

CHAPTER 102

HUMAN SERVICES - SOCIAL SERVICES

SENATE BILL 10-118

BY SENATOR(S) Tochtrop, Carroll M., Boyd, Hodge, Hudak, Williams;
also REPRESENTATIVE(S) Miklosi, Primavera, Apuan, Casso, Gerou, Hullinghorst, Labuda, Pace, Priola, Todd.

AN ACT

CONCERNING AUTHORIZING THE DEPARTMENT OF HUMAN SERVICES TO OBTAIN A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK ON AN INDIVIDUAL WHO CARES FOR A RELATED CHILD WHOSE CARE IS FUNDED IN WHOLE OR IN PART WITH MONEYS RECEIVED FROM THE COLORADO CHILD CARE ASSISTANCE PROGRAM.

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

SECTION 1. 26-6-120 (1), the introductory portions to 26-6-120 (2) and (3), and 26-6-120 (3) (b), (4), and (5), Colorado Revised Statutes, are amended to read:

26-6-120. Exempt family child care home providers - fingerprint-based criminal history record check - child care assistance program moneys - temporary care - definitions. (1) (a) (I) An exempt family child care home provider who provides care for a child ~~whose care is funded in whole or in part with moneys received on the child's behalf from publicly funded state child care assistance programs~~ AND AN INDIVIDUAL WHO PROVIDES CARE FOR A CHILD WHO IS RELATED TO THE INDIVIDUAL, REFERRED TO COLLECTIVELY IN THIS SECTION AS A "QUALIFIED PROVIDER", shall be subject to a fingerprint-based criminal history ~~records~~ RECORD check, referred to in this section as an "FCC", as provided in this section and the rules authorized in section 26-6-107 (1) (a) (I) and (1) (a) (I.5), IF THE CHILD'S CARE IS FUNDED IN WHOLE OR IN PART WITH MONEYS RECEIVED ON THE CHILD'S BEHALF FROM THE PUBLICLY FUNDED COLORADO CHILD CARE ASSISTANCE PROGRAM. The provisions of this section shall apply to exempt family child care home providers OR INDIVIDUALS WHO PROVIDE CARE TO A RELATED CHILD who receive moneys from THE publicly funded ~~state~~ COLORADO child care assistance ~~programs~~ PROGRAM pursuant to contracts or other payment agreements entered into or renewed on or after May 25, 2006.

(II) Each adult eighteen years of age or older who resides with ~~an exempt family~~

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

~~child care home~~ A QUALIFIED provider WHERE THE CARE IS PROVIDED, referred to in this section as a "qualified adult", shall be subject to the FCC required pursuant to this section.

(III) The FCC required for ~~an exempt family child care home~~ A QUALIFIED provider or qualified adult pursuant to this section shall be conducted through the Colorado bureau of investigation for ~~an exempt family child care home~~ A QUALIFIED provider or qualified adult who has resided in Colorado for more than two years. ~~An exempt family child care home~~ A QUALIFIED provider or qualified adult who has resided in Colorado for less than two years shall be required to additionally have a federal bureau of investigation fingerprint check conducted through the Colorado bureau of investigation. As part of ~~said~~ THE FCC, the records and reports of child abuse or neglect maintained by the state department shall be accessed to determine whether the subject of the FCC has been found to be responsible in a confirmed report of child abuse or neglect. Information shall be made available pursuant to section 19-1-307 (2) (j), C.R.S., and rules promulgated by the state board pursuant to section 19-3-313.5 (4), C.R.S.

(IV) The FCC required pursuant to this section shall be a prerequisite to the issuance or renewal of a contract for receipt of moneys under the Colorado child care assistance program as provided in part 8 of article 2 of this title. The state department shall not issue or renew a contract for payment of moneys under the Colorado child care assistance program to ~~an exempt family child care home~~ A QUALIFIED provider who fails to submit to the FCC or fails to submit fingerprints for a qualified adult. ~~who resides with the exempt family child care home provider.~~

(b) ~~An exempt family child care home~~ A QUALIFIED provider shall notify the county with whom he or she has contracted pursuant to the Colorado child care assistance program upon any change of circumstances that results in the presence of a new qualified adult. ~~in the residence.~~ A new qualified adult ~~in the residence of an exempt family child care home provider~~ is required to undergo an FCC as provided in this section, even if the Colorado child care assistance program contract is not subject to renewal when the qualified adult moves into the residence WHERE THE CARE IS PROVIDED.

(c) ~~An exempt family child care home~~ A QUALIFIED provider or qualified adult who undergoes an FCC shall, with submittal of his or her fingerprints, pay to the state department a fee established by rule of the state board pursuant to subsection (5) of this section to offset the costs associated with processing the FCC through the Colorado bureau of investigation and the federal bureau of investigation.

(2) A contract to provide moneys under the Colorado child care assistance program pursuant to part 8 of article 2 of this title shall not be issued or renewed by the state department or a county department to ~~an exempt family child care home~~ A QUALIFIED provider if the QUALIFIED provider or a qualified adult ~~who resides with the provider~~ has been convicted of:

(3) A contract to provide moneys under the Colorado child care assistance program pursuant to part 8 of article 2 of this title shall not be issued or renewed by the state department or a county department to ~~an exempt family child care home~~ A QUALIFIED provider if the QUALIFIED provider or a qualified adult: ~~who resides~~

~~with the provider:~~

(b) Has been determined to be insane or mentally incompetent by a court of competent jurisdiction and a court has entered, pursuant to part 3 or 4 of article 14 of title 15, C.R.S., or section 27-10-109 (4) or 27-10-125, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the QUALIFIED provider cannot safely operate ~~an exempt family~~ A child care home. The record of such determination and entry of such order shall be conclusive evidence thereof. ~~An exempt family child care home~~ A QUALIFIED provider shall sign an attestation affirming the lack of such a finding prior to entering into or renewing a contract for moneys under the Colorado child care assistance program, pursuant to section 26-2-805.5 (2).

(4) ~~An exempt family child care home~~ A QUALIFIED provider who has submitted to an FCC by the Colorado bureau of investigation and the federal bureau of investigation may, pending the receipt of the results of the FCC, continue to receive moneys from ~~publicly funded state~~ THE COLORADO child care assistance ~~programs~~ PROGRAM.

(5) The state board shall promulgate rules to establish the amount of the fee to collect from ~~an exempt family child care home~~ A QUALIFIED provider or qualified adult who is subject to an FCC pursuant to subsection (1) of this section. The state department is authorized to collect the fee at the time of the FCC.

SECTION 2. 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: April 15, 2010