

CHAPTER 278

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 10-1106

BY REPRESENTATIVE(S) Casso, Apuan, Gerou, Labuda, Pace, Schafer S., Solano, Todd, Vigil, Carroll T.;
also SENATOR(S) Sandoval, Boyd, Carroll M., Hudak, Keller, Morse, Newell, Shaffer B., Williams, Foster.

AN ACT

**CONCERNING BRINGING CERTAIN STATUTORY PROVISIONS CONCERNING CHILD WELFARE INTO
COMPLIANCE WITH FEDERAL LAW, AND MAKING AN APPROPRIATION THEREFOR.**

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

SECTION 1. 26-6-107 (1) (a) (I) (C), Colorado Revised Statutes, is amended, and the said 26-6-107 (1) (a) (I) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH, to read:

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

(1) (a) (I) (C) Rules promulgated by the state board pursuant to this subparagraph (I) shall require the fingerprint-based criminal history records check in all circumstances, other than those identified in sub-subparagraph (B) OR (C.5) of this subparagraph (I), to include a fingerprint-based criminal history records check through the Colorado bureau of investigation. ~~except for persons residing in this state less than two years, who shall be required to have a federal bureau of investigation fingerprint-based criminal history records check through the Colorado bureau of investigation.~~ As part of said investigation, the records and reports of child abuse or neglect maintained by the state department shall be accessed to determine whether the owner, applicant, employee, newly hired employee, licensee, or individual who resides in the licensed facility being investigated 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. Any change in ownership of a licensed facility or the addition of a new resident adult or newly hired employee to the licensed facility shall require a new investigation as provided for in this section.

(C.5) FOR PERSONS RESIDING IN THIS STATE LESS THAN TWO YEARS, SPECIALIZED

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

GROUP HOME PARENTS, OR ANY PERSON WORKING IN A TWENTY-FOUR-HOUR CHILD CARE FACILITY, THE RULES PROMULGATED BY THE STATE BOARD PURSUANT TO THIS SUBPARAGRAPH (I) SHALL REQUIRE, IN ADDITION TO THE FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION DESCRIBED IN SUB-SUBPARAGRAPH (C) OF THIS SUBPARAGRAPH (I), A FEDERAL BUREAU OF INVESTIGATION FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION.

SECTION 2. 19-5-206 (2) and (3), Colorado Revised Statutes, are amended to read:

~~**19-5-206. Placement for purposes of adoption.** (2) (a) Birth parent or parents may designate a specific applicant with whom they may wish to place their child for purposes of adoption. After assessment and approval of the potential adoptive parents and subsequent relinquishment of the child, the court shall grant guardianship of the child to a person or agency described in section 19-5-104 (1) until finalization of adoptive placement. A county department may provide adoption services to birth parents who request designated adoption only in cases in which the county has legal custody of the child prior to the filing of the petition to relinquish. All requirements and provisions of this article pertaining to relinquishment and adoption shall apply to designated adoptions. IN CHILD WELFARE CASES, A CHILD'S BEST INTERESTS SHALL BE THE PRIMARY CONSIDERATION FOR A COURT, COUNTY DEPARTMENT, OR LICENSED CHILD PLACEMENT AGENCY IN MAKING DETERMINATIONS CONCERNING THE PLACEMENT OF THE CHILD FOR THE PURPOSE OF ADOPTION.~~

~~(b) The court may waive the assessment and approval requirements of paragraph (a) of this subsection (2) in cases where the birth parent or parents have designated the child's grandparent, aunt, uncle, brother, or sister as the person with whom they wish to place their child for purposes of adoption. The court may proceed to finalize such adoptive placement upon finding that the placement is in the best interests of the child.~~

~~(c) The court may waive the assessment and approval of the potential adoptive parents in cases involving kinship or custodial adoption or may determine and order what kind of information or written report it deems necessary, including an abbreviated home study or home evaluation. The court may proceed to finalize such adoptive placement upon finding that the placement is in the best interests of the child. AN AGENCY THAT HAS RESPONSIBILITY FOR PLACING CHILDREN OUT OF THE HOME SHALL USE GOOD FAITH EFFORTS AND DUE DILIGENCE TO RECRUIT AND RETAIN PROSPECTIVE FOSTER AND ADOPTIVE FAMILIES FROM COMMUNITIES THAT REFLECT THE RACIAL, ETHNIC, CULTURAL, AND LINGUISTIC BACKGROUNDS OF THE CHILDREN IN THE AGENCY'S CARE.~~

~~(d) IN MAKING DETERMINATIONS CONCERNING THE PLACEMENT OF A CHILD FOR THE PURPOSE OF ADOPTION, A COURT, COUNTY DEPARTMENT, OR LICENSED CHILD PLACEMENT AGENCY MAY, UNDER EXTRAORDINARY CIRCUMSTANCES, CONSIDER THE RACIAL OR ETHNIC BACKGROUND, COLOR, OR NATIONAL ORIGIN OF:~~

~~(I) THE CHILD; OR~~

(II) A FAMILY WHO HAS SUBMITTED AN APPLICATION TO ADOPT.

(e) A COURT, COUNTY DEPARTMENT, OR LICENSED CHILD PLACEMENT AGENCY SHALL NOT DELAY A FOSTER OR ADOPTIVE PLACEMENT OF A CHILD AS A RESULT OF THE RACIAL OR ETHNIC BACKGROUND, COLOR, OR NATIONAL ORIGIN OF:

(I) THE CHILD; OR

(II) A FAMILY WHO HAS SUBMITTED AN APPLICATION TO FOSTER OR ADOPT A CHILD.

(f) IN PRIVATE ADOPTION CASES, A BIRTH PARENT OR BIRTH PARENTS MAY DESIGNATE A SPECIFIC APPLICANT WITH WHOM THEY MAY WISH TO PLACE THEIR CHILD FOR PURPOSES OF ADOPTION. AFTER ASSESSMENT AND APPROVAL OF THE POTENTIAL ADOPTIVE PARENTS AND SUBSEQUENT RELINQUISHMENT OF THE CHILD, THE COURT SHALL GRANT GUARDIANSHIP OF THE CHILD TO A PERSON OR AGENCY DESCRIBED IN SECTION 19-5-104 (1) UNTIL FINALIZATION OF ADOPTIVE PLACEMENT.

(g) THE COURT MAY WAIVE THE ASSESSMENT AND APPROVAL OF THE POTENTIAL ADOPTIVE PARENTS IN CASES INVOLVING KINSHIP OR CUSTODIAL ADOPTION OR MAY DETERMINE AND ORDER THE KIND OF INFORMATION OR WRITTEN REPORT IT DEEMS NECESSARY FOR THE ASSESSMENT AND APPROVAL OF THE POTENTIAL ADOPTIVE PARENTS, INCLUDING AN ABBREVIATED HOME STUDY OR HOME EVALUATION. THE COURT MAY PROCEED TO FINALIZE SUCH ADOPTIVE PLACEMENT UPON FINDING THAT THE PLACEMENT IS IN THE BEST INTERESTS OF THE CHILD.

~~(3) Consideration given to the racial background of a child legally available for adoption in placing such child with an adopting family shall not delay the placement of the child due to attempts to assure racial resemblance between the child and the adopting family.~~

SECTION 3. The introductory portion to 19-5-104 (1) and 19-5-104 (1) (d), Colorado Revised Statutes, are amended to read:

19-5-104. Final order of relinquishment. (1) If the court terminates the parent-child legal relationship of both parents or of the only living parent, the court, after taking into account the ~~racial, cultural, and~~ religious background of the child, shall order guardianship of the person and legal custody transferred to:

(d) An individual determined to be of good moral character through a process that includes the assessment made pursuant to ~~section 19-5-206 (2) (a)~~ SECTION 19-5-206 (2) (g), if such individual shall have had the child living in his or her home for six months or more, including a foster parent or a designated adoptive parent.

SECTION 4. Part 1 of article 5 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

19-5-100.5. Applicability of article. EXCEPT WHERE INDICATED OTHERWISE, EACH PROVISION OF THIS ARTICLE PERTAINING TO RELINQUISHMENT OR ADOPTION SHALL APPLY ONLY TO CHILD WELFARE ADOPTIONS AND NOT TO PRIVATE ADOPTIONS.

SECTION 5. 19-3-208 (2) (a) (V), Colorado Revised Statutes, is amended to read:

19-3-208. Services - county required to provide - rules. (2) (a) "Services" shall be designed to accomplish the following goals:

~~(V) Take into account the racial background of the child if placement out-of-home is necessary; except that the placement of a child shall not be delayed due to attempts to assure racial resemblance between the child and the foster family~~
ENSURE THAT THE PLACEMENT OF A CHILD IS NEITHER DELAYED NOR DENIED DUE TO CONSIDERATION OF THE RACE, COLOR, OR NATIONAL ORIGIN OF THE CHILD OR ANY OTHER PERSON UNLESS SUCH CONSIDERATION IS PERMITTED PURSUANT TO FEDERAL LAW; and

SECTION 6. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the department of public safety, for allocation to the Colorado bureau of investigation, for the fiscal year beginning July 1, 2010, from the Colorado bureau of investigation identification unit fund created in section 24-33.5-426, Colorado Revised Statutes, the sum of fifty-six thousand three hundred eight dollars (\$56,308) and 0.3 FTE, or so much thereof as may be necessary, for fingerprint processing services related to the implementation of this act. Of this sum, thirty-two thousand one hundred fifty-eight dollars (\$32,158) shall be cash funds from fingerprint and name check processing fees collected by the department, and twenty-four thousand one hundred fifty dollars (\$24,150) shall be cash funds from fingerprint and name check processing fees collected by the department for transmittal to the federal bureau of investigation.

SECTION 7. 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 26, 2010