT or its authorized representative.

**SECTION 492.** 25-5.5-302 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-5.5-302. Definitions.** As used in this part 3, unless the context otherwise requires:

(2) "Department" means the department of PUBLIC health AND ENVIRONMENT or its authorized representative.

**SECTION 493.** 25-6-103, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-6-103. Department of public health and environment - powers and duties.** The department of PUBLIC health AND ENVIRONMENT is authorized to receive and disburse such funds as may become available to it for family planning programs to any organization, public or private, engaged in providing contraceptive procedures, supplies, and information. Any family planning program administered by the department of PUBLIC health AND ENVIRONMENT shall be developed in consultation and coordination with other family planning agencies in this state, including but not limited to the department of ~~social services~~ HUMAN SERVICES.

**SECTION 494.** 25-7-103 (9), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-7-103. Definitions.** (9) "Division" means the division of administration of the department of PUBLIC health AND ENVIRONMENT.

**SECTION 495.** 25-7-104 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-7-104. Air quality control commission created.** (1) There is hereby created in the department of PUBLIC health AND ENVIRONMENT the air quality control commission, which shall consist of nine citizens of this state who shall be appointed by the governor with the consent of the senate.

**SECTION 496.** 25-7-106.8 (1) (c) and (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-7-106.8. Colorado clean vehicle fleet program.** (1) As used in this section, unless the context otherwise requires:

(c) "Covered fleet" means ten or more motor vehicles each of which has a valid certificate of registration issued by the department of revenue to a person or governmental entity whose address of record on such certificate is within the boundaries of the Denver-Boulder carbon monoxide nonattainment area and any governmental entity whose address of record on a valid certificate of registration issued by the department of revenue is outside the boundaries of the Denver-Boulder carbon monoxide nonattainment area which has made application to the department of PUBLIC health AND ENVIRONMENT for inclusion in the program. In determining the number of vehicles owned or operated by a person or governmental entity for purposes of this program, all motor vehicles owned, operated, leased, or otherwise controlled by such person or governmental entity shall be treated as owned by such person or governmental entity. The term "covered fleet" shall not include motor vehicles held for lease or rental to the general public, motor vehicles held for sale by motor vehicle dealers, including demonstration vehicles, motor vehicles used for motor vehicle manufacturer product evaluations or tests, law enforcement and other emergency vehicles, or nonroad vehicles, including farm and construction vehicles.

(2) There is hereby created under the air quality control commission within the department of PUBLIC health AND ENVIRONMENT the Colorado clean vehicle fleet program, which is established for the purpose of implementing the alternative fuel fleet program mandated by Title I, Part D and Title II, Part C of the federal act, as may be amended from time to time, to reduce carbon monoxide emissions, and brown cloud pollutants, and to provide economic and energy security benefits to the state of Colorado from the use of alternative fuels.

**SECTION 497.** 25-7-106.9 (1) (a) and (1) (e) (I), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-7-106.9. Alternative fuels financial incentive program.** (1) (a) There is hereby established an alternative fuels financial incentive program under the air quality control commission within the department of PUBLIC health AND ENVIRONMENT for the purpose of promoting the conversion of motor vehicles to the use of alternative fuels and to promote the purchase of such vehicles in Colorado. Financial incentives may include rebates, loans, grants, or any other form of financial incentive established by the commission for the purposes of the program. The commission shall promulgate rules and regulations which are necessary to implement the program. Any rebate granted under the financial incentive program shall be

limited to fifty percent of the cost of vehicle conversion or of an original equipment manufacturer's fuel system option which results in the conversion of such vehicle to the use of clean-burning alternative fuel. The commission shall promulgate rules and regulations which are necessary to implement the program, and assure there will be no duplication of rebates or tax credits that may be offered under any other incentive program.

(e) (I) The department of PUBLIC health AND ENVIRONMENT may solicit and accept gifts, donations, and grants for any purpose connected with the alternative fuel financial incentive program. Subject to legislative appropriation, the department of PUBLIC health AND ENVIRONMENT shall have the power to direct the disposition of such property so given for any purpose consistent with the terms and conditions under which such gift, donation, or grant was made.

**SECTION 498.** 25-7-109.2 (3) (d) and (4), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-7-109.2. Small business stationary source technical and environmental compliance assistance program.** (3) The panel shall consist of:

(d) One member appointed by the executive director of the department of PUBLIC health AND ENVIRONMENT to represent such department.

(4) The terms of those members of the panel initially appointed by the governor, the speaker of the house of representatives, and the minority leader of the house of representatives shall expire on January 31, 1994. The terms of those members initially appointed by the president of the senate, the minority leader of the senate, and the executive director of the department of PUBLIC health AND ENVIRONMENT shall expire on January 31, 1995. Thereafter, members of the panel shall serve for terms of two years, such terms to commence on February 1 of the year of appointment. Vacancies occurring during the term of office of any member of the panel shall be filled for the unexpired portion of the regular term in the same manner as for the original appointment.

**SECTION 499.** 25-7-109.3 (4) (h) (I) (A) and (4) (h) (II), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-7-109.3. Colorado hazardous air pollutant control and reduction program.** (4) (h) **Temporary exceptional authority.** (I) (A) This subparagraph (I) shall apply until such time as the commission is authorized to act pursuant to paragraph (a) of this subsection (4). If the executive director of the department of PUBLIC health AND ENVIRONMENT finds that a source in a category or subcategory of sources listed or proposed to be listed under section 112 of the federal act for which MACT or GACT is not scheduled for proposal until after 1997 and presents an unacceptable threat of actual health effects, then the executive director may direct the commission to evaluate and, as necessary, study such actual health effects. The commission may request the air quality science advisory board to evaluate and, as necessary, study whether the impacts of waiting to regulate the emissions of hazardous air pollutants from this source present an unacceptable threat of actual health effects. If, after considering an advisory opinion issued by the board and other available information, the commission finds by a preponderance of the evidence that

waiting until the source would be required to install GACT or MACT under section 112 of the federal act will cause an unacceptable incremental threat of actual health effects to persons living in the vicinity of such source, the commission may promulgate regulations for the control of hazardous air pollutants for the source. The control regulations may include the least restrictive control that will adequately protect the public, including but not limited to: Chemical substitution, pollution prevention, work process modifications, additional control technologies, or Colorado MACT or GACT. In promulgating Colorado GACT or MACT for the source, the commission shall consider and be as consistent as possible with GACT or MACT under section 112 of the federal act, minimization of duplicative capital expenditures and minimization of substantial reconstruction time. The commission shall provide a schedule of compliance leading to final compliance which considers matters identified in paragraphs (b), (c), (e), (f), and (g) of this subsection (4).

(II) Until such time as the commission is authorized to act pursuant to paragraph (a) of this subsection (4) and upon the recommendation of the executive director of the department of PUBLIC health AND ENVIRONMENT, the governor may find, as expressed in an executive order, that after an existing source has installed Colorado or federal MACT or GACT, or Colorado MACT or GACT has been proposed for a new source or a modification of an existing source, the source presents an unacceptable threat of actual health effects. The governor may then direct the commission to evaluate and, as necessary, conduct studies on actual health effects. The commission shall then direct the air quality science advisory board to render an advisory opinion on such information and on whether, after technology-based controls have been installed, emissions of hazardous air pollutants from this source will cause actual health effects to persons in the vicinity of such source. If the commission, after reviewing the advisory opinion, determines by a preponderance of the evidence that emissions of hazardous air pollutants by the source will cause an unacceptable threat of actual health effects to persons living in the vicinity of such source, the commission may then promulgate additional technology-based control regulations, pollution prevention, or health-based measures to protect the public health. The commission shall provide a schedule of compliance leading to final compliance which considers matters identified in paragraphs (b), (c), (e), (f), and (g) of this subsection (4).

**SECTION 500.** 25-7-111 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-7-111. Administration of air quality control programs.** (1) The division shall administer and enforce the air quality control programs adopted by the commission. In furtherance of such responsibility of the division, the executive director of the department of PUBLIC health AND ENVIRONMENT shall establish within the division a separate air quality control agency, the head of which shall be a registered professional engineer or shall have a graduate degree in engineering or other specialty dealing with the problems of air quality control. Such person shall also have appropriate practical and administrative experience related to air quality control. Such person shall not be the technical secretary employed pursuant to section 25-7-105 (3). Any potential conflict of interest of such person shall be adequately disclosed prior to appointment and as may from time to time arise. All policies and procedures followed in the administration and enforcement of the air quality control programs which have been adopted by the commission shall be subject to supervision by the state board of health.

**SECTION 501.** 25-7-114.7 (2) (b), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-7-114.7. Emission fees - fund.** (2) (b) The moneys collected pursuant to this section shall be remitted to the state treasurer, who shall credit the same to the stationary sources control fund, which fund is hereby created. From such fund, the general assembly shall appropriate to the department of PUBLIC health AND ENVIRONMENT, at least annually, such moneys as may be necessary to cover the division's direct and indirect costs required to develop and administer the programs established pursuant to parts 1 to 4 of this article for the control of air pollution from stationary sources. Any permit fee moneys not appropriated by the general assembly and any appropriated funds not spent by the division shall remain in the stationary sources control fund and shall not revert to the general fund of the state at the end of any fiscal year. Any such moneys shall be separately accounted for and used to reduce the permit fees to be assessed against sources pursuant to this article. Until June 30, 1994, any interest earned on moneys in the stationary sources control fund pursuant to this article shall remain in the fund and shall not revert to the general fund of the state at the end of any fiscal year. Any such interest shall be separately accounted for and used to reduce the permit fees to be assessed against sources pursuant to this article. Beginning with fiscal year 1994-95 and thereafter, all interest earned on moneys in the stationary sources control fund shall revert to the general fund.

**SECTION 502.** 25-7-124 (1) and (3), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-7-124. Relationship with the federal government, regional agencies, and other states.** (1) The commission shall serve as the state agency for all purposes of the federal act and regulations promulgated under said act; except that the department of PUBLIC health AND ENVIRONMENT shall accept and supervise the administration of loans and grants from the federal government and from other sources, public or private, which are received by the state for air pollution control purposes.

(3) The department of PUBLIC health AND ENVIRONMENT may enter into agreements with any air pollution control agencies of the federal government or other states and with regional air pollution control agencies, but any such agreement involving, authorizing, or requiring compliance in this state with any ambient air quality standard or emission control regulation shall not be effective unless or until the commission has held a hearing with respect to such standard or regulation and has adopted the same in compliance with section 25-7-110.

**SECTION 503.** 25-7-125, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-7-125. Organization within the department of public health and environment.** The air quality control commission, together with the technical secretary under said commission, shall exercise its powers and perform its duties and functions specified in this article in the department of PUBLIC health AND ENVIRONMENT as if the same were transferred to the department by a **type 1** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

**SECTION 504.** 25-7-130 (1) and (2) (a) and the introductory portion to 25-7-130 (4) (a), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-7-130. Motor vehicle emission control studies.** (1) The department of PUBLIC health AND ENVIRONMENT, motor vehicle emission control section of the air pollution control division, and the department of revenue shall develop a continuing joint program for the study of the control of motor vehicle exhaust emissions, including emissions from model year 1975 and later models. Such emission control studies shall include such investigations and evaluations of existing and available motor vehicle emission control equipment and technology and the social problems, economic impacts, effectiveness, and costs involved in the use of such technology in motor vehicle emissions inspections and maintenance programs as they may jointly recommend from time to time to the governor and the general assembly.

(2) (a) The department of PUBLIC health AND ENVIRONMENT, motor vehicle emission control section of the air pollution control division, shall develop a pilot program for the purpose of testing a representative sample of motor vehicles with various vehicle emission control alternatives which may include emission testing and maintenance, air pollution control tune-up, and vehicle modification alternatives as determined by the commission.

(4) (a) The department of PUBLIC health AND ENVIRONMENT shall develop and conduct a study of methods of controlling emissions from light and heavy duty diesel-powered motor vehicles, including at least the following:

**SECTION 505.** 25-7-135 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-7-135. Fee for new automobiles with air conditioners established - fund created.** (1) There is hereby created in the state treasury an ozone protection fund, which shall consist of all fees collected pursuant to subsection (2) of this section. Any moneys in such fund shall be appropriated annually by the general assembly to the department of PUBLIC health AND ENVIRONMENT to cover the direct and indirect costs of adopting, implementing, and enforcing regulations promulgated in accordance with section 25-7-105 (11). In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the general fund. Any moneys not appropriated by the general assembly shall remain in the ozone protection fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

**SECTION 506.** 25-7-401, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-7-401. Legislative declaration.** The general assembly hereby declares that it is in the interest of the state to control, reduce, and prevent air pollution caused by wood smoke. It is therefore the intent of this part 4 to significantly reduce particulate and carbon monoxide emissions caused by burning wood by developing an evaluation and certification program, in the department of PUBLIC health AND ENVIRONMENT, for the sale of wood stoves in Colorado and by encouraging the air quality control commission to continue efforts to educate the public about the effects of wood smoke and the desirability of achieving reduced wood smoke emissions. The general

assembly hereby finds that it is beneficial to the state to implement a program of voluntary no-burn days whenever the air quality control division determines that the anticipated level of wood smoke will or is likely to have an adverse impact on the air quality in any nonattainment area in the state.

**SECTION 507.** 25-7-413 (3) (b) and (5), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-7-413. Methods for reducing wood smoke in program area.** (3) (b) On and after July 1, 1992, and in accordance with paragraph (c) of this subsection (3), the retailer shall submit to the department of revenue the conversion form along with the fee described in paragraph (a) of this subsection (3). The department of revenue shall transmit the fee to the state treasurer who shall credit the same to the wood smoke reduction fund, which fund is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly to the department of revenue to cover the direct and indirect costs of developing a conversion form in accordance with paragraph (a) of this subsection (3), tracking conversion in accordance with paragraph (a) of this subsection (3) and paragraph (b) of subsection (2) of this section, and for the department of PUBLIC health AND ENVIRONMENT to conduct a survey in connection with the implementation of a contingency plan in accordance with paragraph (d) of subsection (1) of this section; except that no moneys shall be used for conducting a survey in connection with the implementation of a contingency plan in accordance with paragraph (d) of subsection (1) of this section without specific approval by the joint budget committee. In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of this fund shall be credited to the general fund. The department of revenue, or the entity with which the department has contracted pursuant to paragraph (a) of this subsection (3), shall submit a report to the commission on the number of conversions no later than thirty days after receiving reports from retailers in accordance with paragraph (c) of this subsection (3).

(5) The executive director of the department of PUBLIC health AND ENVIRONMENT shall, no later than April 15, 1992, provide to the general assembly data supporting the effectiveness of wood-burning bans.

**SECTION 508.** 25-7-501 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-7-501. Legislative declaration.** (1) The general assembly hereby declares that it is in the interest of the general public to control the exposure of the general public to friable asbestos. It is the intent of the general assembly to ensure the health, safety, and welfare of the public by regulating the practice of asbestos abatement in locations to which the general public has access for the purpose of ensuring that such abatement is performed in a manner which will minimize the risk of release of asbestos. However, it is not the intent of the general assembly to regulate occupational health practices which are regulated pursuant to federal laws or to grant any authority to the department of PUBLIC health AND ENVIRONMENT to enter and regulate work areas where general public access is limited. It is the intent of the general assembly that the commission may adopt regulations to permit the enforcement of the national emission standards for hazardous air pollutants as set forth in 42 U.S.C.A. sec. 7412.

**SECTION 509.** 25-7-502 (5), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-7-502. Definitions.** As used in this part 5, unless the context otherwise requires:

(5) "Division" means the division of administration in the department of PUBLIC health AND ENVIRONMENT.

**SECTION 510.** 25-7-510 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-7-510. Fees.** (2) All fees collected by the division pursuant to this part 5 shall be transmitted to the state treasurer, who shall credit the same to the stationary sources control fund established pursuant to section 25-7-114.7 (2) (b). The general assembly shall appropriate to the department of PUBLIC health AND ENVIRONMENT, at least annually, from the fund, an amount sufficient to implement the provisions of this part 5.

**SECTION 511.** 25-7-602 (1) (b) (III), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-7-602. Powers and duties of the commission.** (1) The commission shall be responsible for the adoption of rules and regulations which are necessary to implement the diesel inspection program including:

(b) Issuance of the following types of certifications of emissions control by licensed diesel emission inspectors:

(III) A temporary certification of diesel smoke opacity compliance for diesel vehicles required to be repaired, if such repairs are delayed due to the unavailability of needed parts. The results of the initial smoke opacity test and final test shall be given to the owner of the diesel vehicle and reported to the department of PUBLIC health AND ENVIRONMENT.

**SECTION 512.** 25-7-602.5 (1) (a) and (3) (a), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-7-602.5. Powers and duties of the executive director of the department of public health and environment.** (1) (a) The executive director of the department of PUBLIC health AND ENVIRONMENT, referred to in this section as the "executive director", shall develop a program for the training, testing, and retesting of diesel emissions inspectors, which program may be funded by tuition charged to the participants.

(3) (a) The executive director shall continuously evaluate the diesel emissions inspection program. Such evaluation shall be based on continuing research conducted by the department of PUBLIC health AND ENVIRONMENT and other engineering data and shall include assessments of the cost-effectiveness and air pollution control effectiveness of the program.

**SECTION 513.** 25-7-605 (2) (a) (I) and (4), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-7-605. Requirements for a diesel emission-opacity inspection - licensure as diesel emissions inspection station - licensure as emissions inspector.** (2) No station shall be licensed as a diesel emissions inspection station unless the executive director finds that:

(a) The facilities of the station are of adequate size and the station is properly equipped. Such equipment shall include:

(I) A smoke opacity meter which may be owned or leased and which has been approved as being in good working order by the executive director and has been registered with the department of PUBLIC health AND ENVIRONMENT.

(4) No person shall be licensed as a diesel emissions inspector unless he has demonstrated necessary skills and competence in the performance of diesel inspection by passing a qualification test developed and administered by the executive director of the department of PUBLIC health AND ENVIRONMENT.

**SECTION 514.** 25-7-606 (3), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-7-606. Operation of diesel inspection station.** (3) A licensed diesel emissions inspection station shall charge a fee as set by the commission for the inspection of any diesel vehicle

pursuant to this section. Such fee shall be intended to encompass all costs related to the inspection, including those costs incurred by the inspection station, the department of revenue, and the department of PUBLIC health AND ENVIRONMENT. No fee which is charged pursuant to this section shall exceed forty-five dollars. Such fee shall be posted by the inspection station pursuant to regulations set by the commission.

**SECTION 515.** 25-7-608 (1) (a), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-7-608. Inclusion in the diesel inspection program.** (1) (a) Any home rule city, town, or county shall be included in the diesel inspection program set forth in this part 6 upon request by the governing body of such local government to the department of revenue and the department of PUBLIC health AND ENVIRONMENT.

**SECTION 516.** 25-7-802 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-7-802. Definitions.** As used in this part 8, unless the context otherwise requires:

(2) "Department" means the state department of PUBLIC health AND ENVIRONMENT.

**SECTION 517.** 25-8-103 (4) and (7), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-8-103. Definitions.** As used in this article, unless the context otherwise requires:

(4) "Division" means the division of administration of the department of PUBLIC health AND ENVIRONMENT.

(7) "Executive director" means the executive director of the department of PUBLIC health AND ENVIRONMENT.

**SECTION 518.** The introductory portion to 25-8-106 (1) and 25-8-106 (1) (d) and (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-8-106. Study - organizational placement of water quality control programs.** (1) The office of the governor, the department of PUBLIC health AND ENVIRONMENT, and the department of natural resources shall jointly undertake a study concerning the organizational placement and efficient conduct of the water quality control program of the state. Such study shall include an evaluation of the following parameters:

(d) The most efficient utilization of available human and fiscal resources within the department of PUBLIC health AND ENVIRONMENT and the department of natural resources to promote the protection of the state's water quality and water rights.

(2) Upon completion of the study required by subsection (1) of this section, the office of the governor, the department of PUBLIC health AND ENVIRONMENT, and the department of natural resources shall present a report to the general assembly concerning the conclusions reached. Such study shall be presented to the general assembly no later than November 1, 1992.

**SECTION 519.** 25-8-205.5 (3) (g), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-8-205.5. Pollution from agricultural chemicals.** (3) **Powers and duties of the commissioner of agriculture.** (g) The commissioner is authorized to enter into an agreement with the department of PUBLIC health AND ENVIRONMENT to assist in the identification of agricultural management areas and to perform the monitoring specified in subsection (5) of this section.

**SECTION 520.** 25-8-301 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-8-301. Administration of water quality control programs.** (1) The department of PUBLIC health AND ENVIRONMENT shall administer and enforce the water quality control programs adopted by the commission.

**SECTION 521.** 25-8-401 (4), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-8-401. Authority and procedures for hearings.** (4) Except for classification and water quality standard-setting proceedings, the commission or the department of

PUBLIC health AND ENVIRONMENT may designate a hearing officer or an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., subject to appropriations made to the department of PUBLIC health AND ENVIRONMENT. When appropriate, the hearing officer may be an employee of the department of PUBLIC health AND ENVIRONMENT or a member of or the administrator of the commission.

**SECTION 522.** 25-8-502 (1) (b) (III) and (1) (c), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-8-502. Application - definitions - fees - water quality control fund - public participation.** (1) (b) (III) All fees collected pursuant to this paragraph (b.5) shall be transmitted to the state treasurer, who shall credit the same to the water quality control fund created in paragraph (c) of this subsection (1). Moneys so collected shall be kept in a separate account in the water quality control fund and shall be annually appropriated by the general assembly to the department of PUBLIC health AND ENVIRONMENT for allocation to the division. The general assembly shall review expenditures of such moneys to assure that they are used only to fund the expenses of the industrial pretreatment program. Publicly owned treatment works with approved programs shall each be afforded the opportunity to pay a fee in lieu of an assessment upon indirect dischargers in such publicly owned treatment works' programs.

(c) All fees collected pursuant to paragraph (b) of this subsection (1) shall be transmitted to the state treasurer, who shall credit the same to the water quality control fund, which fund is hereby created. The moneys in such fund which are collected pursuant to paragraph (b) of this subsection (1) shall be appropriated annually to the department of PUBLIC health AND ENVIRONMENT by the general assembly which shall review expenditures of such moneys to assure that they are used only to fund the expenses of the discharge permit system. It is the intent of the general assembly that a portion of the expenses of the discharge permit system be funded from the general fund, reflecting the benefit derived by the general public. For the four fiscal years following fiscal year 1988-89, the portion of the expenses to be funded from the general fund may be adjusted for inflation.

**SECTION 523.** 25-9-102 (4), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-9-102. Definitions.** As used in this article, unless the context otherwise requires:

(4) "Department" means the Colorado department of PUBLIC health AND ENVIRONMENT.

**SECTION 524.** 25-10-103 (3), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-10-103. Definitions.** As used in this article, unless the context otherwise requires:

(3) "Department" means the department of PUBLIC health AND ENVIRONMENT of the state of Colorado, created by section 25-1-102.

**SECTION 525.** 25-11-101 (1.5), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-11-101. Definitions.** As used in this part 1, unless the context otherwise requires:

(1.5) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 526.** 25-11-201 (3) (c), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-11-201. Definitions.** As used in this part 2, unless the context otherwise requires:

(3) "Radioactive waste" means all radioactive materials which have no useful purpose and are to be discarded and are:

(c) Radionuclides which have been used for industrial and research use, and material contaminated with them, and which are capable of producing radiation exposures with acute effects as determined by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 527.** 25-11-203 (2) and (3), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-11-203. Approval of facilities and sites for disposal of radioactive waste.**

(2) Any person desiring to have a facility or site referred to in subsection (1) of this section approved shall apply to the department of PUBLIC health AND ENVIRONMENT for approval of such facility or site. The application shall contain such information as the department requires and shall be accompanied by an application fee determined by the board pursuant to the provisions of part 1 of this article.

(3) (a) Upon receipt of an application as provided in subsection (2) of this section, the department of PUBLIC health AND ENVIRONMENT shall forward a copy of such application to the governor and the general assembly.

(b) No facility or site referred to in subsection (1) of this section shall be constructed or approved by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 528.** The introductory portion to 25-11-303 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-11-303. Authorization to participate - implementation.** (1) The general assembly hereby authorizes the department of PUBLIC health AND ENVIRONMENT to participate in federal implementation of the "Uranium Mill Tailings Radiation Control Act of 1978", and for such purpose the department has the authority to:

**SECTION 529.** 25-13-103 (3), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-13-103. Definitions.** As used in this article, unless the context otherwise

requires:

(3) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 530.** 25-15-101 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-15-101. Definitions.** As used in this article, unless the context otherwise requires:

(2) "Department" means the department of PUBLIC health AND ENVIRONMENT created by section 25-1-102.

**SECTION 531.** 25-15-404 (3), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-15-404. On-site disinfection.** (3) Upon request of the chairman of either the senate or house of representatives committees on health, environment, welfare, and institutions, the department of PUBLIC health AND ENVIRONMENT shall make a report to the senate and house of representatives committees on health, environment, welfare, and institutions on the current status, in view of scientific knowledge and technology, of the recommendations contained in the "EPA Guide for Infectious Waste Management", May 1986, and may make any additional recommendations it deems necessary.

**SECTION 532.** 25-15-406 (3), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-15-406. Penalty.** (3) All civil penalties set forth in this section shall be determined by a court of competent jurisdiction upon action instituted by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 533.** 25-16-102 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-16-102. Definitions.** As used in this article, unless the context otherwise requires:

(2) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 534.** The introductory portion to 25-16-103 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-16-103. Authorization to participate - implementation.** (1) The general assembly hereby authorizes the department of PUBLIC health AND ENVIRONMENT to participate in federal implementation of the federal act and, for such purpose, the department has the authority to participate in the selection and performance of responses and remedial actions and to enter into cooperative agreements with the federal government providing for remedial actions and responses. The department with the consent of the governor has the authority to decline to participate with the federal government on remedial actions which the department determines are not in

the interest of the state. Any cooperative agreements entered into under this article may provide assurances acceptable to the federal government that:

**SECTION 535.** 25-16.5-102 (1) (e), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-16.5-102. Legislative declaration - state policy on pollution prevention.**

(1) The general assembly hereby finds and declares that:

(e) The purpose of this article is to create a cooperative partnership among business, agriculture, the environmental community, and the department of PUBLIC health AND ENVIRONMENT in which technical assistance, outreach, and education activities are coordinated and conducted to achieve pollution prevention and waste reduction and source reduction;

**SECTION 536.** 25-16.5-103 (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-16.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(3) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 537.** 25-16.5-108 (1) (e), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-16.5-108. Pollution prevention fees.** (1) (e) It is the intent of the general assembly that the department of PUBLIC health AND ENVIRONMENT collect all fees from any reporting facility required to report under the federal act, including the pollution prevention fee, in a single, centralized billing procedure.

**SECTION 538.** 25-16.5-109 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-16.5-109. Pollution prevention fund - created.** (2) The moneys generated from the pollution prevention fees pursuant to section 25-16.5-108 shall be annually appropriated to the department of PUBLIC health AND ENVIRONMENT for allocation to the pollution prevention advisory board created in section 25-16.5-104 for contracting for pollution prevention activities programs as set forth in section 25-16.5-106 and for the purpose of making grants under the technical assistance program as set forth in section 25-16.5-107 and as directed by the pollution prevention advisory board created in section 25-16.5-104. None of the moneys in the fund shall be used for the enforcement of any state law or regulation.

**SECTION 539.** 25-18-102 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-18-102. Definitions.** As used in this article, unless the context otherwise requires:

(2) "Department" means the department of PUBLIC health AND ENVIRONMENT

created in section 25-1-102.

**SECTION 540.** 25-18-104 (12) (b), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-18-104. Regulated substances releases - corrective actions.** (12) For the purpose of implementing the provisions of this section, the department or its designee is authorized for justifiable cause:

(b) To monitor or test or require the owner or the operator to monitor or test an underground storage tank or any surrounding soils, groundwater, or surface water where a suspected release from an underground storage tank has occurred. A duplicate sample taken for testing shall be provided to any owner or operator who the department reasonably believes may be responsible for the violation upon request of such person. A duplicate copy of the analytical report pertaining to the samples taken pursuant to this paragraph (b) shall be provided as soon as practicable to any person the department or its designated agent reasonably believes may be responsible for the violation. When such tests are performed, the Colorado department of PUBLIC health AND ENVIRONMENT shall notify, when possible, any person reasonably believed to be an owner or operator.

**SECTION 541.** 25-21-103 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-21-103. Definition.** As used in this article, unless the context otherwise requires:

(1) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 542.** 25-27-102 (2) and (8), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

**25-27-102. Definitions.** As used in this article, unless the context otherwise requires:

(2) "Department" means the department of PUBLIC health AND ENVIRONMENT of the state of Colorado.

(8) "Personal care boarding home" or "home" means a residential facility that makes available to three or more adults not related to the owner of such facility, either directly or indirectly through a provider agreement, room and board and personal services, protective oversight, and social care due to impaired capacity to live independently, but not to the extent that regular twenty-four-hour medical or nursing care is required. The term "personal care boarding home" does not include a facility holding a current certificate of authority to operate as a life care facility issued pursuant to article 13 of title 12, C.R.S., any facility licensed in this state as a residential care facility for individuals with developmental disabilities, any facility licensed in this state as a residential care facility for the mentally ill, or any individual residential support services which are excluded from licensure requirements pursuant to regulations adopted by the department of PUBLIC health AND ENVIRONMENT.

**SECTION 543.** The introductory portion to 25-27-103 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-27-103. License required - criminal and civil penalties.** (1) On or after July 1, 1986, it is unlawful for any person, partnership, association, or corporation to conduct or maintain a personal care boarding home without having obtained a license therefor from the department of PUBLIC health AND ENVIRONMENT. Any person who violates this provision:

**SECTION 544.** 25-28-102 (1.5), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-28-102. Definitions.** As used in this article, unless the context otherwise requires:

(1.5) "Hospital" means an institution licensed or certified by the department of PUBLIC health AND ENVIRONMENT, as specified in section 25-3-101.

**SECTION 545.** 25-28-106 (1) (a) and (1) (b), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**25-28-106. Confidential information and records.** (1) Notwithstanding any other provision of law to the contrary, it is lawful to provide information requested pursuant to section 25-28-104, as follows:

(a) From hospitals, third-party payers, and other persons to the executive director of the department of PUBLIC health AND ENVIRONMENT, the commissioner of insurance, or the executive director of the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING;

(b) From the executive director of the department of PUBLIC health AND ENVIRONMENT, the commissioner of insurance, or the executive director of the department of ~~social services~~ HEALTH CARE POLICY AND FINANCING to the commission; and

**SECTION 546.** 26-4-513 (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-4-513. Clinic services.** (3) "Clinic services" also means preventive, therapeutic, or palliative items or services that are furnished to patients by county or regional health departments or local boards of health established pursuant to part 5, 6, or 7 of article 1 of title 25, C.R.S., that are ~~certified~~ RECOMMENDED FOR CERTIFICATION by the department of PUBLIC health AND ENVIRONMENT as qualified to receive payments pursuant to this article.

**SECTION 547.** 26-6-104 (4), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-6-104. Licenses - out-of-state notices and consent.** (4) No license for a child care center or employer-sponsored on-site child care center shall be issued or renewed by the department until the facilities to be operated or maintained by the

applicant or licensee are approved by the department of PUBLIC health AND ENVIRONMENT as conforming to the sanitary standards prescribed by said department under the provisions of section 25-1-107 (1) (m), C.R.S., and unless such facilities conform to fire prevention and protection requirements of local fire departments in the locality of the facility or, in lieu thereof, of the division of labor.

**SECTION 548.** 26-6-108 (2) (h), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**26-6-108. Denial of original license - suspension - revocation - probation - refusal to renew license.** (2) The department may deny the original license or suspend, revoke, make probationary, or refuse to renew the license of any facility regulated and licensed under this article should the licensee, person employed by the licensee, or person who resides with the licensee:

(h) Fail to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care pursuant to minimum standards prescribed by the department of PUBLIC health AND ENVIRONMENT or by ordinances or regulations applicable to the location of such facility; or

**SECTION 549.** 26-6-113 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**26-6-113. Periodic review of licensing regulations and procedures.** (2) Beginning with fiscal year 1992-93 and every third fiscal year thereafter, a comprehensive review of the licensing rules and regulations for child care centers and family care homes and the procedures relating to and governing child care centers and family care homes shall be conducted by the state department, including procedures for the review of backgrounds of employees and owners. In conducting such periodic review, the state department shall consult with parents and consumers of child care, child care providers, the department of PUBLIC health AND ENVIRONMENT, experts in the child care field, and other interested parties throughout the state. The periodic review shall include an examination of the rules and regulations applicable to child care centers and family care homes, the process of licensing such facilities, uniformity of standards or lack thereof in the licensing process, statewide standardization of investigations and enforcement of licensing by the state department, duplication and conflicts in regulations, requirements, or procedures between the state department and the department of PUBLIC health AND ENVIRONMENT, and recommendations for streamlining and unifying the licensing process. Said review shall also include an examination of regulations and procedures regarding the general physical and mental health of employees and owners. At the conclusion of each review, the state department shall report its findings and conclusions and its recommendations for administrative changes and for legislation to the state board, the advisory committee on licensing of child care facilities, the executive director of the department of PUBLIC health AND ENVIRONMENT, and to the general assembly.

**SECTION 550.** 26-12-105, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-12-105. Standards - management.** Each state nursing home shall be operated and maintained under standards established for like medical institutions by the

department of PUBLIC health AND ENVIRONMENT. Each state nursing home shall have a nursing home administrator directly responsible to the state department and such additional employees, including medical and nursing personnel, as may be required to provide proper and adequate nursing home services for which it was licensed.

**SECTION 551.** 26-15-103 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-15-103. Definitions.** As used in this article, unless the context otherwise requires:

(2) "General provider" means any general hospital, birth center, or community health clinic licensed or certified by the department of PUBLIC health AND ENVIRONMENT pursuant to section 25-1-107 (1) (I) (I) or (1) (I) (II), C.R.S., any health maintenance organization issued a certificate of authority pursuant to section 10-16-402, C.R.S., and the health sciences center when acting pursuant to section 26-15-106 (5) (a) (I) or (5) (a) (II) (A). A home health agency may also serve as a provider of community maternity services. For the purposes of the program, "general provider" includes associated physicians.

**SECTION 552.** 27-2-107 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**27-2-107. Purchase of supplies by and from institutions.** (1) The following designated state institutions are within the purview of this section: All facilities of the departments of corrections and ~~institutions~~ HUMAN SERVICES, the Colorado mental health institute at Pueblo, the Wheat Ridge regional center, the Grand Junction regional center, the Pueblo regional center, the Lookout Mountain school at Golden, the Mount View school at Morrison, the Colorado industries for the blind, and the Colorado psychiatric hospital.

**SECTION 553.** 29-22-103 (2) (a), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**29-22-103. Emergency response authority may request assistance.** (2) (a) Any emergency response authority designated in or pursuant to section 29-22-102 may request the department of PUBLIC health AND ENVIRONMENT and the county or district health department to provide assistance. If there is no county or district health department for the area in which a hazardous substance incident occurs, such request may be made to the board of county commissioners in its capacity as the county board of health or to the mayor and council or trustees in their capacity as the municipal board of health. In addition, any other state or local agency with useful expertise shall have the authority, upon request, to provide assistance to, and cooperate with, the emergency response authority designated in or pursuant to section 29-22-102.

**SECTION 554.** 29-22-105, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**29-22-105. Additional reimbursement for costs of assistance - subrogation of rights - recovery of reimbursements by attorney general.** Whenever any fire

department or other public agency provides assistance to a designated emergency response authority, as provided in section 29-22-103 or 29-22-104, outside of the area of its jurisdiction, whenever assistance to a designated emergency response authority is provided pursuant to a mutual aid agreement, or whenever the department of PUBLIC health AND ENVIRONMENT or local health department provides services such as laboratory analyses, waste removal, transportation, storage, or disposal, the reasonable documented costs of the equipment, supplies, analyses, and personnel provided by such fire department or public agency may be reimbursed, subject to guidelines by the executive director of the department of public safety. Reimbursement shall be for costs not recovered pursuant to section 29-22-104 and shall be out of any moneys made available by legislative appropriation therefor. In the event of such reimbursement, the state of Colorado shall be subrogated to any rights of such fire department or public agency with respect to the amounts so reimbursed. The attorney general shall pursue all available remedies to recover any moneys paid out pursuant to this section from the person responsible for said incident. Any moneys recovered by the attorney general shall be transmitted to the state treasurer. Nothing in this article shall be construed to enlarge or impair any right of recovery or subrogation arising under any other provision of law. The attorney general shall not attempt to recover any moneys from any person responding to a hazardous substance incident pursuant to a mutual aid agreement or to any provision of this article.

**SECTION 555.** 29-22-107 (2) (a) and (2) (c) (I), Colorado Revised Statutes, 1986 Repl. Vol., are amended to read:

**29-22-107. Legislative finding - hazardous substance listing required.**

(2) (a) Upon the request of the designated emergency response authority, the department of PUBLIC health AND ENVIRONMENT, or the local fire department, any person who, in accordance with the following table, possesses the specified quantity, or a quantity in excess of that specified, of any hazard type of hazardous substance on private property shall provide the designated emergency response authority and the waste management division of the department of PUBLIC health AND ENVIRONMENT and, when requested, the local fire department with a listing of the maximum quantity of each such hazard type reasonably anticipated to be present on the property at any time:

| <b>Hazard type</b>  | <b>Quantity</b>             |
|---|-----------------------------|
| Class A or B explosive  | Any quantity                |
| Class C explosive   | 50 pounds                   |
| Etiological agent   | Any quantity                |
| Water reactive flammable<br>solid                                   | 5 pounds                    |
| Pyrophoric material   | 5 pounds                    |
| Organic/inorganic peroxide  | 50 pounds                   |
| Poison A or poison B  | 100 pounds or 15 gallons    |
| Flammable liquid other than a<br>pyrophoric liquid                  | 700 pounds or 120 gallons   |
| Compressed flammable gas<br>other than liquefied<br>petroleum gases | 3,000 cubic feet or more at |

|                           |   |
|---------------------------|---|
|                           | one atmosphere at seventy degrees Fahrenheit  |
| Liquefied petroleum gases | Any installation exceeding 18,000 gallon water capacity   |
| Oxidizer                  | 200 pounds or 120 gallons   |
| Combustible liquid        |   |
| Class I                   | 120 gallons   |
| Class II                  | 240 gallons   |
| Class III                 | 500 gallons   |
| Corrosive material        | 200 pounds or 120 gallons<br>(unless a lesser amount is specified in 49 Code of Federal Regulations Part 172.101) |
| Irritating material       | 200 pounds or 120 gallons   |

(c) (I) Any person requested to list pursuant to this subsection (2) shall update such list annually unless the designated response authority, the department of PUBLIC health AND ENVIRONMENT, or the local fire department requests an updated list prior to the annual update.

**SECTION 556.** 30-15-101 (1) (a) (I), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**30-15-101. Dog control and licensing.** (1) (a) The board of county commissioners of any county may adopt a resolution for the control and licensing of dogs as provided in this part 1. Such resolution may:

(I) Require licensing of dogs by owners and impose reasonable conditions and fees on the same. No registration permit or license shall be issued by any board of county commissioners unless and until the owner of a dog shall exhibit to such board or designated official a valid rabies vaccination certificate indicating the dog has been vaccinated against rabies by a licensed veterinarian. The county dog control resolution may exempt dogs below a specified age from licensing and registration or vaccination requirements, or both; except that the recommendations of the department of PUBLIC health AND ENVIRONMENT shall be followed concerning the minimum age for such vaccination.

**SECTION 557.** 30-20-101 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**30-20-101. Definitions.** As used in this part 1, unless the context otherwise requires:

(2) "Department" means the department of PUBLIC health AND ENVIRONMENT.

**SECTION 558.** 30-20-103.7 (2) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**30-20-103.7. Review of applications by private contractors.** (2) (d) The

review of an application for a solid wastes disposal site and facility by a private contractor shall be based upon the same criteria as is used by the department of PUBLIC health AND ENVIRONMENT under the provisions of section 30-20-103.

**SECTION 559.** 30-20-109 (2) (c) (I), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**30-20-109. Department to promulgate rules and regulations - repeal.** (2) The department shall promulgate rules and regulations to implement the following:

(c) (I) The establishment of an annual solid waste site and facility registration fee to be used for the solid waste regulatory activities of the Colorado department of PUBLIC health AND ENVIRONMENT. Each solid wastes disposal site and facility shall pay such fee on or before January 1, 1992, and on or before January 1 of each succeeding year. The department is authorized to establish a schedule of registration fees for solid wastes disposal sites and facilities. The department shall base such fees on the size and type of each solid wastes disposal site and facility and the volume of solid wastes received for treatment or disposal in the preceding year. In no case shall the annual fee for a solid wastes disposal site and facility exceed five thousand dollars. All moneys received from the collection of such fees shall be credited to the solid waste management fund pursuant to the provisions of section 30-20-118 and shall be subject to annual appropriation by the general assembly to the department to pay for the regulatory activities of the department.

**SECTION 560.** 30-20-904, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**30-20-904. Department of public health and environment rules.** The department of PUBLIC health AND ENVIRONMENT may promulgate rules for the engineering design and operation of solid waste-to-energy incineration systems, and any such system shall comply with such rules before beginning operations.

**SECTION 561.** 30-28-136 (1) (g), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**30-28-136. Referral and review requirements.** (1) Upon receipt of a complete preliminary plan submission, the board of county commissioners or its authorized representative shall distribute copies of prints of the plan as follows:

(g) When applicable, to the county, district, regional, or state department of PUBLIC health AND ENVIRONMENT, for its review of the on-lot sewage disposal reports, for review of the adequacy of existing or proposed sewage treatment works to handle the estimated effluent, and for a report on the water quality of the proposed water supply to serve the subdivision. The department of PUBLIC health AND ENVIRONMENT to which the plan is referred may require the subdivider to submit additional engineering or geological reports or data and to conduct a study of the economic feasibility of a sewage treatment works prior to making its recommendations. No plan shall receive the approval of the board of county commissioners unless the department of PUBLIC health AND ENVIRONMENT to which the plan is referred has made a favorable recommendation regarding the proposed method of sewage disposal.

**SECTION 562.** 30-28-201 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**30-28-201. Commissioners may adopt - emission performance standards required.** (2) By the date established in section 25-7-407.5, C.R.S., every board of county commissioners of a county which has enacted a building code, and thereafter every board of county commissioners of a county which enacts a building code, shall enact a building code provision to regulate the construction and installation of fireplaces in order to minimize emission levels. Such building code provision shall contain standards which shall be the same as or stricter than the approved emission performance standards for fireplaces established by the air quality control commission in the department of PUBLIC health AND ENVIRONMENT pursuant to section 25-7-407, C.R.S.

**SECTION 563.** 30-35-201 (21) (a), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**30-35-201. Powers of governing bodies.** The governing body of a home rule county shall exercise such duties and authority and shall have all the powers and responsibilities as provided by law for governing bodies of counties not adopting a home rule charter and shall also have all of the following powers that have been included in the county's home rule charter or in any amendment thereto, pursuant to the provisions of section 30-35-103 (1):

(21) **Water pollution control.** (a) To cooperate with and report to the water quality control commission and the department of PUBLIC health AND ENVIRONMENT concerning any instances of water pollution, but this paragraph (a) shall not be construed to affect any activity conducted in compliance with any valid permit, license, or other authority granted or issued by any agency of the state or federal government;

**SECTION 564.** 31-15-601 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**31-15-601. Building and fire regulations - emission performance standards required.** (2) By the date established in section 25-7-407.5, C.R.S., every governing body of a municipality which has enacted a building code, and thereafter every governing body which enacts a building code, shall enact a building code provision to regulate the construction and installation of fireplaces in order to minimize emission levels. Such building code provision shall contain standards which shall be the same as or stricter than the approved emission performance standards for fireplaces established by the air quality control commission in the department of PUBLIC health AND ENVIRONMENT pursuant to section 25-7-407, C.R.S.

**SECTION 565.** 31-15-1004, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**31-15-1004. Department of public health and environment rules.** The department of PUBLIC health AND ENVIRONMENT may promulgate rules for the engineering design and operation of solid waste-to-energy incineration systems, and any such system shall comply with such rules before beginning operations.

**SECTION 566.** 32-1-202 (4), Colorado Revised Statutes, is amended to read:

**32-1-202. Filing of service plan required - report of filing - contents - fee.**

(4) In the case of a proposed hospital district, submission to the board of county commissioners by the petitioners of a certified copy of an approved certificate of public necessity issued by the health facilities review council of the department of PUBLIC health AND ENVIRONMENT shall constitute compliance with subsection (2) of this section.

**SECTION 567.** 32-1-203 (5), Colorado Revised Statutes, as amended, is amended to read:

**32-1-203. Action on service plan - criteria.** (5) In the case of a proposed hospital district, submission to the board of county commissioners by the petitioners of a certified copy of an approved certificate of public necessity issued by the health facilities review council of the department of PUBLIC health AND ENVIRONMENT shall constitute compliance with subsections (2) and (2.5) of this section.

**SECTION 568.** 32-1-204.5 (2), Colorado Revised Statutes, as amended, is amended to read:

**32-1-204.5. Approval by municipality.** (2) In the case of a proposed hospital district, submission to the governing body of the municipality of a certified copy of an approved certificate of public necessity issued by the health facilities review council of the department of PUBLIC health AND ENVIRONMENT shall constitute compliance with the requirements of sections 32-1-202 (2) and 32-1-203 (2) and (2.5) as required by subsection (1) of this section.

**SECTION 569.** 32-1-207 (4), Colorado Revised Statutes, as amended, is amended to read:

**32-1-207. Compliance - modification - enforcement.** (4) In the case of a hospital district, a change in service by the district shall not be deemed material unless such change would require the district to obtain a certificate of public necessity from the health facilities review council of the department of PUBLIC health AND ENVIRONMENT. A hospital district shall be exempt from paragraphs (b) and (c) of subsection (3) of this section.

**SECTION 570.** 33-13-108.1 (7), (11), and (14), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended to read:

**33-13-108.1. Operating a motorboat or sailboat while under the influence.**

(7) Any person who is dead or unconscious shall be tested to determine the alcoholic content of his blood as provided in subsection (4) of this section. Any person who is dead, in addition to the tests prescribed, shall also have his blood checked for carbon monoxide content and for the presence of drugs, as prescribed by the department of PUBLIC health AND ENVIRONMENT. Such information obtained will be made a part of the accident report.

(11) When a peace officer has reasonable grounds to believe that a person is operating a motorboat or sailboat while under the influence of alcohol or that the

operator has been involved in a boating accident resulting in injury or death, the peace officer may request the operator to provide a sample of the operator's breath for a preliminary screening test using a device approved by the executive director of the department of PUBLIC health AND ENVIRONMENT as being accurate to within ten percent of the actual reading obtained by the officer upon administering the test. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made and whether to administer a test pursuant to paragraph (b) of subsection (4) of this section but shall not be used in any court action except to prove that a test was properly authorized pursuant to this section. The results of such test shall be made available to the operator or his attorney upon request. The preliminary screening test shall not constitute the test for the purposes of subsection (4) of this section.

(14) In all actions, suits, and judicial proceedings in any court of this state concerning alcohol-related or drug-related boating offenses, the court shall take judicial notice of methods of testing a person's alcohol or drug level and of the design and operation of devices, as certified by the department of PUBLIC health AND ENVIRONMENT, for testing a person's blood, breath, saliva, or urine to determine the alcohol or drug level. This subsection (14) shall not prevent the necessity of establishing during a trial that the testing devices used were in proper working order and that such testing devices were properly operated. Nothing in this subsection (14) shall preclude a defendant from offering evidence of the accuracy of the testing device.

**SECTION 571.** 34-33-106 (2), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

**34-33-106. Additional duties of the division.** (2) It is the duty of the department of agriculture, the department of higher education, the department of PUBLIC health AND ENVIRONMENT, the state soil conservation board, the Colorado geological survey, the division of parks and outdoor recreation, the division of water resources, the division of wildlife, the university of Colorado, Colorado state university, Colorado school of mines, and the state forester to furnish the board and its designees, as far as practicable, whatever data and technical assistance the board may request and deem necessary for the performance of reclamation and enforcement duties pursuant to this article.

**SECTION 572.** 35-9-118 (2) (f), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

**35-9-118. Powers and duties of the commissioner.** (2) The commissioner is authorized to adopt all reasonable rules and regulations for the administration and enforcement of this article, including, but not limited to:

(f) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers; except that, with respect to the adoption of rules or regulations concerning the transportation of pesticides or the disposal of pesticides and their containers, such rules shall be promulgated in concert with, and shall not be duplicative of, rules adopted by the department of transportation and the department of PUBLIC health AND ENVIRONMENT, respectively;

**SECTION 573.** 35-11-104 (2), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

**35-11-104. Rules and regulations.** (2) The commissioner shall immediately notify the director of the department of PUBLIC health AND ENVIRONMENT of the summary suspension of any permit, of the denial, suspension or revocation of a permit, including the specific reason thereof; and the commissioner shall also notify the director of the department of PUBLIC health AND ENVIRONMENT of any criminal or civil proceeding brought pursuant to this article. The notice required herein shall contain the legal description of the location of the well which is the subject of the commissioner's action.

**SECTION 574.** 35-24.5-107 (9), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

**35-24.5-107. Powers and duties of the commissioner.** (9) Nothing in this section shall be construed to conflict with or to supersede the authority of the Colorado department of PUBLIC health AND ENVIRONMENT to regulate the growing, harvesting, and shipping of molluskan shellfish or any other processed fish or seafood products intended for human consumption.

**SECTION 575.** 35-42-114, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

**35-42-114. Local regulation.** The provisions of this article shall not be construed to limit or preempt additional regulation by any city, town, or city and county. Nothing in this article shall interfere with the authority of the department of PUBLIC health AND ENVIRONMENT in the enforcement of parts 7 and 11 of article 4 of title 25, C.R.S.

**SECTION 576.** 37-97-102.5 (3), Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

**37-97-102.5. Exemptions.** (3) Communities under sanction by the department of PUBLIC health AND ENVIRONMENT for water quality standards shall be exempt from this article.

**SECTION 577.** 38-27-101, Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

**38-27-101. Lien for hospital care.** Every hospital duly licensed by the department of PUBLIC health AND ENVIRONMENT, pursuant to part 1 of article 3 of title 25, C.R.S., which furnishes services to any person injured as the result of the negligence or other wrongful acts of another person and not covered by the provisions of the "Workers' Compensation Act of Colorado" shall, subject to the provisions of this article, have a lien for all reasonable and necessary charges for hospital care upon the net amount payable to such injured person, his heirs, assigns, or legal representatives out of the total amount of any recovery or sum had or collected, or to be collected, whether by judgment, settlement, or compromise, by such person, his heirs, or legal representatives as damages on account of such injuries. The lien of attorneys and counselors at law created by section 12-5-119, C.R.S., shall have

precedence over and be senior to the lien created under this section. The provisions of this article shall not apply to any hospital charges incurred subsequent to any such judgment, settlement, or compromise.

**SECTION 578.** 39-29-116 (4), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

**39-29-116. Uranium mill tailings remedial action program fund - creation - repeal.** (4) There is hereby created a uranium mill tailings remedial action program fund oversight committee. The oversight committee shall consist of five members, comprised of the executive director of the department of local affairs, two members of the house of representatives appointed by the speaker of the house of representatives, and two members of the senate appointed by the president of the senate. One of the legislative members shall be from the capital development committee, and one of the legislative members shall reside on the western slope. The department of PUBLIC health AND ENVIRONMENT shall annually report on or before September 15 of each year to the oversight committee on the progress of the cleanup of uranium mill tailing sites pursuant to the uranium mill tailings remedial action program, the proposed and final transfers or disposition of the land of any of the sites, and the proposed program activities and financing requested for the next fiscal year. The oversight committee shall review such report and obtain any additional information it needs in order to prepare a recommendation to the joint budget committee on the proposed funding amounts and sources for the next fiscal year.

**SECTION 579.** 41-2-102 (6) (a) (II), (6) (b) (I), and (6) (c), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

**41-2-102. Operating an aircraft under the influence - operating an aircraft with excessive alcoholic content - tests - penalties - useful public service program.** (6) (a) (II) Any person who operates an aircraft anywhere in this state shall be required to take and complete, and to cooperate in the taking and completing of, any test or tests of his breath or blood for the purpose of determining the alcoholic content of his blood or breath when so requested and directed by a law enforcement officer having probable cause to believe that the person was operating an aircraft in violation of subsection (1) or (2) of this section. Except as otherwise provided in this section, if such person requests that said test be a blood test, then the test shall be of his blood; but, if such person requests that a specimen of his blood not be drawn, then a specimen of his breath shall be obtained and tested. If such person elects either a blood test or a breath test, such person shall not be permitted to change such election, and, if such person fails to take and complete, and to cooperate in the completing of, the test elected, such failure shall be deemed to be a refusal to submit to testing. If such person is unable to take, or to complete, or to cooperate in the completing of a breath test because of injuries, illness, disease, physical infirmity, or physical incapacity, or if such person is receiving medical treatment at a location at which a breath testing instrument certified by the department of PUBLIC health AND ENVIRONMENT is not available, the test shall be of such person's blood.

(b) (I) The tests shall be administered at the direction of a law enforcement officer having probable cause to believe that the person had been operating an aircraft in violation of subsection (1) or (2) of this section and in accordance with rules and regulations prescribed by the state board of health concerning the health of the person

being tested and the accuracy of such testing. Strict compliance with such rules and regulations shall not be a prerequisite to the admissibility of test results at trial unless the court finds that the extent of noncompliance with a board of health rule has so impaired the validity and reliability of the testing method and the test results as to render the evidence inadmissible. In all other circumstances, failure to strictly comply with such rules and regulations shall only be considered in the weight to be given to the test results and not to the admissibility of such test results. It shall not be a prerequisite to the admissibility of test results at trial that the prosecution present testimony concerning the composition of any kit used to obtain blood, urine, saliva, or breath specimens. A sufficient evidentiary foundation concerning the compliance of such kits with the rules and regulations of the department of PUBLIC health AND ENVIRONMENT shall be established by the introduction of a copy of the manufacturer's or supplier's certificate of compliance with such rules and regulations if such certificate specifies the contents, sterility, chemical makeup, and amounts of chemicals contained in such kit.

(c) Any person who is dead or unconscious shall be tested to determine the alcohol or drug content of his blood or any drug content within his system as provided in this subsection (6). If a test cannot be administered to a person who is unconscious, hospitalized, or undergoing medical treatment because the test would endanger such person's life or health, the law enforcement agency shall be allowed to test any blood, urine, or saliva which was obtained and not utilized by a health care provider and shall have access to that portion of the analysis and results of any tests administered by such provider which shows the alcohol or drug content of the person's blood, urine, or saliva or any drug content within his system. Such test results shall not be considered privileged communications, and the provisions of section 13-90-107, C.R.S., relating to the physician-patient privilege shall not apply. Any person who is dead, in addition to the tests prescribed, shall also have his blood checked for carbon monoxide content and for the presence of drugs, as prescribed by the department of PUBLIC health AND ENVIRONMENT. Such information obtained shall be made a part of the accident report.

**SECTION 580.** 42-2-122.1 (8) (b) and (8) (c) (III), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

**42-2-122.1. Revocation of license based on administrative determination.**

(8) (b) The presiding hearing officer shall be the executive director of the department or an authorized representative designated by the executive director. The presiding hearing officer shall have authority to administer oaths and affirmations; to consider the affidavit of the law enforcement officer filing such affidavit as specified in subsection (2) of this section; to consider other law enforcement officers' reports which are submitted to the department, which reports need not be under oath but shall identify the officers making the reports; to examine and consider documents and copies of documents containing relevant evidence; to consider other affidavits which are dated, signed, and sworn to by the affiant under penalty of perjury, which affidavits need not be notarized or sworn to before any other person but shall contain the affiant's home or work address and phone number; to take judicial notice as defined by rule 201 of article II of the Colorado rules of evidence, subject to the provisions of section 24-4-105 (8), C.R.S., which shall include judicial notice of general, technical, or scientific facts within the hearing officer's knowledge, judicial notice of appropriate and reliable scientific and medical information contained in

studies, articles, books, and treatises, and judicial notice of charts prepared by the department of PUBLIC health AND ENVIRONMENT pertaining to the maximum blood or breath alcohol levels that people can obtain through the consumption of alcohol when such charts are based upon the maximum absorption levels possible of determined amounts of alcohol consumed in relationship to the weight and gender of the person consuming such alcohol; to compel witnesses to testify or produce books, records, or other evidence; to examine witnesses and take testimony; to receive and consider any relevant evidence necessary to properly perform the hearing officer's duties as required by this section; to issue subpoenas duces tecum to produce books, documents, records, or other evidence; to issue subpoenas for the attendance of witnesses; to take depositions, or cause depositions or interrogatories to be taken; to regulate the course and conduct of the hearing; and to make a final ruling on the issues.

(c) (III) When the determination of the issue pursuant to this paragraph (c) is based upon an analysis of the respondent's blood or breath and evidence is offered by the respondent to show a disparity between the results of the analysis done on behalf of the law enforcement agency and the results of an analysis done on behalf of the respondent, and when a preponderance of the evidence establishes that the blood analysis conducted on behalf of the law enforcement agency was properly conducted by a qualified person associated with a laboratory certified by the department of PUBLIC health AND ENVIRONMENT using properly working testing devices or when a preponderance of the evidence establishes that the law enforcement breath test was administered using a properly working breath testing device certified by the department of PUBLIC health AND ENVIRONMENT, which device was properly operated by a qualified operator, there shall be a presumption favoring the accuracy of the analysis done on behalf of the law enforcement agency if such analysis showed the amount of alcohol in the respondent's blood or breath to be 0.12 or more grams of alcohol per hundred milliliters of blood or 0.12 or more grams of alcohol per two hundred ten liters of breath. If the respondent offers evidence of blood or breath analysis, the respondent shall be required to state under oath the number of analyses done in addition to the one offered as evidence and the names of the laboratories that performed the analyses and the results of all analyses.

**SECTION 581.** 42-3-123 (23) (a) and (23) (b), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

**42-3-123. Registration fees - passenger and passenger-mile taxes.**

(23) (a) Effective July 1, 1986, in addition to any other fee imposed by this section, there shall be collected, at the time of registration, a fee of fifty cents on every item of class A, B, or C personal property required to be registered pursuant to this article. Such fee shall be transmitted to the state treasurer, who shall credit the same to a special account within the highway users tax fund, to be known as the AIR account, and such moneys shall be used, subject to appropriation by the general assembly, to cover the direct costs of the motor vehicle emissions activities of the department of PUBLIC health AND ENVIRONMENT in the presently defined nonattainment area, and to pay for the costs of the commission in performing its duties under sections 25-7-106.1, 25-7-106.3, and 25-7-106.5, C.R.S., and for the costs of the state auditor in performing the study required by section 25-7-134, C.R.S. In the program areas within counties affected by this article, the county clerk and recorder shall impose and retain an additional fee of up to seventy cents on every such

registration to cover reasonable costs of administration of the emissions compliance aspect of vehicle registration. The department of PUBLIC health AND ENVIRONMENT is hereby authorized to accept and expend grants, gifts, and moneys from any source for the purpose of implementing its duties and functions under this section or sections 25-7-106.1, 25-7-106.3, and 25-7-106.5, C.R.S.

(b) Effective July 1, 1987, in addition to any other fee imposed by this section, there shall be collected at the time of registration of any motor vehicle in the program area subject to inspection and not exempt from registration a fee of one dollar and fifty cents. Such fee shall be transmitted to the state treasurer, who shall credit the same to the air account within the highway users tax fund, and such moneys shall be expended only to cover the costs of administration and enforcement of the automobile inspection and readjustment program by the department of revenue and the department of PUBLIC health AND ENVIRONMENT, upon appropriation by the general assembly. For such purposes, the revenues attributable to one dollar of such fee shall be available for appropriation to the department of revenue, and the revenues attributable to the remaining fifty cents of such fee shall be available for appropriation to the department of PUBLIC health AND ENVIRONMENT.

**SECTION 582.** 42-4-307 (6), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**42-4-307. Definitions relating to automobile inspection and readjustment program - repeal.**

As used in sections 42-4-306.5 to 42-4-316, unless the context otherwise requires:

(6) "Division" means the division of administration in the department of PUBLIC health AND ENVIRONMENT.

**SECTION 583.** 42-4-308 (6) (f), (7), and (10), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

**42-4-308. Powers and duties of executive director - automobile inspection and readjustment program - basic emissions program - enhanced emissions program.** (6) (f) The executive director shall transfer quality assurance activity results to the department of PUBLIC health AND ENVIRONMENT at least quarterly.

(7) The executive director shall implement and enforce the emissions test requirements as prescribed in section 42-4-312 by utilizing a registration denial-based enforcement program as required in the federal act including an electronic data transfer of inspection data through the use of a computer modem or similar technology for vehicle registration and program enforcement purposes. All inspection data generated at licensed inspection and readjustment stations, inspection-only facilities, fleet inspection stations, motor vehicle dealer test facilities, and enhanced inspection centers shall be provided to the department of PUBLIC health AND ENVIRONMENT on a timely basis.

(10) (a) The executive director and the department of PUBLIC health AND ENVIRONMENT are authorized to enter into a contract or service agreement with a contractor to provide inspection services at enhanced inspection centers for vehicles within the enhanced program area required to be inspected pursuant to section

42-4-312. Any such contract or service agreement shall include such terms and conditions as are necessary to ensure that the contractor shall operate enhanced inspection centers in accordance with the requirements of this article and the federal act, shall include provisions establishing liquidated damages and penalties for failure to comply with the terms and conditions of the contract, and shall be in accordance with regulations adopted by the commission and the department of revenue. Any such contract or service agreement shall include provisions specifying that inspection and readjustment stations, inspection-only facilities, fleet inspection stations, and motor vehicle dealer test facilities shall have complete access to electronic data transfer of inspection data through computer services of the contractor at a cost equal to that of enhanced inspection centers.

(b) Upon the approval of the executive director and the department of PUBLIC health AND ENVIRONMENT, the contractor shall provide inspection services for vehicles within the enhanced program area required to be inspected pursuant to section 42-4-312.

**SECTION 584.** 42-4-309 (6), (9) (a) (I), (11) (a), (11) (b) (I), and (12), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

**42-4-309. Powers and duties of commission - automobile inspection and readjustment program - basic emissions program - enhanced emissions program.** (6) (a) The commission shall develop and adopt, and may from time to time revise, regulations providing inspection procedures for detection of tampering with emissions-related equipment and on-board diagnostic systems and emissions standards for vehicle exhaust and evaporative gases, the detection of chlorofluorocarbons, and smoke opacity, as prescribed in section 18-13-110, C.R.S., with which emissions standards vehicles inspected in accordance with section 42-4-312 would be required to comply prior to issuance of certification of emissions compliance. Such inspection procedures and emissions standards shall be proven cost-effective and air pollution control-effective on the basis of detailed research conducted by the department of PUBLIC health AND ENVIRONMENT in accordance with section 25-7-130, C.R.S., and shall be designed to assure compliance with the federal act, federal requirements, and the state implementation plan. Emissions standards shall be established for carbon monoxide, exhaust and evaporative hydrocarbons, oxides of nitrogen, and chlorofluorocarbons.

(9) (a) (I) The commission shall continuously evaluate the entire AIR program to ensure compliance with the state implementation plan and federal law. Such evaluation shall be based on continuing research conducted by the department of PUBLIC health AND ENVIRONMENT in accordance with section 25-7-130, C.R.S. Such evaluation shall include assessments of the cost-effectiveness and air pollution control-effectiveness of the program. The commission shall submit such evaluation and any recommendations for changes in the program to the general assembly by July 1 of each year, and the general assembly shall annually review such evaluation and recommendations and the program.

(11) (a) The commission, with the cooperation of the department of PUBLIC health AND ENVIRONMENT, the department of revenue, the contractor, and the owners or operators of the inspection and readjustment stations, inspection-only facilities, and motor vehicle dealer test facilities, shall implement an ongoing project designed to

inform the public concerning the operation of the program and the benefits to be derived from such program.

(b) (I) The commission shall, as part of such project and with the cooperation of the department of PUBLIC health AND ENVIRONMENT, the department of revenue, the contractor, and the owners or operators of the inspection and readjustment stations and inspection-only facilities prepare and cause the distribution of consumer protection information for the benefit of the owners of vehicles required to be inspected pursuant to section 42-4-312.

(12) (a) The commission, with the cooperation of the executive director of the department of PUBLIC health AND ENVIRONMENT, shall conduct or cause to be conducted research concerning the presence of pollutants in the ambient air, which research shall include continuous monitoring of ambient air quality and modeling of sources concerning their impacts on air quality. Such research shall identify pollutants in the ambient air which originate from motor vehicle exhaust gas emissions and shall identify, quantify, and evaluate the ambient air quality benefit derived from the automobile inspection and readjustment program, from the federal new motor vehicle exhaust emissions standards, and from changes in vehicle miles travelled due to economic or other factors. Each such evaluation shall be reported separately to assess the air pollution control effectiveness and cost effectiveness of the pollution control strategy.

(b) (I) The commission with the cooperation of the department of PUBLIC health AND ENVIRONMENT shall cause to be conducted a pilot study of the feasibility and costs of implementing remote sensing emissions detection technology as a potential supplemental maintenance strategy for areas that have attained applicable standards. This pilot study shall be conducted in the metropolitan Greeley, Weld county area with results and recommendations to be made available in January, 1998.

(II) The executive director of the department of PUBLIC health AND ENVIRONMENT is authorized to enter into an agreement with a contractor in accordance with section 42-4-309.5 (11) (a) for the purchase of equipment and any assistance necessary for this study.

**SECTION 585.** 42-4-309.5 (10), (11), and (12), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

**42-4-309.5. Powers and duties of the department of public health and environment - division of administration - automobile inspection and readjustment program - basic emissions program - enhanced emissions program.** (10) The division shall maintain inspection data from the AIR program pursuant to the federal act. Data analysis and reporting shall be submitted to the commission by the departments of PUBLIC health AND ENVIRONMENT and revenue by July 1 of each year for the period of January through December of the previous year. Data analysis, state implementation plan compliance, and program performance reporting shall be submitted to the environmental protection agency by the department of PUBLIC health AND ENVIRONMENT by July 1 of each year for the period of January through December of the previous year. The division shall develop and maintain the data processing system necessary for the AIR program in compliance with federal reporting requirements.

(11) (a) For the enhanced emissions program, the department of PUBLIC health AND ENVIRONMENT and the executive director are authorized to enter into a contract or service agreement with a contractor to provide inspection services at enhanced inspection centers for vehicles required to be inspected pursuant to section 42-4-312 within the enhanced program area. Any such contract or service agreement shall include such terms and conditions as are necessary to ensure that such contractor will operate any such enhanced inspection center in compliance with this article and the federal act. Any such contract or service agreement shall also include provisions establishing liquidated damages and penalties for failure to comply with the terms and conditions of the contract and shall be in accordance with regulations adopted by the commission.

(b) Upon approval by the department of PUBLIC health AND ENVIRONMENT and the executive director, the contractor shall provide inspection services for vehicles within the enhanced program area required to be inspected pursuant to section 42-4-312.

(12) The department of PUBLIC health AND ENVIRONMENT shall conduct studies on the development, effectiveness, and cost of evolving technologies in mobile source emission inspection for consideration by March, 1994, and biennially thereafter. Such studies shall be reported to the health, environment, welfare, and institutions committees of the senate and house of representatives and to the transportation committee of the senate and to the transportation and energy committee of the house of representatives. In the event that alternative technologies become available, cost and air quality effectiveness shall be considered prior to adoption by the commission as inspection technology.

**SECTION 586.** 42-4-310 (4) (a), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**42-4-310. Inspection and readjustment stations - inspection-only facilities - fleet inspection stations - motor vehicle dealer test facilities - contractor - emissions inspectors - emissions mechanics - requirements.** (4) (a) No emissions inspector license or emissions mechanic license shall be issued to any applicant unless said applicant has completed the required training, has demonstrated necessary skills and competence in the inspection of motor vehicles by passing the written certification test developed by the commission and administered by the department of PUBLIC health AND ENVIRONMENT, and has demonstrated such skill and competence as a prerequisite to initial licensing by the department of revenue.

**SECTION 587.** 42-4-311 (1) (b), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**42-4-311. Vehicle fleet owners - motor vehicle dealers - authority to conduct inspections - fleet inspection stations - motor vehicle dealer test facilities - contracts with licensed inspection-only entities.** (1) (b) Each fleet operator licensed or operating within the enhanced program area who is also licensed to operate a fleet inspection station shall assure that a representative sample of one-half of one percent or one vehicle, whichever is greater, of such operator's vehicle fleet is inspected annually at an inspection-only facility or enhanced inspection center. An analysis of the data gathered from any such inspection shall be performed by the department of PUBLIC health AND ENVIRONMENT and provided to the department of

revenue to determine compliance by such fleet with the self-inspection requirements of this section.

**SECTION 588.** 42-4-312 (3) (a), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**42-4-312. Periodic emissions control inspection required - repeal.**

(3) (a) Effective July 1, 1993, any home rule city, city, town, or county shall, after holding a public hearing and receiving public comment and upon request by the governing body of such local government to the department of PUBLIC health AND ENVIRONMENT and the department of revenue and after approval by the general assembly acting by bill pursuant to paragraph (f) of this subsection (3), be included in the program area established pursuant to sections 42-4-306.5 to 42-4-316. When such a request is made, said departments and governing body shall agree to a start-up date for the program in such area, and, on or after such date, all motor vehicles, as defined in section 42-4-307 (17), which are registered in the area shall be inspected and required to comply with the provisions of sections 42-4-306.5 to 42-4-316 and rules and regulations adopted pursuant thereto as if such area was included in the program area. Except as provided in paragraph (c) of this subsection (3), the department of PUBLIC health AND ENVIRONMENT and the department of revenue, the executive director, and the commission shall perform all functions and exercise all powers related to the program in areas included in the program pursuant to this subsection (3) that they are otherwise required to perform under sections 42-4-306.5 to 42-4-316.

**SECTION 589.** 42-4-313 (3) (b), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**42-4-313. Operation of inspection and readjustment stations - inspection-only facilities - fleet inspection stations - motor vehicle dealer test facilities - enhanced inspection centers.** (3) (b) The moneys collected by the department from the sale of verification forms shall be transmitted to the state treasurer, who shall credit such moneys to the AIR account, which account is hereby created within the highway users tax fund. Moneys from the AIR account, upon appropriation by the general assembly, shall be expended only to pay the costs of administration and enforcement of the automobile inspection and readjustment program by the department and the department of PUBLIC health AND ENVIRONMENT.

**SECTION 590.** 42-4-315 (4) (a), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**42-4-315. Penalties.** (4) (a) For the enhanced emissions program, a contractor who is awarded a contract to perform emissions inspections within the enhanced emissions program area shall be held accountable to the department of PUBLIC health AND ENVIRONMENT and the department of revenue. Any such contractor shall be subject to civil penalties in accordance with this section or article 7 of title 25, C.R.S., as appropriate, for any violation of applicable laws or rules and regulations of the department of revenue or the commission.

**SECTION 591.** 42-4-316 (3) (a), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**42-4-316. AIR program - termination.** (3) (a) Prior to termination, continuation, or reestablishment of the program, a committee of reference in each house of the general assembly shall hold a public hearing, receiving testimony from the public, the executive directors of the departments of revenue and PUBLIC health AND ENVIRONMENT, the chairman of the air quality control commission, and the air pollution control division of the department of PUBLIC health AND ENVIRONMENT.

**SECTION 592.** 42-4-319 (1) (b) (IV) and (2) (a), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

**42-4-319. Visible emissions from diesel-powered motor vehicles unlawful - penalty.** (1) (b) As used in this section:

(IV) "Trained observer" means a person who is certified by the department of PUBLIC health AND ENVIRONMENT as trained in the determination of opacity.

(2) (a) A police officer or other peace officer who is a trained observer, or an environmental officer employed by a local government and certified by the department of PUBLIC health AND ENVIRONMENT to determine opacity, at any time upon reasonable cause, may issue a summons personally to the operator of a motor vehicle emitting visible air contaminants in violation of paragraph (a) of subsection (1) of this section.

**SECTION 593.** 42-4-320 (2) and (3) (b), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

**42-4-320. Heavy duty diesel fleet inspection and maintenance program - penalty.** (2) The executive director of the department of PUBLIC health AND ENVIRONMENT shall promulgate rules and regulations requiring owners of diesel-powered motor vehicles, registered in the program area and subject to the provisions of this section, to bring such vehicles into compliance with existing opacity standards set forth in section 18-13-110, C.R.S. Such rules and regulations shall be strictly construed, shall require no more than normal and reasonable maintenance practices, and shall not require additional fees or loaded mode testing equipment. Owners of fleets shall test opacity standards on a periodic basis.

(3) (b) Any owner who violates any rule or regulation of the department of PUBLIC health AND ENVIRONMENT or the commission establishing standards or procedures for testing or inspections is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than three hundred dollars.

**SECTION 594.** 42-4-1202 (2.5), (3) (a) (II), (3) (b) (I), and (6), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

**42-4-1202. Driving under the influence - driving while impaired - driving with excessive alcoholic content - tests - penalties - useful public service program - alcohol and drug driving safety program.** (2.5) Following the lawful contact with a person who has been driving a vehicle and when a law enforcement officer reasonably suspects that a person was driving a vehicle while under the influence of or while impaired by alcohol, the law enforcement officer may conduct

a preliminary screening test using a device approved by the executive director of the department of PUBLIC health AND ENVIRONMENT after first advising the driver that the driver may either refuse or agree to provide a sample of the driver's breath for such preliminary test. The results of this preliminary screening test may be used by a law enforcement officer in determining whether probable cause exists to believe such person was driving a vehicle in violation of paragraph (a) or (b) of subsection (1) or subsection (1.5) of this section and whether to administer a test pursuant to paragraph (a) of subsection (3) of this section. Neither the results of such preliminary screening test nor the fact that the person refused such test shall be used in any court action except in a hearing outside of the presence of a jury, when such hearing is held to determine if a law enforcement officer had probable cause to believe that the driver committed a violation of paragraph (a) or (b) of subsection (1) or subsection (1.5) of this section. The results of such preliminary screening test shall be made available to the driver or his attorney on request. The preliminary screening test shall not substitute for or qualify as the test or tests required by paragraph (a) of subsection (3) of this section.

(3) (a) (II) Any person who drives any motor vehicle upon the streets and highways and elsewhere throughout this state shall be required to take and complete, and to cooperate in the taking and completing of, any test or tests of his breath or blood for the purpose of determining the alcoholic content of his blood or breath when so requested and directed by a law enforcement officer having probable cause to believe that the person was driving a motor vehicle in violation of subsection (1) or (1.5) of this section. Except as otherwise provided in this section, if such person requests that said test be a blood test, then the test shall be of his blood; but, if such person requests that a specimen of his blood not be drawn, then a specimen of his breath shall be obtained and tested. If such person elects either a blood test or a breath test, such person shall not be permitted to change such election, and, if such person fails to take and complete, and to cooperate in the completing of, the test elected, such failure shall be deemed to be a refusal to submit to testing. If such person is unable to take, or to complete, or to cooperate in the completing of a breath test because of injuries, illness, disease, physical infirmity, or physical incapacity, or if such person is receiving medical treatment at a location at which a breath testing instrument certified by the department of PUBLIC health AND ENVIRONMENT is not available, the test shall be of such person's blood.

(b) (I) The tests shall be administered at the direction of a law enforcement officer having probable cause to believe that the person had been driving a motor vehicle in violation of subsection (1) or (1.5) of this section and in accordance with rules and regulations prescribed by the state board of health concerning the health of the person being tested and the accuracy of such testing. Strict compliance with such rules and regulations shall not be a prerequisite to the admissibility of test results at trial unless the court finds that the extent of noncompliance with a board of health rule has so impaired the validity and reliability of the testing method and the test results as to render the evidence inadmissible. In all other circumstances, failure to strictly comply with such rules and regulations shall only be considered in the weight to be given to the test results and not to the admissibility of such test results. It shall not be a prerequisite to the admissibility of test results at trial that the prosecution present testimony concerning the composition of any kit used to obtain blood, urine, saliva, or breath specimens. A sufficient evidentiary foundation concerning the compliance of such kits with the rules and regulations of the department of PUBLIC health AND

ENVIRONMENT shall be established by the introduction of a copy of the manufacturer's or supplier's certificate of compliance with such rules and regulations if such certificate specifies the contents, sterility, chemical makeup, and amounts of chemicals contained in such kit.

(6) In all actions, suits, and judicial proceedings in any court of this state concerning alcohol-related or drug-related traffic offenses, the court shall take judicial notice of methods of testing a person's alcohol or drug level and of the design and operation of devices, as certified by the department of PUBLIC health AND ENVIRONMENT, for testing a person's blood, breath, saliva, or urine to determine his alcohol or drug level. This subsection (6) shall not prevent the necessity of establishing during a trial that the testing devices used were working properly and that such testing devices were properly operated. Nothing in this subsection (6) shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

**SECTION 595.** 42-4-1202.2, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**42-4-1202.2. Records - prima facie proof.** Official records of the department of PUBLIC health AND ENVIRONMENT relating to certification of breath test instruments, certification of operators and operator instructors of breath test instruments, certification of standard solutions, and certification of laboratories shall be official records of the state, and copies thereof, attested by the executive director of the department of PUBLIC health AND ENVIRONMENT or his deputy and accompanied by a certificate bearing the official seal for said department that the executive director or his deputy has custody of said records, shall be admissible in all courts of record and shall constitute prima facie proof of the information contained therein. The department seal required under this section may also consist of a rubber stamp producing a facsimile of the seal stamped upon the document.

**SECTION 596.** 42-4-1211 (6), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**42-4-1211. Samples of blood or other bodily substance - duties of department of public health and environment.** (6) All state and local public officials, including investigating law enforcement officers, have authority to and shall follow the procedures established by the department of PUBLIC health AND ENVIRONMENT pursuant to this section, including the release of all information to the department of PUBLIC health AND ENVIRONMENT concerning such samples and the testing thereof. The Colorado state patrol and the county coroners and their deputies shall assist the department of PUBLIC health AND ENVIRONMENT in the administration and collection of such samples for the purposes of this section.

**SECTION 597.** 43-6-104 (3), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**43-6-104. General powers and duties of chief - department of public safety - cooperation from other state agencies.** (3) Upon request, other agencies of state government, including but not limited to the department of PUBLIC health AND ENVIRONMENT and the department of transportation, shall provide advice and

assistance to the department of public safety relating to the program established by parts 1, 2, and 3 of this article.

**SECTION 598. Effective date.** Section 24-50-208, Colorado Revised Statutes, created in this act, shall take effect upon passage, and the remainder of this act shall take effect July 1, 1994.

**SECTION 599. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1994