

CHAPTER 85

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 10-1044

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AN ACT**CONCERNING THE LICENSURE OF NEIGHBORHOOD YOUTH ORGANIZATIONS.**

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 THE FOLLOWING NEW SUBSECTIONS to read:

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

(5.8) (a) "NEIGHBORHOOD YOUTH ORGANIZATION" MEANS A NONPROFIT ORGANIZATION THAT IS DESIGNED TO SERVE YOUTH AS YOUNG AS SIX YEARS OF AGE AND AS OLD AS EIGHTEEN YEARS OF AGE AND THAT OPERATES PRIMARILY DURING TIMES OF THE DAY WHEN SCHOOL IS NOT IN SESSION AND PROVIDES RESEARCH-BASED, AGE-APPROPRIATE, AND CHARACTER-BUILDING ACTIVITIES DESIGNED EXCLUSIVELY FOR THE DEVELOPMENT OF YOUTH FROM SIX TO EIGHTEEN YEARS OF AGE. THESE ACTIVITIES SHALL OCCUR PRIMARILY IN A FACILITY LEASED OR OWNED BY THE NEIGHBORHOOD YOUTH ORGANIZATION. THE ACTIVITIES SHALL OCCUR IN AN ENVIRONMENT IN WHICH YOUTH HAVE WRITTEN PARENTAL OR LEGAL GUARDIAN CONSENT TO BECOME A YOUTH MEMBER OF THE NEIGHBORHOOD YOUTH ORGANIZATION AND TO ARRIVE AT AND DEPART FROM THE PRIMARY LOCATION OF THE ACTIVITY ON THEIR OWN ACCORD, WITHOUT SUPERVISION BY A PARENT, LEGAL GUARDIAN, OR ORGANIZATION.

(b) A NEIGHBORHOOD YOUTH ORGANIZATION SHALL NOT INCLUDE FAITH-BASED CENTERS, ORGANIZATIONS OR PROGRAMS OPERATED BY STATE OR CITY PARKS OR SPECIAL DISTRICTS, OR DEPARTMENTS OR FACILITIES THAT ARE CURRENTLY

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

LICENSED AS CHILD CARE CENTERS AS DEFINED IN SUBSECTION (1.5) OF THIS SECTION.

(13) "YOUTH MEMBER" MEANS A YOUTH WHO IS SIX YEARS OF AGE THROUGH EIGHTEEN YEARS OF AGE WHOSE PARENT OR LEGAL GUARDIAN HAS PROVIDED WRITTEN CONSENT FOR THE YOUTH TO PARTICIPATE IN THE ACTIVITIES OF A NEIGHBORHOOD YOUTH ORGANIZATION AND WHO PAYS THE REQUIRED DUES OF THE NEIGHBORHOOD YOUTH ORGANIZATION.

SECTION 2. Part 1 of article 6 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-6-103.7. Application of part - neighborhood youth organizations - licensing - duties and responsibilities - definitions. (1) NOTWITHSTANDING ANY PROVISION OF THIS PART 1 TO THE CONTRARY, A NEIGHBORHOOD YOUTH ORGANIZATION THAT IS NOT OTHERWISE LICENSED TO OPERATE UNDER THIS PART 1 MAY OBTAIN A NEIGHBORHOOD YOUTH ORGANIZATION LICENSE PURSUANT TO THIS SECTION. A NEIGHBORHOOD YOUTH ORGANIZATION THAT OBTAINS A LICENSE PURSUANT TO THIS SECTION SHALL BE SUBJECT ONLY TO THE REQUIREMENTS OF THIS SECTION AND SHALL OTHERWISE BE EXEMPT FROM THE REQUIREMENTS OF THIS PART 1.

(2) THE STATE BOARD SHALL PROMULGATE RULES TO ESTABLISH A NEIGHBORHOOD YOUTH ORGANIZATION LICENSE, INCLUDING BUT NOT LIMITED TO THE FEE REQUIRED TO APPLY FOR AND OBTAIN THE LICENSE. THE RULES SHALL NOT CONCERN STAFF-TO-YOUTH RATIOS.

(3) A NEIGHBORHOOD YOUTH ORGANIZATION LICENSED PURSUANT TO THIS SECTION AND OPERATING IN THE STATE OF COLORADO SHALL HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES:

(a) TO INFORM A PARENT OR LEGAL GUARDIAN OF THE REQUIREMENTS OF THIS SUBSECTION (3) AND TO POST A NOTICE IN BOLD PRINT AND IN PLAIN VIEW ON THE PREMISES OF THE FACILITY IN WHICH THE NEIGHBORHOOD YOUTH ORGANIZATION OPERATES THAT LISTS THE FOLLOWING INFORMATION:

(I) THE REQUIREMENTS OF THIS SUBSECTION (3); AND

(II) THE TELEPHONE NUMBER AND ADDRESS OF THE APPROPRIATE DIVISION WITHIN THE STATE DEPARTMENT FOR INVESTIGATING COMPLAINTS CONCERNING A NEIGHBORHOOD YOUTH ORGANIZATION, WITH THE INSTRUCTION THAT ANY COMPLAINT REGARDING THE NEIGHBORHOOD YOUTH ORGANIZATION'S COMPLIANCE WITH THESE REQUIREMENTS BE DIRECTED TO THAT DIVISION;

(b) PRIOR TO ADMITTING AN INTERESTED YOUTH MEMBER INTO THE NEIGHBORHOOD YOUTH ORGANIZATION, TO REQUIRE THE YOUTH MEMBER'S PARENT OR LEGAL GUARDIAN TO SIGN A STATEMENT AUTHORIZING THE YOUTH MEMBER TO ARRIVE AND DEPART FROM THE ORGANIZATION WITHOUT SUPERVISION BY A PARENT, LEGAL GUARDIAN, OR THE ORGANIZATION;

(c) TO ESTABLISH A PROCESS TO RECEIVE AND RESOLVE COMPLAINTS FROM

PARENTS OR LEGAL GUARDIANS;

(d) TO ESTABLISH A PROCESS TO REPORT KNOWN OR SUSPECTED CHILD ABUSE OR NEGLECT TO APPROPRIATE AUTHORITIES PURSUANT TO SECTION 19-3-304, C.R.S.;

(e) TO MAINTAIN, EITHER AT THE NEIGHBORHOOD YOUTH ORGANIZATION OR AT A CENTRAL ADMINISTRATIVE FACILITY, RECORDS FOR EACH YOUTH MEMBER ADMITTED INTO THE NEIGHBORHOOD YOUTH ORGANIZATION CONTAINING, AT A MINIMUM, THE FOLLOWING INFORMATION:

(I) THE YOUTH MEMBER'S FULL NAME;

(II) THE YOUTH MEMBER'S DATE OF BIRTH;

(III) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF A PARENT OR LEGAL GUARDIAN OF THE YOUTH MEMBER;

(IV) THE NAME AND TELEPHONE NUMBER OF AT LEAST ONE EMERGENCY CONTACT PERSON FOR THE YOUTH MEMBER; AND

(V) A PARENT'S OR LEGAL GUARDIAN'S WRITTEN AUTHORIZATION FOR THE YOUTH MEMBER TO ATTEND THE NEIGHBORHOOD YOUTH ORGANIZATION;

(f) TO REQUIRE A YOUTH MEMBER'S PARENT OR LEGAL GUARDIAN TO SIGN A STATEMENT AUTHORIZING THE NEIGHBORHOOD YOUTH ORGANIZATION TO PROVIDE TRANSPORTATION PRIOR TO FIELD TRIPS OR TO AND FROM THE NEIGHBORHOOD YOUTH ORGANIZATION; AND

(g) TO FOLLOW THE REQUIREMENTS SPECIFIED IN SUBSECTION (4) OF THIS SECTION FOR A FINGERPRINT-BASED OR OTHER CRIMINAL HISTORY RECORD CHECK OF EACH EMPLOYEE AND VOLUNTEER WHO WORKS WITH OR WILL WORK WITH YOUTH MEMBERS FIVE OR MORE DAYS IN A CALENDAR MONTH.

(4) A LICENSED NEIGHBORHOOD YOUTH ORGANIZATION SHALL REQUIRE ALL EMPLOYEES AND VOLUNTEERS WHO WORK DIRECTLY WITH OR WILL WORK DIRECTLY WITH YOUTH MEMBERS FIVE OR MORE DAYS IN A CALENDAR MONTH TO OBTAIN, PRIOR TO EMPLOYMENT AND EVERY TWO YEARS THEREAFTER, ONE OF THE FOLLOWING:

(a) A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND REQUEST THE STATE DEPARTMENT TO ASCERTAIN WHETHER THE PERSON BEING INVESTIGATED HAS BEEN CONVICTED OF FELONY CHILD ABUSE AS SPECIFIED IN SECTION 18-6-401, C.R.S., OR A FELONY OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9), C.R.S. THE NEIGHBORHOOD YOUTH ORGANIZATION SHALL NOT HIRE A PERSON AS AN EMPLOYEE OR APPROVE A PERSON AS A VOLUNTEER AFTER CONFIRMATION OF SUCH A CRIMINAL HISTORY.

(b) A FEDERAL BUREAU OF INVESTIGATION FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION IF THE EMPLOYEE, VOLUNTEER, OR APPLICANT HAS RESIDED IN THE STATE OF

COLORADO LESS THAN TWO YEARS. THE NEIGHBORHOOD YOUTH ORGANIZATION SHALL REQUEST THE STATE DEPARTMENT TO ASCERTAIN WHETHER THE PERSON BEING INVESTIGATED HAS BEEN CONVICTED OF FELONY CHILD ABUSE AS SPECIFIED IN SECTION 18-6-401, C.R.S., OR A FELONY OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9), C.R.S. THE NEIGHBORHOOD YOUTH ORGANIZATION SHALL NOT HIRE A PERSON AS AN EMPLOYEE OR APPROVE A PERSON AS A VOLUNTEER AFTER CONFIRMATION OF SUCH A CRIMINAL HISTORY.

(c) A COMPARISON SEARCH BY THE STATE DEPARTMENT ON THE ICON SYSTEM OF THE STATE JUDICIAL DEPARTMENT OR A COMPARISON SEARCH ON ANY OTHER DATABASE THAT IS RECOGNIZED ON A STATEWIDE BASIS BY USING THE NAME, DATE OF BIRTH, AND SOCIAL SECURITY NUMBER INFORMATION AND ANY OTHER AVAILABLE SOURCE OF CRIMINAL HISTORY INFORMATION THAT THE STATE DEPARTMENT DETERMINES IS APPROPRIATE TO DETERMINE WHETHER THE EMPLOYEE OR VOLUNTEER HAS BEEN CONVICTED OF FELONY CHILD ABUSE AS SPECIFIED IN SECTION 18-6-401, C.R.S., OR A FELONY OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9), C.R.S. THE NEIGHBORHOOD YOUTH ORGANIZATION SHALL NOT HIRE A PERSON AS AN EMPLOYEE OR APPROVE A PERSON AS A VOLUNTEER AFTER CONFIRMATION OF SUCH A CRIMINAL HISTORY.

(d) A SEPARATE BACKGROUND CHECK BY A PRIVATE ENTITY REGULATED AS A CONSUMER REPORTING AGENCY PURSUANT TO 15 U.S.C. SEC. 1681 ET SEQ. THAT SHALL DISCLOSE, AT A MINIMUM, SEXUAL OFFENDERS AND FELONY CONVICTIONS AND INCLUDE A SOCIAL SECURITY NUMBER TRACE, A NATIONAL CRIMINAL FILE CHECK, AND A STATE OR COUNTY CRIMINAL FILE SEARCH. THE SEPARATE BACKGROUND CHECK SHALL ASCERTAIN WHETHER THE PERSON BEING INVESTIGATED HAS BEEN CONVICTED OF FELONY CHILD ABUSE AS SPECIFIED IN SECTION 18-6-401, C.R.S., OR A FELONY OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9), C.R.S. THE NEIGHBORHOOD YOUTH ORGANIZATION SHALL NOT HIRE A PERSON AS AN EMPLOYEE OR APPROVE A PERSON AS A VOLUNTEER AFTER CONFIRMATION OF SUCH A CRIMINAL HISTORY.

(5) A PERSON WHO VISITS OR TAKES PART IN THE ACTIVITIES OF A LICENSED NEIGHBORHOOD YOUTH ORGANIZATION BUT WHO IS NOT REQUIRED TO OBTAIN A CRIMINAL HISTORY RECORD CHECK PURSUANT TO SUBSECTION (4) OF THIS SECTION SHALL AT ALL TIMES BE UNDER THE SUPERVISION OF AN EMPLOYEE OR VOLUNTEER WHO HAS BEEN HIRED OR APPROVED AFTER OBTAINING A CRIMINAL HISTORY RECORD CHECK PURSUANT TO SUBSECTION (4) OF THIS SECTION.

(6) THE GOVERNING BOARD OF EACH LICENSED NEIGHBORHOOD YOUTH ORGANIZATION SHALL ADOPT MINIMUM STANDARDS FOR OPERATING THE LICENSED NEIGHBORHOOD YOUTH ORGANIZATION, INCLUDING BUT NOT LIMITED TO STANDARDS CONCERNING STAFF, STAFF TRAINING, HEALTH AND SAFETY, AND MECHANISMS FOR ASSESSING AND ENFORCING THE LICENSED NEIGHBORHOOD YOUTH ORGANIZATION'S COMPLIANCE WITH THE STANDARDS ADOPTED.

(7) THE STATE DEPARTMENT SHALL HAVE THE AUTHORITY TO RECEIVE, RESPOND TO, AND INVESTIGATE ANY COMPLAINT CONCERNING COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN THIS SECTION FOR A LICENSED NEIGHBORHOOD YOUTH ORGANIZATION.

(8) A LICENSED NEIGHBORHOOD YOUTH ORGANIZATION SHALL NOT BE REQUIRED TO OBTAIN OR KEEP ON FILE IMMUNIZATION RECORDS FOR YOUTH MEMBERS PARTICIPATING IN THE ORGANIZATION'S ACTIVITIES.

(9) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "EMPLOYEE" MEANS A PAID EMPLOYEE OF A NEIGHBORHOOD YOUTH ORGANIZATION WHO IS EIGHTEEN YEARS OF AGE OR OLDER.

(b) "VOLUNTEER" MEANS A PERSON WHO VOLUNTEERS HIS OR HER ASSISTANCE TO A NEIGHBORHOOD YOUTH ORGANIZATION AND WHO IS EIGHTEEN YEARS OF AGE OR OLDER.

SECTION 3. 19-1-307 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19-1-307. Dependency and neglect records and information - access - fee - rules - records and reports fund - misuse of information - penalty. (2) Records and reports - access to certain persons - agencies. Except as otherwise provided in section 19-1-303, only the following persons or agencies shall be given access to child abuse or neglect records and reports:

(j.7) THE STATE DEPARTMENT OF HUMAN SERVICES INVESTIGATING AN APPLICANT FOR AN EMPLOYEE OR VOLUNTEER POSITION WITH, OR AN EMPLOYEE OR VOLUNTEER OF, A LICENSED NEIGHBORHOOD YOUTH ORGANIZATION PURSUANT TO SECTION 26-6-103.7 (4) (c), C.R.S., WHEN THE APPLICANT, EMPLOYEE, OR VOLUNTEER HAS GIVEN WRITTEN AUTHORIZATION TO THE STATE DEPARTMENT OF HUMAN SERVICES TO CHECK RECORDS OR REPORTS OF CHILD ABUSE OR NEGLECT.

SECTION 4. 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 14, 2010