

CHAPTER 170

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 96-1180

BY REPRESENTATIVES Morrison, Adkins, Clarke, and Mace;
also SENATORS Rizzuto, Bishop, Hernandez, Lacy, Matsunaka, Norton, L. Powers, R. Powers, Schroeder, Tebedo, and Weddig.

AN ACT

CONCERNING CHILD PLACEMENT AGENCIES, AND, IN CONNECTION THEREWITH, REQUIRING A REQUEST FOR PROPOSAL PROCESS AND OVERSIGHT OF SUCH AGENCIES' CONTRACTUAL OBLIGATIONS.

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

SECTION 1. Article 6 of title 26, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PART to read:

**PART 2
CHILD PLACEMENT AGENCIES**

26-6-201. Legislative intent. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) THE STATE SHOULD BE RESPONSIVE TO THE NEEDS OF CHILDREN WHO ARE PLACED OUT OF THEIR HOMES TO ENHANCE THE QUALITY OF CARE SUCH CHILDREN RECEIVE AND THE FISCAL RESPONSIBILITY OF THE CARE PROVIDERS;

(b) THE APPROPRIATENESS OF THE CARE AND TREATMENT OF CHILDREN PLACED OUT OF THEIR HOMES HAS BEEN IDENTIFIED AS A CONCERN IN THE CHILD WELFARE SETTLEMENT AGREEMENT IN CIVIL ACTION NO. 94-M-1417 AND BY THE TASK FORCE FOR THE RECODIFICATION OF THE CHILDREN'S CODE; AND

(c) IF THE SERVICES TO BE DELIVERED BY CHILD PLACEMENT AGENCIES WERE CLEARLY DEFINED AND MONITORED BY THE COUNTIES, THE STATE WOULD BE ABLE TO IMPROVE ITS RESPONSIVENESS TO THE NEEDS OF CHILDREN WHO ARE PLACED OUT OF THEIR HOMES.

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

(2) THE GENERAL ASSEMBLY, THEREFORE, DECLARES THAT THE STATE SHOULD IMPLEMENT AND EVALUATE A VARIETY OF MODELS FOR PROVIDING SERVICES FOR CHILDREN PLACED OUT OF THE HOME IN A CHILD PLACEMENT AGENCY OR AN ALTERNATIVE TO A CHILD PLACEMENT AGENCY, INCLUDING A SYSTEM FOR MONITORING THE QUALITY AND COST OF THOSE SERVICES PURSUANT TO THE PROVISIONS OF THIS PART 2.

26-6-202. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ALTERNATIVE TO CHILD PLACEMENT AGENCY" MEANS AN ALTERNATIVE TO A CHILD PLACEMENT AGENCY FOR THE OUT-OF-HOME PLACEMENT OF A CHILD, SUCH AS A FAMILY FOSTER OR GROUP HOME.

(2) "PILOT PROGRAM" MEANS ONE OF THE COUNTY-BASED PILOT PROGRAMS CREATED IN THIS PART 2 TO UTILIZE AND MONITOR CHILD PLACEMENT AGENCIES OR ALTERNATIVES TO CHILD PLACEMENT AGENCIES AUTHORIZED PURSUANT TO THE PROVISIONS OF THIS PART 2.

26-6-203. Pilot site selection. (1) (a) ON OR BEFORE JULY 1, 1996, OR THE EFFECTIVE DATE OF THIS PART 2, WHICHEVER DATE IS EARLIER, THE DEPARTMENT SHALL SELECT FIVE OR MORE COUNTY DEPARTMENTS OR GROUPS OF COUNTY DEPARTMENTS TO IMPLEMENT PILOT PROGRAMS PURSUANT TO THE PROVISIONS OF THIS PART 2.

(b) A COUNTY DEPARTMENT OR GROUP OF COUNTY DEPARTMENTS INTERESTED IN IMPLEMENTING A PILOT PROGRAM MAY SUBMIT A PROPOSAL TO THE DEPARTMENT FOR THE IMPLEMENTATION OF A SPECIFIC PILOT PROGRAM. THE DEPARTMENT MAY APPROVE OF A SPECIFIC PROPOSAL FOR A PILOT PROGRAM IF THE PROPOSED PILOT PROGRAM CONTAINS THE FEATURES DESCRIBED IN SECTION 26-6-204.

(2) AT LEAST FIFTY PERCENT OF THE CHILDREN PLACED IN CHILD PLACEMENT AGENCIES STATEWIDE SHALL BE INCLUDED IN THE COUNTIES OR GROUPS OF COUNTIES THAT ARE PARTICIPATING IN THE PILOT PROGRAMS CREATED PURSUANT TO THIS PART 2.

(3) THE PILOT PROGRAMS AUTHORIZED PURSUANT TO THIS PART 2 SHALL BE IMPLEMENTED NO LATER THAN AUGUST 1, 1996, OR NO LATER THAN THIRTY DAYS AFTER THE IMPLEMENTATION OF THIS PART 2, WHICHEVER DATE IS EARLIER, FOR A TERM OF ONE YEAR.

26-6-204. Pilot program features. (1) A PILOT PROGRAM SHALL TEST AND EVALUATE THE UTILIZATION OF CHILD PLACEMENT AGENCIES OR ALTERNATIVES TO CHILD PLACEMENT AGENCIES FOR THE COUNTY DEPARTMENT OR GROUP OF COUNTY DEPARTMENTS THAT THE CHILD PLACEMENT AGENCIES OR ALTERNATIVES TO CHILD PLACEMENT AGENCIES SERVE.

(2) A PILOT PROGRAM SHALL CONSIDER THE FOLLOWING FEATURES OF A CHILD PLACEMENT AGENCY OR ALTERNATIVE TO A CHILD PLACEMENT AGENCY BEING TESTED AND EVALUATED:

- (a) ITS ORGANIZATIONAL STRUCTURE;
- (b) SPECIFIC CHILD WELFARE SERVICES IT PROVIDES;
- (c) SPECIFIC SYSTEMS USED TO ENSURE APPROPRIATE AND COST-EFFECTIVE SERVICE DELIVERY, INCLUDING COST-CONTAINMENT MEASURES;
- (d) LENGTH OF STAYS OF CHILDREN IN CHILD PLACEMENT AGENCIES OR ALTERNATIVES TO CHILD PLACEMENT AGENCIES;
- (e) DETAILED DESCRIPTIONS OF:
 - (I) PROGRAM COMPONENTS OFFERED AND TARGET POPULATIONS SERVED;
 - (II) EFFORTS TO PROMOTE COMMUNITY SUPPORT AND INVOLVEMENT IN PROGRAMS; AND
 - (III) POLICY ON RUNAWAYS, DISCIPLINE, AND VISITATION.
- (3) A PILOT PROGRAM SHALL PROVIDE FOR AN EXTERNAL EVALUATION OF ITS EFFECTIVENESS IN ASSESSING THE MOST COST-EFFECTIVE METHOD OF MANAGING THE UTILIZATION OF CHILD PLACEMENT AGENCIES OR ALTERNATIVES TO CHILD PLACEMENT AGENCIES WHILE ASSURING THE QUALITY OF CARE FOR CHILDREN.

26-6-205. Reports. (1) EACH COUNTY DEPARTMENT OR GROUP OF COUNTY DEPARTMENTS THAT IMPLEMENT A PILOT PROGRAM PURSUANT TO THIS PART 2 SHALL REPORT TO THE DEPARTMENT NO LATER THAN THIRTY DAYS AFTER THE CONCLUSION OF THE PILOT PROGRAM TO ADDRESS THE RESULTS OF THE TESTING AND EVALUATION OF THE CHILD PLACEMENT AGENCIES OR ALTERNATIVES TO CHILD PLACEMENT AGENCIES FROM THE IMPLEMENTATION OF THE PILOT PROGRAM.

(2) EACH COUNTY DEPARTMENT OR GROUP OF COUNTY DEPARTMENTS THAT IMPLEMENT A PILOT PROGRAM PURSUANT TO THIS PART 2 SHALL ESTABLISH A LOCAL ADVISORY GROUP CONSISTING OF FOSTER AND GROUP HOME PARENTS IN SUCH COUNTY OR COUNTIES AND REPRESENTATIVES FROM ANY LOCAL FOSTER PARENT ASSOCIATIONS IN SUCH COUNTY OR COUNTIES TO ASSIST IN THE DESIGN, IMPLEMENTATION, AND EVALUATION OF SUCH PILOT PROGRAM.

(3) (a) ON OR BEFORE MARCH 1, 1997, THE DEPARTMENT SHALL SUBMIT A STATUS REPORT TO THE JOINT BUDGET COMMITTEE AND THE HOUSE AND SENATE COMMITTEES OF HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS OF THE GENERAL ASSEMBLY THAT SHALL ADDRESS THE IMPLEMENTATION AND RESULTS OF THE PILOT PROGRAMS AS OF THAT DATE.

(b) ON OR BEFORE OCTOBER 1, 1997, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE AND THE HOUSE AND SENATE COMMITTEES OF HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS OF THE GENERAL ASSEMBLY THAT SHALL ADDRESS:

(I) THE IMPLEMENTATION AND RESULTS OF THE PILOT PROGRAMS PURSUANT TO THIS PART 2;

(II) ANY ACTUAL OR ANTICIPATED SAVINGS REALIZED FROM THE IMPLEMENTATION OF THE PILOT PROGRAMS PURSUANT TO THIS PART 2;

(III) ANY RECOMMENDATIONS FOR CHANGES CONCERNING THE UTILIZATION OF CHILD PLACEMENT AGENCIES OR ALTERNATIVES TO CHILD PLACEMENT AGENCIES ON A STATEWIDE BASIS.

(c) THE REPORTS SUBMITTED BY THE DEPARTMENT PURSUANT TO PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (3) SHALL BE MADE AVAILABLE UPON REQUEST TO INTERESTED PARTIES.

26-6-206. Repeal of part. THIS PART 2 IS REPEALED, EFFECTIVE JULY 1, 1998.

SECTION 2. 26-6-101, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

26-6-101. Short title. This ~~article~~ PART 1 shall be known and may be cited as the "Child Care Act".

SECTION 3. 26-6-102 (8) and (9), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are 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~~ PART 1 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 human services pursuant to article 10 of title 27, C.R.S.

(9) "Secure residential treatment center" means a facility operated under private ownership ~~which~~ THAT is licensed by the ~~state~~ department pursuant to this ~~article~~ PART 1 to provide twenty-four-hour group care and treatment in a secure setting for five or more children or persons up to the age of twenty-one years over whom the juvenile court retains jurisdiction pursuant to section 19-2-102 (5), C.R.S., who are committed by a court pursuant to an adjudication of delinquency or pursuant to a determination of guilt of a delinquent act or having been convicted as an adult and sentenced for an act which would be a crime if committed in Colorado, or in the committing jurisdiction, to be placed in a secure facility.

SECTION 4. The introductory portion to 26-6-103 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

26-6-103. Application of part. (1) This ~~article~~ PART 1 shall not apply to:

SECTION 5. 26-6-104 (1), (2.5), (3), and (7), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

26-6-104. Licenses - out-of-state notices and consent. (1) No person shall operate a family care home or a child care center or maintain an employer-sponsored

on-site child care center without first being licensed to operate or maintain such home or center by the department and paying the fee prescribed therefor. A person operating a family care home shall not obtain a license if such person holds a certificate to operate such home from any county department or a child placement agency licensed under the provisions of this ~~article~~ PART 1. Said certificate shall be in such form as prescribed and provided by the department, shall certify that such person is a suitable person to operate a home, and shall contain such information as the department requires. A placement agency issuing or renewing any such certificate shall transmit a copy or report thereof to the department. No family care home shall be certified by more than one placement agency or county department. A family care home, when certified by a placement agency or county department, may receive for care a child from sources other than the certifying agency or county department upon the written consent and approval of the agency or county department as to each such child. All such certificates shall be considered licenses for the purpose of this ~~article~~ PART 1.

(2.5) An employer shall receive or accept for care in an employer-sponsored on-site child care center only a natural child, an adoptive child, or a stepchild of an employee who works on the premises or a child who is in the permanent or temporary legal custody of such employee. However, nothing in this ~~article~~ PART 1 shall preclude an employer from operating a child care center if such employer is properly licensed to operate a child care center.

(3) A provisional license for a period of six months may be issued to an applicant for an original license, permitting the applicant to operate a family care home or child care center or maintain an employer-sponsored on-site child care center if the applicant is temporarily unable to conform to all minimum standards required under this ~~article~~ PART 1, upon proof by the applicant that attempts are being made to conform to such standards or to comply with any other requirements. The applicant has the right to appeal any standard ~~which~~ THAT the applicant believes works an undue hardship or has been applied too stringently by the representatives of the department. Upon filing an appeal, the department shall proceed in the manner prescribed for licensee appeals in section 26-6-106 (3).

(7) No license or certificate to operate a family care home, a child care center, or a residential child care facility shall be issued by the department, a county department, or a child placement agency licensed under the provisions of this ~~article~~ PART 1 if: The person applying for such a license or certificate has been convicted of child abuse, as specified in section 18-6-401, C.R.S., or an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., according to the records of the Colorado bureau of investigation or has entered into a deferred judgment agreement to child abuse, as specified in section 18-6-401, C.R.S., or an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S. A certified copy of the judgment of a court of competent jurisdiction of such conviction or deferred judgment agreement shall be prima facie evidence of such conviction or agreement.

SECTION 6. 26-6-105 (4), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

26-6-105. Fees - when original and renewal applications for licensure are required - creation of child care licensing cash fund. (4) All fees collected

pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the child care licensing cash fund, which is hereby created. The general assembly shall make annual appropriations from the child care licensing cash fund for expenditures incurred by the department in the performance of its duties under this ~~article~~ PART 1.

SECTION 7. 26-6-106 (1) (a) and (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

26-6-106. Standards for facilities and agencies. (1) (a) The department shall prescribe and publish minimum standards for licensing. Such standards shall be applicable to the various types of facilities and agencies for child care regulated and licensed by this ~~article~~ PART 1; except that the department shall prescribe separate standards for licensing of employer-sponsored on-site child care centers pursuant to paragraph (b) of this subsection (1). The department shall seek the advice and assistance of persons representative of the various types of child care facilities and agencies in establishing such standards. For employer-sponsored on-site child care centers, the department shall seek the advice and assistance of parents, providers, experts in the child care field, persons in the business community, and representatives of business, research, and advocacy organizations with an expertise and interest in child care. Such standards shall be established by rule of the department, and such rules shall be issued and published only in conformity with the provisions and procedures specified in article 4 of title 24, C.R.S., and shall become effective only as provided in said article.

(3) Any applicant or person licensed to operate a child care facility or agency under the provisions of this ~~article~~ PART 1 has the right to appeal any standard ~~which~~ THAT, in his or her opinion, works an undue hardship or when, in his or her opinion, a standard has been too stringently applied by representatives of the department. The department shall designate a panel of persons representing various state and local governmental agencies with an interest in and concern for children to hear such appeal and to make recommendations to the department.

SECTION 8. 26-6-107 (1) (b), (2), and (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

26-6-107. Investigations and inspections - local authority - reports. (1) (b) When the department, county department, or child placement agency is satisfied that the applicant or licensee is competent and will operate adequate facilities to care for children under the requirements of this ~~article~~ PART 1 and that minimum standards are being met and will be complied with, it shall issue the license for which applied. The department shall inspect or cause to be inspected the facilities to be operated by an applicant for an original license before the license is granted and shall biennially thereafter inspect or cause to be inspected the facilities of all licensees; except that the department shall not inspect the facilities of a family care home providing less than twenty-four-hour care if such inspection is solely for the purpose of renewal of the license, unless during the period of licensure the facility was found to be the subject of complaints or to be out of compliance with the standards set forth in section 26-6-106 and the rules of the department. Each licensee shall certify in writing at the time of applying for renewal that it is in compliance with all applicable licensing standards. The department may make such other inspections

as it deems necessary to insure that the requirements of this article are being met and that the health, safety, and welfare of the children being placed are protected.

(2) The department may authorize or contract with any county department of social services, the county department of health, or any other publicly or privately operated organization ~~which~~ THAT has a declared interest in children and experience working with children or on behalf of children to investigate and inspect the facilities applying for an original or renewal license under this ~~article~~ PART 1 and may accept reports on such investigations and inspections from such agencies or organizations as a basis for such licensing. When contracting for investigations and inspections, the department shall assure that the contractor is qualified by training and experience and has no conflict of interest with the facilities to be inspected. A city or city and county may impose and enforce higher standards and requirements for facilities licensed under this ~~article~~ PART 1 than the minimum standards and requirements specified under this ~~article~~ PART 1.

(3) Every facility licensed under this ~~article~~ PART 1 shall keep and maintain such records as the department may prescribe pertaining to the admission, progress, health, and discharge of children under the care of the facility, and shall report relative thereto to the department whenever called for, upon forms prescribed by the department. All records regarding children and all facts learned about children and their relatives shall be kept confidential both by the facility and the department.

SECTION 9. The introductory portion to 26-6-108 (2) and 26-6-108 (2) (i) and (3), Colorado Revised Statutes, 1989 Repl. Vol., are 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~~ PART 1 should the licensee, person employed by the licensee, or person who resides with the licensee:

(i) Willfully or deliberately violate any of the provisions of this ~~article~~ PART 1; or

(3) The department shall suspend, revoke, or refuse to renew a license only in conformity with the provisions and procedures specified in article 4 of title 24, C.R.S., and after a hearing thereon as provided in said article 4; except that all hearings under this ~~article~~ PART 1 shall be conducted by an administrative law judge of the department who shall render his OR HER decision, which shall be the final decision of the department, and no licensee shall be entitled to a right to cure any of the charges described in paragraph (a), (b), (c), or (k) (I) of subsection (2) of this section. No such hearing shall prevent or delay any injunctive proceedings instituted under the provisions of section 26-6-111.

SECTION 10. 26-6-109, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

26-6-109. Advisory committee - sunset review - institutes. (1) (a) There is hereby created an advisory committee on licensing of child care facilities to advise and consult with the department in the administration and enforcement of this ~~article~~ PART 1. Said committee shall consist of fifteen members to be appointed by the

governor for terms of three years; except that, of the members first appointed, four shall be appointed for three years, four for two years, and three for one year. Thereafter, members shall be appointed for terms of three years except in the case of a vacancy ~~which~~ THAT shall be filled for the remainder of the unexpired term. No member shall be appointed to succeed himself or herself; except that members who have been appointed to fill the remainder of an unexpired term may be appointed to fill the succeeding full term.

(b) The members of the advisory committee shall serve without compensation but shall be entitled to their reasonable traveling expenses incurred in the performance of their duties, which shall be paid as a part of the expenses of administering this ~~article~~ PART 1.

(c) The committee shall consist of nine members who shall represent the various types of facilities licensed under the provisions of this ~~article~~ PART 1, four members representing various state and local governmental agencies with an interest in and concern for children, and two members at large who are parents, each having at least one child attending a facility licensed or certified under this ~~article~~ PART 1 at the time of such members' appointment.

(d) A majority of the members of the committee shall constitute a quorum, the presence of which at any meeting thereof duly called by the department shall have full and complete power to act upon and resolve in the name of the committee any matter or question referred to it by the department. The committee, as soon after appointment as practicable, shall elect from among its members a chairman, a vice-chairman, and a secretary who shall hold office until their successors are elected. The chairman shall preside at all meetings of the committee, and the secretary shall make a record of the proceedings thereof ~~which~~ THAT shall be preserved in the office of the department. All members of the committee shall be entitled to vote on any matter or question ~~which~~ THAT properly comes before it.

(e) Repealed.

(2) The department is authorized to hold institutes and programs for licensees under this ~~article~~ PART 1 in order to assist in the improvement of standards and practices of facilities operated and maintained by licensees and in the more efficient and practical administration and enforcement of this ~~article~~ PART 1. In conducting such institutes and programs, the department may request the assistance of health, education, and fire safety officials.

SECTION 11. 26-6-110, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

26-6-110. Acceptance of federal grants. The department is authorized to accept, on behalf of the state, any grants of federal funds made available for any purposes consistent with the provisions of this ~~article~~ PART 1. The executive director of the department, with the approval of the governor, has the power to direct the disposition of any such grants so accepted in conformity with the terms and conditions under which given.

SECTION 12. 26-6-111, Colorado Revised Statutes, 1989 Repl. Vol., is amended

to read:

26-6-111. Injunctive proceedings. The department, in the name of the people of the state of Colorado, through the attorney general of the state, may apply for an injunction in any court of competent jurisdiction to enjoin any person from operating any facility without a license ~~which~~ THAT is required to be licensed under this ~~article~~ PART 1. An injunction may also be requested by the appropriate county department through the county attorney or retained counsel. If it is established that the defendant has been or is so operating such facility, the court shall enter a decree enjoining said defendant from further operating such facility unless and until he obtains a license therefor. In case of violation of any injunction issued under the provisions of this section, the court may summarily try and punish the offender for contempt of court. Such injunctive proceedings shall be in addition to and not in lieu of the penalty provided in section 26-6-112.

SECTION 13. 26-6-112, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

26-6-112. Penalty. Any person violating any provision of this ~~article~~ PART 1 or intentionally making any false statement or report to the department or to any agency delegated by the department to make an investigation or inspection under the provisions of this ~~article~~ PART 1 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than three hundred dollars nor more than five hundred dollars.

SECTION 14. 26-6-114 (1) and (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

26-6-114. Civil penalties - fines. (1) In addition to any other penalty otherwise provided by law, any person violating any provision of this ~~article~~ PART 1 or intentionally making any false statement or report to the department or to any agency delegated by the department to make an investigation or inspection under the provisions of this ~~article~~ PART 1 may be assessed a civil penalty of not more than one hundred dollars a day to a maximum of ten thousand dollars.

(3) Each day in which a person is in violation of any provision of this ~~article~~ PART 1 may constitute a separate offense.

SECTION 15. No appropriation. (1) The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

(2) The department of human services is authorized to use funds appropriated for child welfare out-of-home placement, family preservation programs, or family and children's programs for the implementation of this act.

SECTION 16. 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: May 23, 1996