

CHAPTER 177

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 04-1271

BY REPRESENTATIVE(S) Clapp, Butcher, Coleman, Frangas, Hefley, Jahn, Lundberg, Merrifield, Stafford, Tochtrop, Williams S., Young, Harvey, Romano ff, Schultheis, and Weddig;
also SENATOR(S) Kester, Groff, Hanna, Keller, Phillips, Sandoval, and Tapia.

AN ACT

CONCERNING THE ESTABLISHMENT OF A PILOT PROGRAM FOR THE PLACEMENT OF CHILDREN IN DEDICATED OUT-OF-HOME SETTINGS.

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

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

**PART 4
DEDICATED FAMILY HOMES PILOT PROGRAM**

26-6-401. Short title. THIS PART 4 SHALL BE KNOWN AND MAY BE CITED AS THE "DEDICATED FAMILY HOMES PILOT PROGRAM".

26-6-402. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) CHILDREN IN OUT-OF-HOME PLACEMENTS ARE OFTEN SUBJECT TO MULTIPLE PLACEMENTS IN VARIOUS SETTINGS WITH LITTLE STABILITY, FAMILIARITY, SECURITY, OR CONTINUITY OF CARE;

(b) CONTINUITY OF PLACEMENT IN A STABLE ENVIRONMENT ULTIMATELY ACHIEVING PERMANENCY, IS THE OPTIMUM SITUATION FOR THE HEALTHY DEVELOPMENT AND WELL-BEING OF ANY CHILD IN OUT-OF-HOME PLACEMENT;

(c) PRIOR TO THE EFFECTIVE DATE OF THIS PART 4, SETTINGS FOR OUT-OF-HOME PLACEMENTS, INCLUDING GROUP HOMES, HAVE BEEN DESIGNED TO RECEIVE NEW PLACEMENTS AND FILL VACANCIES SHORTLY AFTER PREVIOUS RESIDENTS ARE MOVED

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

TO OTHER SETTINGS, WITH THE RESULT BEING THAT A CHILD WHO HAS ESTABLISHED A BOND WITH A PARENTAL FIGURE IN A SPECIFIC SETTING AND WHO HAS BEEN SUBSEQUENTLY PLACED ELSEWHERE, WHICH PLACEMENT ULTIMATELY IS UNSUCCESSFUL, CANNOT EASILY RETURN TO THE FORMER SETTING;

(d) BECAUSE A CHILD IN AN OUT-OF-HOME PLACEMENT TYPICALLY CANNOT RETURN TO A SPECIFIC SETTING BECAUSE ANOTHER CHILD IN AN OUT-OF-HOME PLACEMENT HAS BEEN ASSIGNED TO FILL THE VACANT BED, IT IS NEARLY IMPOSSIBLE FOR A CHILD TO DEVELOP A LONG-TERM BOND WITH ANY ONE SET OF PARENTAL FIGURES OR TO BENEFIT FROM A STABLE SETTING; AND

(e) STATE MONEYS CURRENTLY FOLLOW THE CHILD AS THE CHILD IS MOVED FROM PLACEMENT TO PLACEMENT BUT CANNOT BE USED TO RESERVE A SPACE TO ENSURE THAT A CHILD MAY BE RETURNED TO A FORMER HOME OR SETTING.

(2) AS A RESULT, THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) IT IS IN THE BEST INTERESTS OF A CHILD IN AN UNSUCCESSFUL OUT-OF-HOME PLACEMENT TO HAVE THE ABILITY TO RETURN TO A SPECIFIC SETTING WHERE THE CHILD HAS PREVIOUSLY ESTABLISHED A BOND WITH A PARENTAL FIGURE AND TO INSURE THAT THE SETTING TO WHICH THE CHILD MAY RETURN IS AVAILABLE TO THE CHILD UNTIL THE CHILD ATTAINS THE AGE OF EIGHTEEN; AND

(b) THE STATE DEPARTMENT SHOULD IMPLEMENT A PILOT PROGRAM BY WHICH PRIVATE MONEYS MAY BE USED TO RESERVE A SPACE IN THE DEDICATED FAMILY HOME IN WHICH A CHILD HAD BEEN MOST RECENTLY PLACED AND WHICH WOULD PROVIDE A SPECIFIC STABLE SETTING TO WHICH THE CHILD IN AN UNSUCCESSFUL OUT-OF-HOME PLACEMENT MAY RETURN.

26-6-403. Dedicated family homes - pilot program - established - rule-making. (1) THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT OF HUMAN SERVICES THE DEDICATED FAMILY HOMES PILOT PROGRAM, REFERRED TO IN THIS PART 4 AS THE "PROGRAM". THE PROGRAM SHALL BE IMPLEMENTED UNDER THE SUPERVISION OF THE EXECUTIVE DIRECTOR.

(2)(a) SUBJECT TO AVAILABLE APPROPRIATIONS AND SUBJECT TO THE LIMITATIONS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (2), THE STATE DEPARTMENT SHALL DESIGNATE NO MORE THAN TEN COUNTY DEPARTMENTS AND LICENSED CHILD PLACEMENT AGENCIES TO RECRUIT, TRAIN, MONITOR, AND INVESTIGATE HOUSE PARENTS WHO OPERATE DEDICATED FAMILY HOMES AS DEFINED IN SECTION 26-6-102 (2.7), AND AS LICENSED PURSUANT TO PART 1 OF THIS ARTICLE. MONEYS RECEIVED PURSUANT TO SECTION 26-6-404 SHALL BE USED TO RESERVE A BED OR BEDS IN THE SPECIFIC DEDICATED FAMILY HOME IN WHICH A CHILD HAD MOST RECENTLY BEEN PLACED AND HAD PREVIOUSLY ESTABLISHED A BOND WITH A PARENTAL FIGURE. THE DEDICATED FAMILY HOME SHALL SERVE AS A SPECIFIC STABLE SETTING FOR A CHILD AND HIS OR HER SIBLINGS, IF ANY, IN OUT-OF-HOME PLACEMENT TO RETURN TO, AND REMAIN IN AFTER AN UNSUCCESSFUL OUT-OF-HOME PLACEMENT, UNTIL EACH CHILD ATTAINS THE AGE OF EIGHTEEN. THE COUNTY DEPARTMENTS AND CHILD PLACEMENT AGENCIES DESIGNATED BY THE STATE DEPARTMENT SHALL IDENTIFY SPECIFIC CHILDREN BETWEEN THE AGES OF SIX AND EIGHTEEN WHO ARE MOST LIKELY TO BENEFIT FROM PLACEMENT IN A DEDICATED FAMILY HOME. THE ASSIGNMENT OF

SPECIFIC CHILDREN SHALL COMMIT A HOUSE PARENT OF THE DEDICATED FAMILY HOME TO ACCEPT THE SUBSEQUENT PLACEMENT OF THE CHILD WHEN AN OUT-OF-HOME PLACEMENT FOR THAT CHILD IS UNSUCCESSFUL, AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION.

(b) COUNTY DEPARTMENTS AND CHILD PLACEMENT AGENCIES SHALL PARTICIPATE IN THE PROGRAM ONLY ON A VOLUNTARY BASIS.

(3) SUBJECT TO AVAILABLE APPROPRIATIONS, A HOUSE PARENT OF A DEDICATED FAMILY HOME, AS A CONDITION OF HOLDING A LICENSE PURSUANT TO PART 1 OF THIS ARTICLE, SHALL AGREE TO ACCEPT THE PLACEMENT OF A CHILD THAT HAS SIGNIFICANT BARRIERS TO ACHIEVING PERMANENCY IN OUT-OF-HOME PLACEMENT BACK IN THE DEDICATED FAMILY HOME AND TO ACCEPT SUCH PLACEMENT UNTIL THE CHILD HAS ATTAINED THE AGE OF EIGHTEEN IF ANY INTERIM PLACEMENT IS UNSUCCESSFUL. THE STATE BOARD SHALL DEFINE BY RULE CHILDREN ELIGIBLE FOR PLACEMENT IN A DEDICATED FAMILY HOME, CONSISTENT WITH THE PROVISIONS OF THIS PART 4.

(4) (a) SUBJECT TO RULES PROMULGATED BY THE STATE BOARD REGARDING THE IMPACT OF DUAL FUNCTIONS ON CAPACITY AND QUALITY OF CARE, A PERSON OR ENTITY MAY OPERATE:

(I) A FOSTER CARE HOME AND A DEDICATED FAMILY HOME SIMULTANEOUSLY IN THE SAME DWELLING; OR

(II) A SPECIALIZED GROUP FACILITY AND A DEDICATED FAMILY HOME IN THE SAME FACILITY.

(b) THE STATE BOARD, IN PROMULGATING THE RULES DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (4), IS ENCOURAGED TO EXPLORE FLEXIBLE DESIGNS FOR THE DELIVERY OF CARE SO THAT A DEDICATED FAMILY HOME MAY BE OPERATED AS A SEPARATE, SELF-CONTAINED ENTITY OR MAY CONSIST OF ONE OR MORE BEDS RESERVED FOR SPECIFIC CHILDREN IN OUT-OF-HOME PLACEMENT IN FACILITIES ALREADY LICENSED AND PROVIDING FAMILY SETTINGS.

(5) (a) SUBJECT TO AVAILABLE APPROPRIATIONS, THE STATE DEPARTMENT MAY EXPEND MONEYS APPROPRIATED PURSUANT TO SECTION 26-6-404 FOR ANY OF THE FOLLOWING PURPOSES:

(I) TO ASSIST A HOUSE PARENT IN MAKING PERIODIC PAYMENTS ON ANY CONSUMER LOAN SECURED BY A DEED OF TRUST OR MORTGAGE THAT ENCUMBERS THE DWELLING USED AS THE DEDICATED FAMILY HOME;

(II) TO COMPENSATE A HOUSE PARENT IN WHOLE OR IN PART FOR ANY LOSS OF WAGES BECAUSE THE HOUSE PARENT FOREGOES FULL-TIME OR PART-TIME EMPLOYMENT IN ORDER TO STAY IN THE DEDICATED FAMILY HOME ON A FULL-TIME OR PART-TIME BASIS;

(III) TO ASSIST A HOUSE PARENT IN OBTAINING RELEVANT TRAINING OR EDUCATION OR TO REIMBURSE THE HOUSE PARENT FOR THE COST OF COURSE WORK TOWARD A RELEVANT ADVANCED DEGREE;

(IV) TO ASSIST A HOUSE PARENT IN PAYING PROPERTY TAXES OR HOMEOWNERS INSURANCE PREMIUMS FOR A DWELLING USED AS A DEDICATED FAMILY HOME; OR

(V) TO PROVIDE ANY OTHER REASONABLE INDUCEMENTS FOR HOUSE PARENTS TO OPERATE DEDICATED FAMILY HOMES, AS THOSE INDUCEMENTS ARE SET FORTH BY RULE OF THE STATE BOARD.

(b) AS A SECONDARY PRIORITY, THE STATE DEPARTMENT MAY SEEK THE ACQUISITION OR CONSTRUCTION OF PROPERTY, STRUCTURES, OR FACILITIES, TO BE OPERATED AS DEDICATED FAMILY HOMES, THROUGH THE DEPARTMENT OF PERSONNEL AS PROVIDED IN PART 13 OF ARTICLE 30 OF TITLE 24, C.R.S., AND SECTION 24-82-102, C.R.S.

(c) NO MORE THAN THREE PERCENT OF THE MONEYS APPROPRIATED TO THE STATE DEPARTMENT PURSUANT TO SECTION 26-6-404 SHALL BE USED FOR ADMINISTRATIVE PURPOSES.

(6) NO PERSON SHALL BE DISCOURAGED OR PROHIBITED FROM ADOPTING A CHILD PLACED PURSUANT TO THIS PILOT PROGRAM, SOLELY ON THE BASIS OF THE PERSON SERVING AS A HOUSE PARENT FOR THE CHILD.

(7) NOTWITHSTANDING A CHILD'S PLACEMENT IN A DEDICATED FAMILY HOME, THE DEPARTMENT SHALL CONTINUE IMPLEMENTATION OF A PLANNED AND SYSTEMATIC PROCESS TO ACHIEVE PERMANENCY FOR THE CHILD.

(8) FOR PURPOSES OF THIS PART 4, "HOUSE PARENT" MEANS A PERSON SPECIFICALLY TRAINED AND CERTIFIED BY A COUNTY DEPARTMENT OR A LICENSED CHILD PLACEMENT AGENCY TO OPERATE A DEDICATED FAMILY HOME.

26-6-404. Dedicated family homes cash fund - established. (1) THE EXECUTIVE DIRECTOR IS HEREBY AUTHORIZED TO ACCEPT GIFTS, GRANTS, OR DONATIONS FROM ANY PRIVATE SOURCE FOR THE PURPOSE OF IMPLEMENTING THIS PART 4; EXCEPT THAT NO GIFT, GRANT, OR DONATION SHALL BE ACCEPTED IF THE CONDITIONS ATTACHED THERETO REQUIRE THE EXPENDITURE THEREOF IN A MANNER CONTRARY TO LAW. ALL GIFTS, GRANTS, OR DONATIONS RECEIVED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE DEDICATED FAMILY HOMES CASH FUND, WHICH FUND IS HEREBY CREATED. THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS PART 4 MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND.

(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT NO GENERAL FUND MONEYS BE APPROPRIATED FOR THE PURPOSES OF IMPLEMENTING THIS PART 4.

26-6-405. Rule-making. THE STATE BOARD SHALL PROMULGATE ALL REASONABLE AND NECESSARY RULES FOR THE IMPLEMENTATION OF THIS PART 4.

26-6-406. Report - repeal of part. (1) THE STATE DEPARTMENT SHALL SUBMIT A REPORT ON THE EFFECTIVENESS OF THE DEDICATED FAMILY HOMES PILOT PROGRAM

TO THE HOUSE AND SENATE COMMITTEES ON HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS NO LATER THAN DECEMBER 31, 2007. THE REPORT SHALL INCLUDE THE STATE DEPARTMENT'S FINDINGS AND RECOMMENDATIONS, INCLUDING WHETHER THE PILOT PROGRAM ESTABLISHED IN THIS PART 4 SHOULD BE TERMINATED, EXTENDED, EXPANDED, OR MADE PERMANENT. THE STATE DEPARTMENT MAY PROPOSE LEGISLATION TO CARRY OUT THE STATE DEPARTMENT'S RECOMMENDATIONS.

(2) THIS PART 4 IS REPEALED, EFFECTIVE JULY 1, 2008.

SECTION 2. 26-6-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

(2.7) (a) "DEDICATED FAMILY HOME" MEANS A SINGLE-FAMILY DWELLING OR A GROUP HOME THAT IS LICENSED PURSUANT TO SECTION 26-6-104 FOR THE PURPOSE OF PROVIDING TWENTY-FOUR-HOUR FAMILY CARE FOR A CHILD WHO IS AT LEAST SIX YEARS OF AGE BUT LESS THAN EIGHTEEN YEARS OF AGE AND WHO IS NOT RELATED TO THE HOUSE PARENT, AS THAT TERM IS DEFINED IN SECTION 26-6-403 (6).

(b) THIS SUBSECTION (2.7) IS REPEALED, EFFECTIVE JULY 1, 2008.

SECTION 3. The introductory portion to 26-6-104 (7) (a) (I), Colorado Revised Statutes, is amended to read:

26-6-104. Licenses - out-of-state notices and consent. (7) (a) (I) No license or certificate to operate a family child care home, a foster care home, A DEDICATED FAMILY HOME, a child care center, a residential child care facility, a secure residential child care facility, or a child placement agency shall be issued by the state department, a county department, or a child placement agency licensed under the provisions of this part 1 if the person applying for such a license or certificate has been convicted of:

SECTION 4. 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 (August 4, 2004, if adjournment sine die is on May 5, 2004); 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 21, 2004