

CHAPTER 108

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 03-1081

BY REPRESENTATIVE(S) Coleman, Vigil, White, Williams T., Boyd, Decker, Frangas, Jahn, Madden, Marshall, Paccione, Ragsdale, Romanoff, Sanchez, Stafford, Veiga, and Williams S.; also SENATOR(S) Takis, Anderson, Taylor, Tupa, Fitz-Gerald, Hagedorn, Hanna, Isgar, Keller, Sandoval, and Windels.

AN ACT

CONCERNING FOSTER CARE SERVICES.

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

SECTION 1. 26-6-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-6-102. Definitions. As used in this article, unless the context otherwise requires:

(7.5) "RELATIVE", EXCEPT AS OTHERWISE USED IN SUBSECTION (4.5) OF THIS SECTION, MEANS ANY OF THE FOLLOWING RELATIONSHIPS BY BLOOD, MARRIAGE, OR ADOPTION: PARENT, GRANDPARENT, SON, DAUGHTER, GRANDSON, GRANDDAUGHTER, BROTHER, SISTER, STEPPARENT, STEPBROTHER, STEPSISTER, STEPSON, STEPDAUGHTER, UNCLE, AUNT, NIECE, NEPHEW, OR COUSIN.

SECTION 2. 26-6-104 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-6-104. Licenses - out-of-state notices and consent. (1) (d) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 1, NO PERSON SHALL OPERATE A FOSTER CARE HOME THAT IS CERTIFIED BY A COUNTY DEPARTMENT IF SUCH PERSON IS A RELATIVE OF ANY EMPLOYEE OF THE CHILD WELFARE DIVISION OR UNIT OF THE COUNTY DEPARTMENT CERTIFYING THE FOSTER CARE HOME. IF SUCH PERSON FILES AN APPLICATION WITH A COUNTY DEPARTMENT THAT WOULD VIOLATE THE PROVISIONS OF THIS SUBPARAGRAPH (I) BY CERTIFYING THE FOSTER CARE HOME, THE COUNTY DEPARTMENT SHALL REFER THE APPLICATION TO ANOTHER COUNTY DEPARTMENT OR TO A CHILD PLACEMENT AGENCY. UNLESS OTHERWISE PROHIBITED,

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

THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY TO WHICH THE APPLICATION WAS REFERRED MAY CERTIFY AND SUPERVISE A FOSTER CARE HOME OPERATED BY SUCH PERSON. THE COUNTY DEPARTMENT THAT REFERRED THE APPLICATION MAY PLACE CHILDREN IN THE COUNTY-CERTIFIED FOSTER CARE HOME UPON WRITTEN AGREEMENT OF THE TWO COUNTY DEPARTMENTS.

(II) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 1, NO PERSON SHALL OPERATE A FOSTER CARE HOME THAT IS CERTIFIED BY A CHILD PLACEMENT AGENCY IF SUCH PERSON IS A RELATIVE OF ANY OWNER, OFFICER, EXECUTIVE, MEMBER OF THE GOVERNING BOARD, OR EMPLOYEE OF THE CHILD PLACEMENT AGENCY CERTIFYING THE FOSTER CARE HOME. IF SUCH PERSON FILES AN APPLICATION WITH A CHILD PLACEMENT AGENCY THAT WOULD VIOLATE THE PROVISIONS OF THIS SUBPARAGRAPH (II) BY CERTIFYING THE FOSTER CARE HOME, THE CHILD PLACEMENT AGENCY SHALL REFER THE APPLICATION TO A COUNTY DEPARTMENT OR TO ANOTHER CHILD PLACEMENT AGENCY THAT WOULD NOT VIOLATE THE PROVISIONS OF THIS SUBPARAGRAPH (II) BY CERTIFYING THE FOSTER CARE HOME.

(III) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 1, NO OWNER, OFFICER, EXECUTIVE, MEMBER OF THE GOVERNING BOARD, OR EMPLOYEE OF A CHILD PLACEMENT AGENCY LICENSED PURSUANT TO THIS PART 1, OR ANY RELATIVE OF SAID OWNER, OFFICER, EXECUTIVE, MEMBER, OR EMPLOYEE, SHALL HOLD A BENEFICIAL INTEREST IN ANY PROPERTY OPERATED, OR INTENDED TO BE OPERATED, AS A FOSTER CARE HOME, WHEN THE PROPERTY IS CERTIFIED BY THE CHILD PLACEMENT AGENCY AS A FOSTER CARE HOME.

SECTION 3. Repeal. 26-6-107 (1.5), Colorado Revised Statutes, is repealed as follows:

26-6-107. Investigations and inspections - local authority - reports - rules.

~~(1.5) The state auditor's office shall conduct a performance audit of the department's risk-based approach to monitoring and inspecting child care facilities set forth in paragraph (b) of subsection (1) of this section on or before December 1, 1998.~~

SECTION 4. 26-6-108 (2) (l) and (2) (m), Colorado Revised Statutes, are amended, and the said 26-6-108 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

26-6-108. Denial of original license - suspension - revocation - probation - refusal to renew license - fines. (2) The department may deny, suspend, revoke, or make probationary the license of any facility regulated and licensed under this part 1 or assess a fine against the licensee pursuant to section 26-6-114 should the licensee, an affiliate of the licensee, a person employed by the licensee, or a person who resides with the licensee at the facility:

(l) Admit to an act of child abuse or if substantial evidence is found that the licensee, person employed by the licensee, or person who resides with the licensee in the licensed facility has committed an act of child abuse. For the purposes of this paragraph (l), "child abuse" has the same meaning as that ascribed to the term "abuse" or "child abuse or neglect" in section 19-1-103 (1), C.R.S.; ~~or~~

(m) Be the subject of a negative licensing action; OR

(n) MISUSE ANY PUBLIC FUNDS THAT ARE PROVIDED TO ANY FOSTER CARE HOME OR ANY CHILD PLACEMENT AGENCY THAT PLACES OR ARRANGES FOR PLACEMENT OF A CHILD IN FOSTER CARE FOR THE PURPOSES OF PROVIDING FOSTER CARE SERVICES, CHILD PLACEMENT SERVICES RELATED TO THE PROVISION OF FOSTER CARE, OR ANY ADMINISTRATIVE COSTS RELATED TO THE PROVISION OF SUCH FOSTER CARE SERVICES OR SUCH FOSTER-CARE-RELATED CHILD PLACEMENT SERVICES. THE STATE BOARD SHALL PROMULGATE RULES DEFINING THE TERM "MISUSE", WHICH RULES SHALL TAKE INTO ACCOUNT SIMILAR DEFINITIONS IN FEDERAL LAW AND MAY INCLUDE REFERENCES TO RELEVANT CIRCULARS OF THE FEDERAL OFFICE OF MANAGEMENT AND BUDGET.

SECTION 5. 26-6-118, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-6-118. Child placement agencies - information sharing - investigations by state department - recovery of moneys - rule-making. (4) (a) THE STATE DEPARTMENT, IN COLLABORATION WITH THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES AND OTHER FEDERAL AGENCIES AND WITH COUNTY DEPARTMENTS, SHALL SEEK RECOVERY FROM A CHILD PLACEMENT AGENCY OF ANY PUBLIC FUNDS THAT HAVE BEEN MISUSED BY THE CHILD PLACEMENT AGENCY, AS THE TERM "MISUSE" IS DEFINED BY RULES PROMULGATED PURSUANT TO SECTION 26-6-108 (2) (N).

(b) ANY COUNTY AND CHILD PLACEMENT AGENCY ENTERING INTO A CONTRACT FOR THE PROVISION OF FOSTER CARE SERVICES SHALL INCLUDE A PROVISION IN THE CONTRACT THAT RECOGNIZES A RIGHT OF THE STATE DEPARTMENT OR COUNTY DEPARTMENT TO RECOVER ANY FUNDS MISUSED BY THE CHILD PLACEMENT AGENCY AND TO WITHHOLD SUBSEQUENT PAYMENTS. THE PROVISION IN THE CONTRACT SHALL PROVIDE FOR AN APPEAL OF THE DECISION TO RECOVER OR WITHHOLD THE FUNDS. THE STATE BOARD SHALL PROMULGATE RULES THAT SET FORTH THE PROCEDURES FOR THE APPEAL, WHICH RULES SHALL REQUIRE, AT A MINIMUM, REASONABLE NOTICE TO THE CHILD PLACEMENT AGENCY.

SECTION 6. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 7, 2003