Colorado Revised Statutes 2013

TITLE 26

HUMAN SERVICES CODE

ARTICLE 1

Department of Human Services

PART 1

GENERAL PROVISIONS

26-1-101. Short title. This title shall be known and may be cited as the "Colorado Human Services Code".

26-1-102. Legislative declaration. (1) The general assembly declares that state and local policymakers and health and human services administrators recognize that the management of and the delivery system for health and human services have become complex, fragmented, and costly and that the health and human services delivery system in this state should be restructured to adequately address the needs of Colorado citizens.

(2) The general assembly further finds and declares that a continuing budget crisis makes it unlikely that funding sources will keep pace with the increasing demands of health and human services.

(3) Therefore, the general assembly finds that it is appropriate to restructure the principal departments responsible for overseeing the delivery of health and human services and to reform the state's health and human services delivery system, using guiding principles and within the time frames set forth in article 1.7 of title 24, C.R.S. It is the general assembly's intent that the departments of public health and environment, health care policy and financing, and human services be operational, effective July 1, 1994.

26-1-103. Definitions. As used in this title, unless the context otherwise requires:

(1) "County board" means the county or district board of social services.

(2) "County department" means the county or district department of social services.

(3) "County director" means the director of the county or district department of social services.

(4) "Executive director" means the executive director of the department of human services.

(5) "State board" means the state board of human services authorized to act in accordance with the provisions of section 26-1-107.

(6) "State department" means the department of human services.

(7) "State designated agency" means an agency designated to perform specified functions that would otherwise be performed by the county departments.

26-1-104. Construction of terms. (1) Whenever any law of this state refers to the state department of public welfare or the state department of social services, or to the director, said law shall be construed as referring to the department of human services or to the executive director of the department of human services. Whenever any law of this state refers to the division of public assistance, or to the division of children and youth, or to any other division of the state department, said law shall be construed as referring to the department of human services.

(2) Whenever any law of this state refers to the state board of public welfare or to the state board of social services, said law shall be construed as referring to the state board of human services.

26-1-105. Department of human services created - executive director - powers, duties, and functions. (1) Effective July 1, 1994, there is hereby created a department of human services, the head of which shall be the executive director of the department of human services, which office is hereby created. The executive director shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The reappointment of an executive director after an initial election of a governor shall be subject to the provisions of section 24-20-109, C.R.S. The executive director has those powers, duties, and functions prescribed for the heads of principal departments in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(1.5) The department of human services shall consist of a state board of human services, an executive director of the department of human services, and such divisions, sections, and other units as may be established by the executive director pursuant to the provisions of subsection (2) of this section.

(2) (a) The executive director may establish such divisions, sections, and other

units within the state department as are necessary for the proper and efficient discharge of the powers, duties, and functions of the state department. The executive director may allocate the powers, duties, and functions previously assigned to statutorily created divisions or sections of the state department of social services and the department of institutions to the divisions, sections, and other units established pursuant to this subsection (2). The executive director is authorized to create, eliminate, or alter such sections and units within the state department as the executive director determines are necessary to effectively and efficiently operate consistent with the plan for restructuring health and human services, as set forth in article 1.7 of title 24, C.R.S.

(b) (Deleted by amendment, L. 93, p. 1105, § 20, effective July 1, 1994.)

(3) The department of human services shall be responsible for the administration of human services programs as set forth in part 2 of this article.

(4) On and after January 1, 2014, the department of human services shall implement a program to generate awareness among:

(a) The residents of the state regarding the mistreatment, self-neglect, and exploitation of at-risk adults;

(b) The persons identified in section 26-3.1-102 (1) (b) who are urged to report the mistreatment, self-neglect, or exploitation of an at-risk adult; and

(c) The persons identified in section 18-6.5-108, C.R.S., who are required to report the abuse or exploitation of an at-risk elder.

26-1-105.5. Transfer of functions - employees - property - records. (1) (a) The department shall, on and after July 1, 1994, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested prior to July 1, 1994, in the department of social services, the department of institutions, and the department of health concerning the administration of alcohol and drug abuse programs.

(b) On and after July 1, 2006, the provisions of this section shall not apply to the functions, employees, and property transferred under the provisions of sections 24-1-119.5, C.R.S., and 25.5-1-105, C.R.S., concerning the "Colorado Medical Assistance Act", the Colorado indigent care program, and the treatment program for high-risk pregnant women.

(2) (a) On and after July 1, 1994, all positions of employment in the department of health, the department of social services, and the department of institutions concerning the powers, duties, and functions transferred to the department of human services pursuant to this article and determined to be necessary to carry out the purposes of this article by the executive director of the department of human services shall be transferred to the department of human services and shall become employment positions therein. The executive director shall appoint such employees as are necessary to carry out the duties and exercise the powers conferred by law upon the state department and the executive

director. On and after July 1, 1994, any appointment of employees and any creation or elimination of positions of employment shall be consistent with the plan for restructuring health and human services as set forth in article 1.7 of title 24, C.R.S. Appointing authority may be delegated by the executive director as appropriate.

(b) On and after July 1, 1994, all employees of the department of health, the department of social services, and the department of institutions whose duties and functions concerned the powers, duties, and functions transferred to the department of human services pursuant to this article, regardless of whether the position of employment in which the employee served was transferred, shall be considered employees of the department of human services for purposes of section 24-50-124, C.R.S. Such employees shall retain all rights under the state personnel system and to retirement benefits pursuant to the laws of this state, and their services shall be deemed continuous.

(3) On July 1, 1994, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the departments of health, social services, and institutions pertaining to the duties and functions transferred to the department of human services are transferred to the department of human services and shall become the property thereof.

(4) On and after July 1, 1994, whenever the department of health, social services, or institutions is referred to or designated by any contract or other document in connection with the duties and functions transferred to the department of human services, such reference or designation shall be deemed to apply to the department of human services. All contracts entered into by the said departments prior to July 1, 1994, in connection with the duties and functions transferred to the department of human services are hereby validated, with the department of human services succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, trusts, grants, and any appropriations of funds from prior fiscal years open to satisfy obligations incurred under such contracts shall be transferred and appropriated to the department of human services for the payment of such obligations.

(5) On and after July 1, 1994, unless otherwise specified, whenever any provision of law refers to the department of health, social services, or institutions, in connection with the duties and functions transferred to the department of human services, said law shall be construed as referring to the department of human services.

(6) All rules, regulations, and orders of the departments of health, social services, and institutions adopted prior to July 1, 1994, in connection with the powers, duties, and functions transferred to the department of human services, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law. The executive director shall adopt rules necessary for the administration of the state department and as otherwise authorized by this title. Any rules adopted on and after July 1, 1994, shall be consistent with the plan for restructuring health and human services, as set forth in article 1.7 of title 24, C.R.S.

(7) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 1994, or which could have been commenced prior to such date, by or against the department of health, social services, or institutions, or any officer thereof in such officer's official capacity or in relation to the discharge of the official's duties, shall abate by reason of the transfer of duties and functions from the said department to the department of human services.

(8) The revisor of statutes is hereby authorized to change all references in the Colorado Revised Statutes to the department of social services and the department of institutions from said references to the department of human services, as appropriate and unless otherwise transferred to the department of health care policy and financing pursuant to section 25.5-1-105, C.R.S. In connection with such authority, the revisor of statutes is hereby authorized to amend or delete provisions of the Colorado Revised Statutes so as to make the statutes consistent with the powers, duties, and functions transferred pursuant to this section.

26-1-106. Final agency action - administrative law judge - authority of executive director. (1) (a) The executive director may appoint one or more persons to serve as administrative law judges for the state department pursuant to section 24-4-105, C.R.S., and pursuant to part 10 of article 30 of title 24, C.R.S., subject to appropriations made to the department of personnel. Hearings conducted by the administrative law judge shall be considered initial decisions of the state department which shall be reviewed by the executive director or a designee. In the event exceptions to the initial decision are filed pursuant to section 24-4-105 (14) (a) (I), C.R.S., such review shall be in accordance with section 24-4-105 (15), C.R.S.; except that the state department may, at its discretion, permit a party to file an audio recording in lieu of a written transcript if the party cannot afford a written transcript. The state board may adopt rules delineating the criteria and process for filing an audio recording in lieu of a written transcript. In the absence of any exception filed pursuant to section 24-4-105 (14) (a) (I), C.R.S., the executive director shall review the initial decision in accordance with a procedure adopted by the state board. Such procedure shall be consistent with federal mandates concerning the single state agency requirement. Review by the executive director in accordance with section 24-4-105 (15), C.R.S., or the procedure adopted by the state board pursuant to this section shall constitute final agency action. The administrative law judge may conduct hearings on appeals from decisions of county departments brought by recipients of and applicants for public assistance and welfare which are required by law in order for the state to qualify for federal funds, and may conduct other hearings for the state department. Notice of any such hearing shall be served at least ten days prior to such hearing.

(b) Repealed.

(c) (Deleted by amendment, L. 2009, (SB 09-044), ch. 57, p. 203, § 1, effective

March 25, 2009.)

(2) (Deleted by amendment, L. 2009, (SB 09-044), ch. 57, p. 203, § 1, effective March 25, 2009.)

(3) (Deleted by amendment, L. 91, p. 1883, § 1, effective May 24, 1991.)

26-1-107. State board of human services - rules. (1) (a) There is hereby created the state board of human services. The state board shall consist of nine members, each of whom shall be appointed by the governor, with the consent of the senate, for terms of four years each. In making appointments to the board, the governor shall include representation by at least one member who is a person with a disability, as defined in section 24-45.5-102 (2), C.R.S., a family member of a person with a disability, or a member of an advocacy group for persons with disabilities.

(b) As vacancies occur, on and after July 1, 1973, appointments shall be made so that three of the members of the state board shall be appointed from among persons who are serving as county commissioners in this state. Whenever a county commissioner serving as a member of the state board ceases to hold the office of county commissioner, a vacancy on the state board shall occur, and the governor shall fill the vacancy by the appointment of a person who at the time is serving as a county commissioner. A county commissioner shall not vote on any matter coming before the state board which affects the county in which he is serving as commissioner in a manner different from other counties.

(2) No recipient of a pension under the Colorado old age pension statutes shall be eligible for appointment to the state board.

(3) The members of the state board shall serve without compensation, with the exception of necessary actual traveling expenses.

(4) The state board shall act only by resolution adopted at a duly called meeting of the state board, and no individual member of the state board shall exercise administrative authority with respect to the state department.

(5) (a) "Board rules" are rules promulgated by the state board governing:

(I) Program scope and content;

(II) Requirements, obligations, and rights of clients and recipients;

(III) Non-executive director rules concerning vendors, providers, and other persons affected by acts of the state department.

(b) The state board shall have authority to adopt "board rules" for programs administered and services provided by the state department as set forth in this title and in title 27, C.R.S.

(c) Any rules adopted by the executive director to implement the provisions of this title or title 27, C.R.S., prior to March 25, 2009, whose content meets the definition of "board rules" shall continue to be effective until revised, amended, or repealed by the

state board.

(d) Whenever a statutory grant of rule-making authority in this title or in title 27, C.R.S., refers to the state department or the department of human services, it shall mean the state department acting through either the state board or the executive director or both. When exercising rule-making authority under this title or title 27, C.R.S., the state department, either acting through the state board or the executive director, shall establish rules consistent with the powers and the distinction between "board rules" as set forth in this section and "executive director rules" as set forth in section 26-1-108.

(6) The state board shall:

(a) Adopt board rules;

(b) Hold hearings relating to the formulation and revision of the policies of the state department;

(c) Advise the executive director as to any matters that the executive director may bring before the state board;

(d) Meet as is necessary to adjust the minimum award for old age pensions for changes in the cost of living pursuant to section 26-2-114 (1); except that the state board shall meet for such a purpose whenever the monthly index of consumer prices, prepared by the bureau of labor statistics of the United States department of labor, increases or decreases by an amount warranting an increase or decrease over the previous adjustment and the United States social security administration increases benefits similarly adjusted for changes in the cost of living. Such a meeting shall be held within twenty days of the publication of the monthly index which first exceeds the previous level by said amount.

(e) Adopt rules and regulations for the purpose of establishing guidelines for the placement of children from locations outside of Colorado into this state for foster care or adoption pursuant to section 19-5-203, C.R.S., or section 26-6-104 or the terms of the "Interstate Compact on Placement of Children" as set forth in part 18 of article 60 of title 24, C.R.S.;

(f) Adopt rules governing the operations of the statewide adoption resource registry as described in section 26-1-111 (4);

(g) Adopt rules concerning mental health programs, alcohol and drug abuse programs, and developmental disabilities programs. To the extent that rules are promulgated by the state board of human services for programs or providers that receive either medicaid only or both medicaid and non-medicaid funding, the rules shall be developed in cooperation with the department of health care policy and financing and shall not conflict with state statutes or federal statutes or regulations.

(h) Adopt rules concerning standards for the level of training, education, and experience that a psychiatrist or psychologist shall have to be qualified to perform competency evaluations in criminal cases pursuant to section 16-8-106 and article 8.5 of title 16, C.R.S., and standards for conducting and reporting competency evaluations in criminal cases. Prior to adopting the rules, the state board shall consider recommendations

from the competency evaluation advisory board created in section 16-8.5-119, C.R.S.

(7) When federal statute or regulation requires, as a condition for the receipt of federal participation in any state department administered or supervised public assistance or welfare program, that specific forms of income to recipients and applicants or other persons whose income would otherwise be considered to be disregarded, such income shall be disregarded and the rules of the state board shall include provisions to effect such requirements.

(8) Nothing in this section shall be construed to affect any specific statutory provision granting rule-making authority in relation to a specific program to the state board.

(9) and (9.5) (Deleted by amendment, L. 2006, p. 1986, § 10, effective July 1, 2006.)

(10) The state board shall fix minimum standards and qualifications for county department personnel based upon training and experience deemed necessary to fulfill the requirements and responsibilities for each position and establish salary schedules based upon prevailing wages for comparable work within each county or district or region where such data is available and is collected and compiled in a manner approved by the state personnel director. The rules issued by the state board shall be binding upon the several county departments. At any public hearing relating to a proposed rule making, interested persons shall have the right to present their data, views, or arguments orally. Proposed rules of the state board shall be subject to the provisions of section 24-4-103, C.R.S.

26-1-108. Powers and duties of the executive director - rules. (1) Executive director rules shall be solely within the province of the executive director and shall include the following:

(a) Rules governing matters of internal administration in the state department, including organization, staffing, records, reports, systems, and procedures, and also governing fiscal and personnel administration for the state department and establishing accounting and fiscal reporting rules for disbursement of federal funds, contingency funds, and proration of available appropriations except those determinations precluded by authority granted to the state board.

(b) (Deleted by amendment, L. 97, p. 1183, 3, effective July 1, 1997.)

(c) (Deleted by amendment, L. 93, p. 1110, 23, effective July 1, 1994.)

(1.5) (Deleted by amendment, L. 97, p. 1183, 3, effective July 1, 1997.)

(1.7) (a) The executive director shall have authority to adopt "executive director rules" for programs administered and services provided by the state department as set forth in this title and in title 27, C.R.S. Such rules shall be promulgated in accordance with the provisions of section 24-4-103, C.R.S.

(b) Any rules adopted by the state board to implement the provisions of this title or title 27, C.R.S., prior to March 25, 2009, whose content meets the definition of "executive director rules" shall continue to be effective until revised, amended, or repealed by the executive director.

(1.8) Whenever a statutory grant of rule-making authority in this title or title 27, C.R.S., refers to the state department or the department of human services, it shall mean the state department acting through either the state board or the executive director or both. When exercising rule-making authority under this title or title 27, C.R.S., the state department, either acting through the state board or the executive director, shall establish rules consistent with the powers and the distinction between "board rules" as set forth in section 26-1-107 and "executive director rules" as set forth in this section.

(2) The rules issued by the executive director pertaining to this title shall be binding upon the several county departments, providers, vendors, and agents of the state department. At any public hearing relating to a proposed rule making, interested persons shall have the right to present their data, views, or arguments orally. Proposed rules of the executive director shall be subject to the provisions of section 24-4-103, C.R.S.

(3) (Deleted by amendment, L. 93, p. 1109, 23, effective July 1, 1994.)

26-1-109. Cooperation with federal government - grants-in-aid. (1) The state department of human services shall be the sole state agency for administering the state plans for public assistance and welfare, including but not limited to assistance payments; food stamps; social services; child welfare services; rehabilitation; and programs for the aging in cooperation with the federal government; the Colorado works program; and any other state plan relating to such public assistance and welfare that requires state action that is not specifically the responsibility of some other state department, division, section, board, commission, or committee under the provisions of federal or state law.

(2) (a) The state department of human services may accept on behalf of the state of Colorado the provisions and benefits of acts of congress designed to provide funds or other property for particular public assistance and welfare activities within the state, including but not limited to assistance payments; food stamps; social services; child welfare services; rehabilitation; and programs for the aging; which funds or other property are designated for such purposes within the function of the state department, and may accept on behalf of the state any offers which have been or may from time to time be made of funds or other property by any persons, agencies, or entities for particular public assistance and welfare activities within the state, which funds or other property are designated for such purposes within the function of the state department; but, unless otherwise expressly provided by law, such acceptance shall not be manifested unless and until the state department has recommended such acceptance to and received the written approval of the governor and the attorney general. Such approval shall authorize the

acceptance of the funds or property in accordance with the restrictions and conditions and for the purpose for which funds or property are intended.

(b) The state treasurer is designated as ex officio custodian of all public assistance and welfare funds received by the state from the federal government and from any other source, if the approval provided for in paragraph (a) of this subsection (2) has been obtained.

(c) The state treasurer shall hold each such fund separate and distinct from state funds and is authorized to make disbursements from such funds for the designated purpose or for administrative costs, which may be provided in such grants, upon warrants issued by the state controller upon the voucher of the state department.

(3) The state department shall cooperate with the federal department of health, education, and welfare and other federal agencies in any reasonable manner, in conformity with the laws of this state, which may be necessary to qualify for federal aid, including the preparation of state plans, the making of reports in such form and containing such information as any federal agency may from time to time require, and the compliance with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of the reports.

(4) In administering any funds appropriated or made available to the state department for public assistance and welfare activities, the state department has the power to:

(a) Require as a condition for receiving grants-in-aid that each county in this state shall bear the proportion of the total expense of furnishing public assistance and food stamps as is fixed by law relating to such assistance;

(b) Terminate any grants-in-aid to any county of this state if the laws and regulations providing such grants-in-aid and the minimum standards prescribed by rules of the state department thereunder are not complied with;

(c) Undertake forthwith the administration of any or all public assistance and food stamp activities within any county of this state which has had any or all of its grants-in-aid terminated pursuant to paragraph (b) of this subsection (4); but the county shall continue to meet the requirements of paragraph (a) of this subsection (4);

(d) Recover any moneys owed by a county to the state by reducing the amount of any payments due from the state in connection with any program or activity;

(e) Take any other action which may be necessary or desirable for carrying out the provisions of this title.

(4.5) In addition to the powers granted the state department in subsection (4) of this section, the state department shall take necessary measures to obtain increased federal reimbursement moneys available under the Title IV-E program created under the federal "Social Security Act", as amended, based on the out-of-home placements and alternative care treatment by county departments of children eligible for Title IV-E federal assistance, which moneys shall be allocated to county departments in proportion to each

county's eligible placements, to help defray program costs. Nothing in this subsection (4.5) shall be construed to allow counties to continue to receive an amount equal to the increased funding in the event the said funding is no longer available from the federal government.

(5) The rules of the state department may include provisions to accommodate requirements of contracts entered into between the state department and the federal department of health, education, and welfare for studies of guaranteed annual income or other forms of income maintenance research projects; and for such purpose the requirements of this title as to eligibility for public assistance shall not apply for the term of and in accordance with the contract for such purpose. No program shall be initiated or carried out under the authorization contained in this subsection (5) in a manner that will increase the welfare burden upon any county or city and county, and, if such a program is conducted in the Denver area, it shall be conducted within an area no smaller than the Denver S.M.S.A. (standard metropolitan statistical area) as defined by the United States bureau of the census.

(6) to (9) Repealed.

26-1-109.5. Treatment of restitution payments under this title - declaration - exclusion from financial determinations. (1) The general assembly finds that restitution payments made to Japanese Americans pursuant to the "Civil Liberties Act" (Pub.L. 100-383) were intended to redress the injustice done to United States citizens and resident aliens of Japanese ancestry who were incarcerated during World War II. The general assembly also finds that pursuant to such federal law, such payments are already excluded from state social service programs described in 31 U.S.C. sec. 3803 (c)(2)(c) which are funded by federal moneys.

(2) The state department shall exclude from consideration, when determining income or resources for purposes of determining eligibility or benefit amounts in any state-funded program under this title, moneys paid to eligible individuals pursuant to the "Civil Liberties Act" (Pub.L. 100-383).

26-1-110. Publications.

(1) Repealed.

(2) Publications of the state department circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136, C.R.S.

26-1-111. Activities of the state department under the supervision of the

executive director - cash fund - report - rules - statewide adoption resource registry. (1) The state department, under the supervision of the executive director, is charged with the administration or supervision of all the public assistance and welfare activities of the state, including but not limited to assistance payments, food stamps, social services, child welfare services, rehabilitation, and programs for the aging and for veterans, which activities as enumerated are declared to be state as well as county purposes.

(2) The state department, under the supervision of the executive director, shall:

(a) Administer or supervise all forms of public assistance and welfare, including but not limited to assistance payments, food stamps, and social services under programs for old age pensions except for the old age pension health and medical care program, and shall also administer and supervise the Colorado works program, aid to the blind, aid to the needy disabled, food stamps supplementation to households not receiving public assistance found eligible for food stamps under rules adopted by the state board, and such other public assistance and welfare activities as may be vested in the state department pursuant to law;

(b) Administer or supervise the establishment, extension, and strengthening of child welfare services and other social services in cooperation with the federal department of health, education, and welfare and other state or federal agencies;

(c) Administer the establishment, extension, and strengthening of rehabilitation programs and services, programs and services for the aging, and veterans' affairs activities in cooperation with the federal department of health, education, and welfare and other state or federal agencies;

(d) (I) Provide services to county governments including the organization and supervision of county departments for the effective administration of public assistance and welfare functions as set out in the rules of the executive director and the rules of the state board pursuant to section 26-1-107 as to program scope and content, including assistance payments, food stamps, and social services, and compilation of statistics and necessary information relative to assistance payments, food stamps, social services, child welfare services, including out-of-home placement services, rehabilitation, programs for the aging, and veterans' programs throughout the state, and obtaining federal reimbursement moneys available under the Title IV-E program created under the federal "Social Security Act", as amended, based on out-of-home placements and alternative care treatment by county departments of children eligible for Title IV-E federal assistance, which moneys shall be allocated to counties to help defray the costs of performing its functions; except that nothing in this paragraph (d) shall be construed to allow counties to continue to receive an amount equal to the increased funding in the event the said funding is no longer available from the federal government.

(II) (A) For the fiscal year beginning July 1, 1991, the state department shall pay to each county an amount equal to all federal revenues earned by the state pursuant to

Title IV-E of the federal "Social Security Act", as amended, which exceed the amount necessary to fully fund program, training, and administrative costs that are reimbursed under Title IV-E for eligible services for the fiscal year beginning July 1, 1990, plus an amount necessary to fully fund the state foster care review program for the fiscal year beginning July 1, 1991.

(B) For each fiscal year after the fiscal year beginning July 1, 1991, the amount set aside from federal revenues earned by the state in accordance with sub-subparagraph (A) of this subparagraph (II) to fully fund Title IV-E eligible services and the costs of the administrative review unit shall be adjusted annually by the general assembly to reflect rate changes, workload, federal financial participation, and any other factor determined as necessary to maintain a comparable level of said services and costs as for the respective fiscal years described in sub-subparagraph (A) of this subparagraph (II).

(C) For fiscal year 2003-04 and each fiscal year thereafter, after the amounts described in sub-subparagraph (A) or (B) of this subparagraph (II) are set aside, the total amount of moneys remaining shall be transmitted to the state treasurer, who shall credit the same to the excess federal Title IV-E reimbursements cash fund, which fund is hereby created and referred to in this sub-subparagraph (C) as the "fund". The moneys in the fund shall be subject to annual appropriation by the general assembly to the state department for allocation to counties to help defray the costs of performing administrative functions related to obtaining federal reimbursement moneys available under the Title IV-E program. In addition, the general assembly may annually appropriate moneys in the fund to the state department for allocation to the counties for the provision of assistance, as defined in section 26-2-703 (2), child care assistance, as described in section 26-2-805, social services, as defined in section 26-2-103 (11), and child welfare services, as defined in section 26-5-101 (3). For fiscal year 2004-05, and in subsequent years if so specified by the general assembly in the annual appropriations act, the counties shall expend the moneys allocated by the state department for the provision of assistance, child care assistance, social services, and child welfare services pursuant to this sub-subparagraph (C) in a manner that will be applied toward the state's maintenance of historic effort as specified in section 409 (a) (7) of the federal "Social Security Act", as amended. Any moneys in the fund not expended for the purposes specified in this sub-subparagraph (C) 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. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred or revert to the general fund or another fund.

(C.5) and (D) Repealed.

(E) One hundred percent of the federal Title IV-E incentive funding received by the state for completion of timely interstate home studies shall be distributed to the county departments conducting the home studies. The Title IV-E incentives paid to the county

departments pursuant to this sub-subparagraph (E) shall be divided and distributed according to the distribution formula set forth in rules to be promulgated by the state board no later than January 1, 2008. A county department receiving an incentive payment pursuant to this sub-subparagraph (E) shall expend those moneys for the provision of services allowed under Title IV-B and Title IV-E of the federal "Social Security Act", as amended.

(III) (Deleted by amendment, L. 2004, p. 955, § 1, effective May 21, 2004.)

(e) Prescribe the form of blanks necessary for applications, reports, affidavits, and such other forms as it may deem necessary and advisable;

(f) Designate child placement agencies licensed pursuant to article 6 of this title or county departments to act as agents of the state department for the purpose of authorizing child care placement as set forth in section 26-1-107 (6) (e) and county departments to serve as agents of the state department in the performance of certain public assistance and welfare and related activities in the county;

(g) Cooperate with other departments, agencies, and institutions of the state and federal governments in the performance of activities in conformity with the purposes of this title;

(h) Act as the agent of the federal government in public assistance and welfare activities, including but not limited to assistance payments, food stamps, social services, child welfare services, rehabilitation, and programs for the aging, in matters of mutual concern in conformity with this title and in the administration of any federal funds granted to the state to aid in the furtherance of any functions of the state department;

(i) Administer such additional public assistance and welfare activities and functions as may be vested in it pursuant to law;

(j) and (k) (Deleted by amendment, L. 93, p. 1111, § 24, effective July 1, 1994.)

(l) Repealed.

(m) (Deleted by amendment, L. 97, p. 1220, § 4, effective July 1, 1997.)

(n) and (o) (Deleted by amendment, L. 93, p. 1111, § 24, effective July 1, 1994.)

(p) Carry out the duties prescribed in article 11.7 of title 16, C.R.S.;

(q) Promulgate rules in accordance with section 19-3-308 (1), C.R.S., for determining the risk of harm to a child who is the subject of a child abuse and neglect report setting forth the appropriate response by the county departments to such risks;

(r) Adopt standards for conducting videotaped child abuse interviews in accordance with section 19-3-308.5 (1) (e), C.R.S.;

(s) Promulgate rules in accordance with section 19-3-211, C.R.S., for establishing a conflict resolution process for resolving grievances against the county departments concerning responses to reports of child abuse and neglect and the performance of duties pursuant to article 3 of title 19, C.R.S. The rules must take into account and allow for any subsequent locally developed grievance procedures that apply to a locally restructured human services system to ensure consistency within the system.

(t) Administer early childhood programs in accordance with statute and rule and, where applicable, review applications submitted by entities to receive funding through the programs, award grants based on the applications, or in the case of the nurse home visitor program, applications selected by the health sciences center, and notify the state board of the grants awarded and the amounts of the grants. Participation in an early childhood program administered by the state department is voluntary. The early childhood programs are not designed or intended to interfere with the rights of parents to raise their children.

(u) Coordinate prevention and intervention programs focused on positive youth development in accordance with state law and rules. The coordination must include the state youth development plan developed pursuant to section 26-6.8-103.5 that identifies key issues affecting youth to align strategic efforts and achieve positive outcomes for youth.

(3) (Deleted by amendment, L. 93, p. 1111, § 24, effective July 1, 1994.)

(4) (a) The state department shall establish a statewide adoption resource registry which shall serve authorized or licensed child placement agencies, including, but not limited to, any agency, official, or court of the state or any of its political subdivisions authorized to place children and any other organizations or individuals whose purpose is to seek or assist in the adoptive placement of children who are listed or who may be listed in the adoption resource registry. As a means of recruiting adoptive families for children who have been legally freed for adoption by the termination of all parent-child legal relationships, including residual parental rights and responsibilities, and who are waiting for adoption in this state, such agencies and other organizations and individuals whose purpose is to seek or assist in the adoption of waiting children shall utilize any appropriate means to publicize the availability of such children. The statewide adoption resource registry shall include the age, sex, race or ethnic background of each child, a photograph of the child, and the child's social and medical history, psychological and emotional status, and known physical and mental impairments. It may also include any special services a child may need and physical descriptions, educational backgrounds, and known medical and emotional conditions of the child's parents and other relatives which may have developmental significance to the child. The statewide adoption resource registry shall be updated monthly.

(b) (Deleted by amendment, L. 93, p. 1111, § 24, effective July 1, 1994.)

(c) Unless otherwise exempted pursuant to rules adopted by the state board, each authorized or licensed child placement agency shall refer to the statewide adoption resource registry within ninety days of the termination of the parent-child legal relationship the name and a photograph and description of each child in its care, as required by regulations of the state board, who has been legally freed for adoption by the termination of the parent-child legal relationship and for whom no adoptive home has been found. The state board, in accordance with section 26-1-107 (6) (f), shall establish criteria by which an authorized or licensed child placement agency may determine that a

child need not be listed with the registry. Such a child's name shall be forwarded to the state department by the authorized or licensed child placement agency, with reference to the specific reason for which the child was not placed with the registry. The state board shall establish procedures for periodic review of the status of such children in accordance with section 26-1-107 (6) (f). If the state department, in accordance with the criteria established by the state board, determines that adoption would be appropriate for a child not placed with the registry, the agency shall forthwith list the child. Each authorized or licensed child placement agency may voluntarily refer any child who has been legally freed for adoption.

(d) Expenditures by a county department for the care and maintenance of a child who has not been referred to the statewide adoption resource registry in accordance with the requirements of this section shall not be subject to state reimbursement.

(5) The state department, through the unit in the state department that administers behavioral health programs and services, including those related to mental health and substance abuse, shall administer alcohol and drug abuse programs set forth in articles 80, 81, and 82 of title 27, C.R.S.

(6) and (7) Repealed.

26-1-111.3. Activities of the state department under the supervision of the executive director - Colorado state youth development plan - creation - definitions. (1) (a) Subject to available funding, the state department, in collaboration with the Tony Grampsas youth services board, created in section 26-6.8-103, shall convene a group of interested parties to create a Colorado state youth development plan. The goals of the plan are to identify key issues affecting youth and align strategic efforts to achieve positive outcomes for all youth.

(b) The plan must:

(I) Identify initiatives and strategies, organizations, and gaps in coverage that impact youth development outcomes;

(II) Identify services, funding, and partnerships necessary to ensure that youth have the means and the social and emotional skills to successfully transition into adulthood;

(III) Determine what is necessary in terms of community involvement and development to ensure youth succeed;

(IV) Develop an outline of youth service organizations based on, but not limited to, demographics, current services and capacity, and community involvement;

(V) Identify successful youth development strategies nationally and in Colorado that could be replicated by community partners and entities across the state; and

(VI) Create a shared vision for how a strong youth development network would be shaped and measured.

(c) The plan must include a baseline measurement of youth activities, developed using available data and resources. Data and resources may be collected from, but need not be limited to, the following:

(I) An existing youth risk behavior surveillance system that monitors health-risk behaviors that contribute to the leading causes of death and disability among youth, including:

(A) Behaviors that contribute to unintentional injuries and violence;

(B) Sexual behaviors that contribute to unintended pregnancy and sexually transmitted infections, including HIV;

(C) Alcohol and other drug use;

(D) Tobacco use;

(E) Unhealthy dietary behaviors; and

(F) Inadequate physical activity;

(II) The Colorado youth advisory council, created in section 2-2-1302, C.R.S.;

(III) The state department of education;

(IV) The state department of higher education, to assess workforce readiness and student achievement as youth transition through the secondary and postsecondary education systems;

(V) The state department of public health and environment;

(VI) The state department of health care policy and financing;

(VII) The state department of human services;

(VIII) The state department of labor and employment;

(IX) The state department of public safety; and

(X) The state judicial department.

(2) The state department shall be responsible for any costs associated with the development of the plan and is not required to implement this section until adequate funding is secured.

(3) The state department, in collaboration with the Tony Grampsas youth services board, created in section 26-6.8-103, shall complete the plan on or before September 30, 2014, and shall update the plan biennally thereafter.

(4) Beginning in January 2015, and every January thereafter, the department shall report progress on the development and implementation of the plan as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing required by section 2-7-203, C.R.S.

(5) As used in this section, unless the context otherwise requires:

(a) "Entity" means any local government, state public or nonsectarian secondary school, charter school, group of public or nonsectarian secondary schools, school district or group of school districts, board of cooperative services, state institution of higher education, the Colorado National Guard, state agency, state-operated program, private nonprofit organization, or nonprofit community-based organization.

(b) "Plan" means the Colorado state youth development plan created pursuant to this section.

(c) "Youth" means an individual at least nine years of age and no more than twenty-one years of age.

(d) "Youth service organization" means an entity that is community-based and:

(I) Promotes innovative and evidence-based strategies for positive youth development and for reducing the occurrence and reoccurrence of child abuse and neglect;

(II) Promotes innovative primary prevention and intervention services to youth and their families in an effort to decrease high-risk behavior, including but not limited to youth crime and violence; or

(III) Promotes innovative strategies to at-risk students and their families in an effort to reduce the dropout rate in secondary schools.

26-1-112. Locating violators - recoveries. (1) The executive director of the department of human services or district attorneys may request and shall receive from departments, boards, bureaus, or other agencies of the state or any of its political subdivisions, and the same are authorized to provide, such assistance and data as will enable the state department of human services and county departments properly to carry out their powers and duties to locate and prosecute any person who has fraudulently obtained public assistance under this title. Any records established pursuant to the provisions of this section shall be available only to the state department of human services, the county departments, the attorney general, and the district attorneys, county attorneys, and courts having jurisdiction in fraud or recovery proceedings or actions.

(2) (a) All departments and agencies of the state and local governments shall cooperate in the location and prosecution of any person who has fraudulently obtained public assistance under this title, and, on request of the county board, the county director, the state department of human services, or the district attorney of any judicial district in this state, shall supply all information on hand relative to the location, employment, income, and property of such persons, notwithstanding any other provision of law making such information confidential, except the laws pertaining to confidentiality of any tax returns filed pursuant to law with the department of revenue. The department of revenue shall furnish at no cost to inquiring departments and agencies such information as may be necessary to effectuate the purposes of this article. The procedures whereby this information will be requested and provided shall be established by rule of the state department. The state department or county departments shall use such information only for the purposes of administering public assistance under this title, and the district attorney shall use it only for the prosecution of persons who have fraudulently obtained public assistance under this title, and he shall not use the information, or disclose it, for

any other purpose.

(b) (I) Whenever the state department of human services or a district attorney, for the state department, or the state department on behalf of a county department recovers any amount of fraudulently obtained public assistance funds, the federal government shall be entitled to a share proportionate to the amount of federal funds paid unless a different amount is otherwise provided by federal law, the state shall be entitled to a share proportionate to the amount of state funds paid and such additional amounts of federal funds recovered as provided by federal law, and the county department shall be entitled to a share proportionate to the amount of county funds paid unless a different amount is provided pursuant to federal law or this section.

(II) Whenever a county department, a county board, a district attorney, or a state department on behalf of a county department recovers any amount of fraudulently obtained public assistance funds in the form of assistance payments, it shall be deposited in the county general fund and the federal government shall be entitled to a share proportionate to the amount of federal funds paid unless a different amount is provided for by federal law, the state shall be entitled to a share proportionate to one-half the amount of state funds paid, and the county shall be entitled to a share proportionate to the amount of county funds paid and, in addition, a share proportionate to one-half the amount of state funds paid. In the case of funds recovered from fraudulently obtained food stamp coupons by the county department, the county board, the district attorney, or the state department on behalf of a county department, the county shall be entitled to the share of the recovered funds provided by the federal "Food Stamp Act".

(3) (a) Whenever the county department, the county board, the district attorney, or the state department on behalf of a county department pursuant to Public Law 96-58 recovers funds from food stamp coupons which were obtained through unintentional client error, the county shall be entitled to the share of the recovered funds provided by the federal "Food Stamp Act".

(b) Whenever a county department, a county board, a district attorney, or the state department on behalf of the county recovers any amount of public assistance payments funds that were obtained through unintentional client error, the federal government shall be entitled to a share proportionate to the amount of federal funds paid, unless a different amount is provided for by federal law, the state shall be entitled to a share proportionate to seventy-five percent of the amount of state funds paid, the county shall be entitled, except for the Colorado works program, to a share proportionate to the amount of county funds paid, if any, and, in addition, a share proportionate to twenty-five percent of the amount of state funds paid. In the Colorado works program, the county shall be entitled to a share proportionate to the amount of county funds paid and, in addition, a share proportionate to one-half the amount of state funds paid.

(4) Actual costs and expenses incurred by the district attorney's office in carrying out the provisions of subsections (2) and (3) of this section shall be billed to counties or a

county within the judicial district in the proportions specified in section 20-1-302, C.R.S. Each county shall make an annual accounting to the state department on all amounts recovered.

26-1-112.5. Birth-related cost recovery program - cooperation with the department of health care policy and financing - duties of state department - repeal. (Repealed)

26-1-113. Enforcement of support - RURESA. (Repealed)

26-1-114. Records confidential - authorization to obtain records of assets - release of location information to law enforcement agencies - outstanding felony arrest warrants. (1) The state department of human services may establish reasonable rules to provide safeguards restricting the use or disclosure of information concerning applicants, recipients, and former and potential recipients of federally aided public assistance and welfare, including but not limited to assistance payments, food stamps, social services, and child welfare services, to purposes directly connected with the administration of such public assistance and welfare and related state department activities and covering the custody, use, and preservation of the records, papers, files, and communications of the state and county departments. Whenever, under provisions of law, names and addresses of applicants for, recipients of, or former and potential recipients of public assistance and welfare are furnished to or held by another agency or department of government, such agency or department shall be required to prevent the publication of lists thereof and their uses for purposes not directly connected with the administration of such public assistance and welfare.

(2) Repealed.

(3) (a) (I) Except as provided in subparagraphs (II) and (III) of this paragraph (a), or except as disclosure is otherwise required by statute or by rule of civil procedure for child support establishment or enforcement purposes, it is unlawful for any person to solicit, disclose, or make use of or to authorize, knowingly permit, participate in, or acquiesce in the use of any lists or names of or any information concerning persons applying for or receiving public assistance and welfare directly or indirectly derived from the records, papers, files, or communications of the state or county departments or subdivisions or agencies thereof or acquired in the course of the performance of official duties. No financial institution or insurance company that provides the data, whether confidential or not, required by the state department, in accordance with the provisions of this subsection (3), shall be liable for the provision of the data to the state department nor

for any use made thereof by the state department.

(II) The information described in subparagraph (I) of this paragraph (a) may be disclosed for purposes directly connected with the administration of public assistance and welfare and in accordance with this paragraph (a) and paragraphs (b) and (c) of this subsection (3) and with the rules and regulations of the state department.

(III) (A) Notwithstanding any provision of state law to the contrary and to the extent allowable under federal law, at the request of the Colorado bureau of investigation, the state department shall provide the bureau with information concerning the location of any person whose name appears in the department's records who is the subject of an outstanding felony arrest warrant. Upon receipt of such information, it shall be the responsibility of the bureau to provide appropriate law enforcement agencies with location information obtained from the state department. Location information provided pursuant to this section shall be used solely for law enforcement purposes. The state department and the bureau shall determine and employ the most cost-effective method for obtaining and providing location information pursuant to this section. Neither the state department nor its employees or agents shall be liable in civil action for providing information in accordance with the provisions of this sub-subparagraph (A).

(B) As used in sub-subparagraph (A) of this subparagraph (III), "law enforcement agency" means any agency of the state or its political subdivisions that is responsible for enforcing the laws of this state. "Law enforcement agency" includes but is not limited to any police department, sheriff's department, district attorney's office, the office of the state attorney general, and the Colorado bureau of investigation.

(b) By signing an application or redetermination of eligibility form for assistance or welfare, an applicant authorizes the state department to obtain records pertaining to information provided in that application or redetermination of eligibility form from a financial institution, as defined in section 15-15-201 (4), C.R.S., or from any insurance company. The application or redetermination of eligibility form shall contain language clearly indicating that signing constitutes such an authorization.

(c) (I) In order to determine if applicants for or recipients of public assistance have assets within eligibility limits, the state department of human services may provide a list of information identifying these applicants or recipients to any financial institution, as defined in section 15-15-201 (4), C.R.S., or to any insurance company. This information may include identification numbers or social security numbers. The state department of human services may require any such financial institution or insurance company to provide a written statement disclosing any assets held on behalf of individuals adequately identified on the list provided. Before a termination notice is sent to the recipient, the county department in verifying the accuracy of the information obtained as a result of the match shall contact the recipient and inform him or her of the apparent results of the computer match and give the recipient the opportunity to explain or correct any erroneous information secured by the match. The requirement to run a computerized match shall

apply only to information that is entered in the financial institution's or insurance company's data processing system on the date the match is run and shall not be deemed to require any such institution or company to change its data or make new entries for the purpose of comparing identifying information. The cost of providing such computerized match shall be borne by the appropriate state department. The state department of human services shall not use the provisions of this subparagraph (I) for the information-gathering purposes of the financial institution data match system required by section 26-13-128.

(II) For the fiscal year beginning July 1, 1984, and thereafter, all funds expended by the state department to pay the cost of providing such computerized matches shall be subject to an annual appropriation by the general assembly.

(III) The state department of human services may expend funds appropriated pursuant to subparagraph (II) of this paragraph (c) in an amount not to exceed the amount of annualized general fund savings that result from the termination of recipients from public assistance specifically due to disclosure of assets pursuant to this subsection (3).

(IV) The state department of human services shall make quarterly reports concerning the value of computerized matches pursuant to this paragraph (c) to the general assembly and the joint budget committee. Such reports shall include, but need not be limited to, the number of individuals against whom computer matches were run, the number of resulting matches, and the resulting public assistance case load reduction and corresponding savings to the state department.

(d) No applicant shall be denied nor any recipient discontinued due to the disclosure of their assets unless and until the county department has assured that such assets taken together with other assets exceed the limit for eligibility of countable assets. Any information concerning assets found may be used to determine if such applicant's or recipient's eligibility for other public assistance is affected.

(4) The applicant for or recipient of public assistance and welfare, or his representative, shall have an opportunity to examine all applications and pertinent records concerning said applicant or recipient which constitute a basis for denial, modification, or termination of such public assistance and welfare or to examine such records in case of a fair hearing.

(5) Any person who violates subsection (1) or (3) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment.

26-1-115. County departments - district departments. (1) Except as provided in subsection (2) of this section, there shall be established in each county of the state a county department of social services which shall consist of a county board of social

services, a county director of social services, and such additional employees as may be necessary for the efficient performance of public assistance and welfare activities, including but not limited to assistance payments, food stamps, and social services.

(2) With the approval of the state department, two or more counties may jointly establish a district department of social services. All duties and responsibilities set forth in this title for county departments shall also apply to district departments.

(3) (Deleted by amendment, L. 2006, p. 1990, § 15, effective July 1, 2006.)

26-1-116. County boards - district boards. (1) (a) The county board shall consist of the board of county commissioners in each county; except that "board of county commissioners" as used in this title, in the city and county of Denver, means the department or agency with the responsibility for public assistance and welfare activities and, in the city and county of Broomfield, means the city council or a board or commission appointed by the city and county of Broomfield.

(b) In the case of a district department established pursuant to section 26-1-115 (2), the district board shall consist of not less than three members, and each county in the district shall select one or more of its county commissioners to serve as a member of the district board. The district board shall, in relation to the district department, have all the powers, duties, and responsibilities which the county board has in relation to the county department.

(2) The county board shall elect a chairman who shall preside at meetings and, when authorized by the board, shall sign all necessary documents for the board.

(3) The county board may hold a meeting to address the public assistance and welfare duties, responsibilities, and activities of the county department in conjunction with a meeting of the board of county commissioners, upon full and timely notice given pursuant to the provisions of section 24-6-402, C.R.S. The county board shall act in accordance with rules adopted by the state board when addressing public assistance and welfare duties, responsibilities, and activities of the county department.

26-1-117. County director - district director. (1) It is the duty of the county board to appoint a county director, who shall be charged with the executive and administrative duties and responsibilities of the county department, subject to the policies, rules, and regulations of the state department, and who shall serve as secretary to the county board, unless a secretary is otherwise appointed by the board. The salary of the county director shall be established by the board of county commissioners of the county. The state department shall reimburse the salary of the county director as provided in section 26-1-120.

(2) In the case of a district department established pursuant to section 26-1-115

(2), the district board shall appoint one district director to serve the entire district. Such district director shall be appointed in the same manner and subject to the same conditions as the county director provided for in subsection (1) of this section. The district director shall, in relation to the district department, have all the powers, duties, and responsibilities which the county director has in relation to the county department.

26-1-118. Duties of county departments, county directors, and district attorneys. (1) The county departments or other state designated agencies, where applicable, shall serve as agents of the state department and shall be charged with the administration of public assistance and welfare and related activities in the respective counties in accordance with the rules and regulations of the state department.

(2) The county departments or other state designated agencies, where applicable, shall report to the state department at such times and in such manner and form as the state department may from time to time direct. The state department may require a county department to report information concerning county employees, including but not limited to qualifications, work schedules, pay, duties, evaluations, training, and corrective and disciplinary actions. A county department may provide such information by use of a unique identifier for each employee that provides the information without identifying the name of the employee. However, nothing in this section shall be construed to prevent access by the state department to individual employee files, to the extent permitted by state and federal law, for purposes of carrying out the responsibility of the state department for the supervision and administration of programs funded in whole or in part by the state department. The state department shall maintain the confidentiality of such records in a manner consistent with state and federal law.

(2.5) Repealed.

(3) The county department or other state designated agencies, where applicable, in each county shall submit quarterly and annually to the board of county commissioners a budget containing an estimate and supporting data setting forth the amount of money needed to carry out the provisions of this title.

(4) When appointed by a court of competent jurisdiction and consistent with state department rules and regulations, the county director shall perform under the supervision of such court the function of officer or agent of the court in any social services matters which may be before it.

(5) The county department may receive for placement in foster care any child upon agreement of his parent, his guardian, or any other person having legal custody of such child. Such agreements, provided for in this subsection (5), shall be in writing and on forms prescribed by the state department and may contain any proper and legal provisions for proper care of the child and such other provisions as may be considered necessary by the state department.

(6) The county department shall report, to the district attorney monthly, data relating to fraudulent activities covering, as a minimum, the activities specified in paragraphs (a), (b), and (d) of this subsection (6), and the district attorney shall likewise report, monthly to the county department, the data specified in paragraph (c) of this subsection (6), as follows when applicable:

(a) Investigations (including welfare and district attorney cases accepted for fraud investigation during the month);

(b) Welfare action - assistance denials and assistance reductions;

(c) District attorney action:

(I) Criminal complaints requested during the month;

(II) Criminal complaints declined during the month;

(III) Cases dismissed during the month;

(IV) Cases acquitted during the month;

(V) Convictions during the month;

(VI) Confessions of judgments (notes);

(d) Recoveries:

(I) Fines and penalties _____ (in dollars);

(II) Restitutions ordered _____ (in dollars);

(III) Restitutions collected _____ (in dollars).

(7) The counties may prepare and issue to all payees, excluding heads of households in nonpublic assistance food stamp cases, at the time of delivery of any public assistance, a hermetically sealed photo identification card which is manufactured in such a secure manner as to resist duplication or intrusion and containing the full name, a card identification number, and any other data which would insure proper identification. A county department shall refer to the appropriate law enforcement agency for investigation, within ten working days after discovery, any information it may have concerning the improper use of a photo identification card by a person not eligible to possess such card.

(8) Starting in the calendar year 1979, no less than eight hours of fraud prevention training shall be given to all eligibility technicians, caseworkers, resource investigators, homemakers, supervisors, and such other persons within the county department as the county director deems necessary, who have not previously received such training. Such training shall be conducted by a law enforcement agency or its appropriate professional association.

(9) Repealed.

26-1-119. County staff. The county director, with the approval of the county board, shall appoint such staff as may be necessary as determined by the state department rules to administer public assistance and welfare and child welfare activities within his or

her county. Such staff shall be appointed and shall serve in accordance with a merit system for the selection, retention, and promotion of county department employees as described in section 26-1-120. The salaries of the members of such staff shall be fixed in accordance with the rules and salary schedules prescribed by the state department; except that, once a county transfers its county employees to a successor merit system as provided in section 26-1-120, the salaries shall be fixed by the county commissioners.

26-1-120. Merit system. (1) On January 1, 2001, the merit system for the selection, retention, and promotion of employees of the county departments that has been operated by the state department pursuant to this section is abolished. Beginning on or after July 1, 1997, but no later than January 1, 2001, each county shall provide for a merit system for the selection, retention, and promotion of employees of the county departments that complies with the criteria specified in subsection (8) of this section and with any other federal standards for a merit system of personnel administration for employees, specified as a condition of receipt of federal funds as set forth in subpart F of 5 CFR 900.601, et seq. A county can combine with another county or form a district to provide such a merit system for its employees. The county department shall certify to the state department that the successor merit system of personnel administration used by the county is in conformance with the federal standards. Prior to transferring county employees to a successor merit system, each county shall submit a transition plan to the state department outlining its plan for transferring such employees and for addressing issues that may arise during the transfer, such as salary issues, retention, seniority rights, and appeal processes. The state department shall examine and approve the transition plan if the state department determines that the transition plan is reasonable and that the merit system meets the federal standards. The county may not implement the transition plan or transfer employees to the successor merit system until the state department has approved the transition plan. The state shall not unreasonably withhold approval. Any transition plan for transferring county employees from the state merit system to a successor merit system shall include protections for employees that allow them to retain any accrued annual or sick leave benefits and that compensate such employees at the same or higher rate of salary. The state department shall provide assistance to counties regarding the transition of county employees from the state merit system to a successor merit system. Nothing in this section shall preclude a county from reorganizing employee staff functions or abolishing positions to achieve greater efficiencies in operations.

(1.5) Any moneys saved as a result of eliminating the state merit system shall be available to counties to implement the transition from the state merit system to a successor merit system.

(2) to (7) Repealed.

(8) The merit system provided by the counties shall meet the following federal

criteria:

(a) The recruitment, selection, and advancement of employees shall be on the basis of relative abilities, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

(b) The system shall provide equitable and adequate compensation.

(c) The employees shall be trained as needed to assure high quality of performance.

(d) The system shall provide for retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.

(e) The system shall assure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age, or disability and with proper regard for the privacy and constitutional rights of such persons as citizens. This fair treatment principle shall include compliance with all federal equal opportunity and nondiscrimination laws.

(f) The system shall assure that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the results of an election or a nomination for office.

(8.5) The merit system provided by the counties shall assure fair treatment of applicants and employees in all aspects of personnel administration without regard to race, creed, color, religion, age, disability, sex, sexual orientation, marital status, national origin, or ancestry.

(9) With respect to the merit system provided by the counties, the state board of human services shall promulgate rules on the following:

(a) Minimum standards for qualifications of certain positions that are determined by the state board to necessitate uniform standards;

(b) Establishment of maximum state reimbursement levels for the salaries of county department employees and county directors.

(10) Repealed.

(11) The county director of a county department shall be exempt from the merit system established and maintained by the state department pursuant to this section as it existed prior to July 1, 1997. Each county shall determine whether to exempt its county director from the successor merit system designed pursuant to this section. Until the county provides for a successor merit system as provided in this section, the state department shall reimburse only eighty percent of the salary established in the compensation plan pursuant to rules of the state department or eighty percent of the actual salary, whichever is less. After the county provides for a successor merit system as provided in this section, the state department shall reimburse only eighty percent of the actual salary; except that such reimbursement shall not exceed the maximum state

reimbursement level established by the state board pursuant to subsection (9) of this section.

26-1-120.3. Merit system transition - progress report - repeal. (Repealed)

26-1-120.5. Positions exempted from merit system - repeal. (Repealed)

26-1-121. Appropriations - food distribution programs. (1) (a) For carrying out the duties and obligations of the state department of human services and county departments under the provisions of this title and for matching such federal funds or meeting maintenance of effort requirements as may be available for public assistance and welfare activities in the state, including but not limited to assistance payments, food stamps (except the value of food stamp coupons), social services, child welfare services, rehabilitation, programs for the aging and for veterans, and related activities, the general assembly, in accordance with the constitution and laws of the state of Colorado, shall make adequate appropriations for the payment of such costs, pursuant to the budget prepared by the executive director.

(b) Subject to the provisions of section 26-1-109 (2), if the federal law shall provide federal funds, in cash or in another form such as food stamps, for public assistance and welfare activities, including but not limited to assistance payments, food stamps, social services, and child welfare services, not otherwise provided for in this title, the state department is authorized to make such payments or offer such services in accordance with the requirements accompanying said federal funds within the limits of available state appropriations.

(c) When the executive director determines that adequate appropriations for the payment of the costs described in paragraph (a) of this subsection (1) have not been made and that an overexpenditure of an appropriation will occur based upon the state department's estimates, the state board may take actions consistent with state and federal law to bring the rate of expenditure into line with available funds. The general assembly declares that case load and utilization based on medical necessity are legitimate reasons for supplemental funding.

(2) There shall be appropriated by the general assembly from the general fund for the costs of administering the assistance payments, food stamps, social services, and other public assistance and welfare functions of the state department and the state's share of the costs of administering such functions by the county departments amounts sufficient for the proper and efficient performance of the duties imposed upon them by law, including a legal advisor appointed by the attorney general. The general assembly shall make two

separate appropriations, one for the administrative costs of the state department and another for the administrative costs of the county departments. Any applicable matching federal funds shall be apportioned in accordance with the federal regulations accompanying such funds. Any unobligated and unexpended balances of such state funds so appropriated remaining at the end of each fiscal year shall be credited to the state general fund.

(3) The expenses of training personnel for special skills relating to public assistance and welfare activities, including but not limited to assistance payments, food stamps, social services, child welfare services, rehabilitation, and programs for the aging, as such expenses shall be determined and approved by the state department, may be paid from whatever state and federal funds are available for such training purposes.

(4) (a) The state department is authorized to charge an administrative fee for commodities delivered to agencies that receive these commodities through food distribution programs authorized by the United States department of agriculture pursuant to 7 CFR 250.1 et seq., as amended, including the "National School Lunch Program", the "Child and Adult Care Food Program", and the "Summer Food Service Program". The department shall collect the administrative fee authorized pursuant to this subsection (4) on a monthly basis from agencies that receive commodities from such programs.

(b) All administrative fees collected from agencies pursuant to paragraph (a) of this subsection (4) shall be transmitted to the state treasurer, who shall credit the same to the food distribution program service fund, which fund is hereby created and referred to in this paragraph (b) as the "fund". The moneys in the fund shall be continuously appropriated to the state department to defray the cost of administering the food distribution programs specified in paragraph (a) of this subsection (4). Any moneys in the fund not expended for the purpose of administering the food distribution programs specified in paragraph (a) of this subsection (4) may be invested by the state as provided in section 24-36-113, C.R.S. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The fund balances shall comply with any applicable federal laws or regulations. At the end of each fiscal year, any unexpended and unencumbered moneys in the fund shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

26-1-122. County appropriations and expenditures - advancements - procedures. (1) (a) Except as provided in subsection (6) of this section and section 26-1-122.5, the board of county commissioners in each county of this state shall annually appropriate as provided by law such funds as shall be necessary to defray the county department's twenty percent share of the overall cost of providing the assistance payments, food stamps (except the value of food stamp coupons), and social services activities delivered in the county, including the costs allocated to the administration of

each, and shall include in the tax levy for such county the sums appropriated for that purpose. Such appropriation shall be based upon the county social services budget prepared by the county department pursuant to section 26-1-124, after taking into account state advancements provided for in this section.

(b) In the case of a district department, each county forming a part of said district shall appropriate the funds necessary to defray its proportionate share of the costs of assistance payments, food stamps (except the value of food stamp coupons), and social services activities of such individual county based on the ratio set out in paragraph (a) of this subsection (1).

(c) Additional funds shall be made available by the board of county commissioners if the county funds so appropriated prove insufficient to defray the county department's twenty percent share of actual costs for assistance payments, food stamps (except the value of food stamp coupons), and social services activities, including the administrative costs of each.

(d) Under no circumstances shall any county expend county funds in an amount to exceed its twenty percent share of actual costs for assistance payments, food stamps (except the value of food stamp coupons), and social services activities, including the administrative costs of each, except as provided in paragraph (i) of subsection (4) of this section.

(2) (a) The county boards, in accordance with the rules of the state department, shall file requests with the state department for advancement of funds for the program costs of assistance payments, food stamps (except the value of food stamp coupons), and social services and for the administrative costs of each. The state department shall determine the requirements of each county for such program costs and administrative costs, taking into consideration available funds and all pertinent facts and circumstances, and shall certify by voucher to the controller the amounts to be paid to each county. The amounts so certified shall be paid from the state treasury upon voucher of the state department and warrant of the controller and shall be credited by the county treasurer to the county social services fund in accordance with the law and rules of the state department.

(b) For purposes of operating the electronic benefits transfer service as authorized in section 26-2-104 once the service has been fully developed and implemented in any county, the state department shall determine the program costs and administrative costs related to assistance payments and food stamps for each county. Upon implementation of the electronic benefits transfer service in any county, the county share of the program and administrative costs shall either be billed to the county or deducted from appropriate advances to the county or from the county block grant allocation for implementation of the Colorado works program pursuant to part 7 of article 2 of this title. The cost of administering the electronic benefits transfer service shall not exceed the proportional cost per client that would have been paid by counties to issue benefits through the

nonelectronic benefits system for the same fiscal year. Any savings that result from the use of the electronic benefits transfer service shall be shared among the state and local governments in proportion to such entities' contribution to the electronic benefits transfer service.

(3) (a) County departments shall keep such records and accounts in relation to the costs of administering assistance payments, the costs of administering food stamps, and the costs of administering social services as the state department shall prescribe by rules. Except as provided in subsection (6) of this section, all administrative costs shall be allocated, under rules of the state department, to either the performance of assistance payments functions, the performance of food stamp functions, or the performance of social services functions.

(b) Except as provided in subsection (6) of this section and section 26-1-122.5, if the county departments are administered in accordance with the policies and rules of the state department for the administration of county departments, eighty percent of the costs of administering assistance payments, food stamps, and social services in the county departments shall be advanced to the county by the state treasurer from funds appropriated or made available for such purpose, upon authorization of the state department, but in no event shall the state department authorize expenditures greater than the annual appropriation by the general assembly for the state's share of such administrative costs of the county departments. As funds are advanced, adjustment shall be made from subsequent monthly payments for those purposes.

(c) For purposes of this article, and except as otherwise provided in subsection (6) of this section, under rules of the state department, administrative costs shall include: Salaries of the county director and employees of the county department staff engaged in the performance of assistance payments, food stamps, and social services activities; the county's payments on behalf of such employees for old age and survivors' insurance or pursuant to a county officers' and employees' retirement plan and for any health insurance plan, if approved by the state department; the necessary travel expenses of the county board and the administrative staff of the county department in the performance of their duties; necessary telephone and telegraph; necessary equipment and supplies; necessary payments for postage and printing, including the printing and preparation of county warrants required for the administration of the county department; and such other administrative costs as may be approved by the state department; but advancements for office space, utilities, and fixtures may be made from state funds only if federal matching funds are available.

(4) (a) County departments shall keep such records and accounts in relation to assistance payments program costs and social services program costs as the state department shall prescribe by rules and as may be required in part 7 of article 2 of this title. All program costs shall be allocated, under rules of the state department, to either assistance payments or social services.

(b) Except as provided in paragraph (d) of this subsection (4) and subsection (6) of this section, eighty percent of the amount expended for assistance payments program costs and social services program costs or the amount equal to the state's share of the amount expended as determined pursuant to section 26-1-122.5 shall be advanced to the county by the state treasurer from funds appropriated or made available for such purpose upon authorization of the state department pursuant to the provisions of this title. As funds are advanced, adjustment shall be made from subsequent monthly payments for those purposes.

(c) For purposes of this article and except as otherwise provided in subsection (6) of this section, under rules of the state department, program costs shall include: Amounts expended for assistance payments and social services (except for items enumerated in subsection (3) (c) of this section) under programs for aid to the needy disabled, aid to the blind, child welfare services, expenses of treatment to prevent blindness or restore eyesight as defined in section 26-2-121, funeral and burial expenses as defined in section 26-2-129, and state supplementation under part 2 of article 2 of this title.

(d) Whenever any county, by reason of an emergency or other temporary condition, shall be unable to meet its necessary financial obligations for other public assistance purposes, and at the same time meet its requirements for assistance payments and social services under the program for aid to the needy disabled, the state department may in its discretion, upon consideration of the conditions and requirements of this title, reimburse such county in excess of eighty percent of the amount expended for assistance payments and social services under such program. The state department shall determine the amount of such excess reimbursement and the period of time during which such excess reimbursement shall be made. For such purpose, the state department may use not to exceed five percent of the total amount allocated to it by the state for administrative and program costs for assistance payments and social services under the program for which the excess reimbursement is provided.

(e) When a county department provides or purchases certain specialized social services for public assistance applicants, recipients, or others to accomplish self-support, self-care, or better family life, including but not limited to day care, homemaker services, foster care, and services to mentally retarded persons, in accordance with applicable rules, the state may advance funds to such county department at a rate in excess of eighty percent within available appropriations, but not to exceed the amount expended by the county department for such services. The county department contribution shall be for the period from January 1, 1981, through June 30, 1981, ten percent, and beginning July 1, 1981, five percent for the aid to the needy disabled home care program, the special needs of the disabled program, aid to the blind home care program, the special needs of the blind program, the adult foster care program, and other programs providing public assistance in the form of social services required by the federal "Social Security Act", as amended, for the purpose of establishing services which promote self-sufficiency for

adult clients. As funds are advanced, adjustment shall be made from subsequent monthly payments for those purposes. The expenses of training personnel to provide these services as determined and approved by the state department shall be paid from whatever state and federal funds are available for such training purposes.

(f) County departments shall provide or contract to provide a central information and referral service for all available services in the county which may prevent or reduce inappropriate institutional care through the use of community-based or home-based care.

(g) The state department is authorized to provide not more than ten additional homemaker positions to be located in Adams, Larimer, Garfield, Otero, and Morgan counties. Reimbursement to each county for one hundred percent homemaker costs shall be based on a minimum case load of ten clients per reimbursed position which clients are currently in or would be admitted to skilled or intermediate care facilities or hospitals and who would not otherwise be served by current county staffing. Reports shall be provided monthly to the joint budget committee.

(h) Notwithstanding any other provision of this article, the county department may spend in excess of twenty percent of actual costs for the purpose of matching federal funds for the administration of the child support enforcement program or for the administrative costs of activities involving food stamp, public assistance, or medical assistance fraud investigations or prosecutions.

(i) Notwithstanding any other provision of this article, the county department may receive and spend federal funds to which it is entitled by reason of the county's expenditures in excess of the twenty percent required by subsection (1) of this section for any social services activity that has been approved by the department as an activity that is eligible for reimbursement under any federal program. Acceptance and expenditure of such federal funds shall in no way affect the state's share of and contribution to such payments, and the county shall be solely responsible for the provision of the nonfederal share that is in excess of the twenty percent.

(j) Repealed.

(k) (I) Notwithstanding any other provision of this article, the county department may receive and spend federal funds to which it is entitled based on the county's certification of public expenditures made by other entities within the county, which expenditures:

(A) Are from sources other than the county social services fund;

(B) Are in excess of the twenty percent required by subsection (1) of this section; and

(C) Are for a social services activity that has been approved by the state department as an activity that is eligible for reimbursement under a federal program.

(II) Acceptance and expenditure of federal funds pursuant to subparagraph (I) of this paragraph (k) shall not affect the state's share of and contribution to the assistance payments program costs and social services program costs. The county shall be solely

responsible for certifying the nonfederal share that is in excess of the county's twenty-percent share. The state department may retain up to five percent of any federal funds received by a county department pursuant to this paragraph (k). In addition, the state, in accordance with the provisions of section 26-1-109 (4) (d), shall recover any federal funds received by the county through the certification of public expenditures that are subsequently determined to be ineligible for federal reimbursement.

(5) Except as otherwise provided in subsection (6) of this section, if in any fiscal year the annual appropriation by the general assembly for the state's share, together with any available federal funds for any income maintenance or social services program, or the administration of either, is not sufficient to advance to the counties the full applicable state share of costs, said program or the administration thereof shall be temporarily reduced by the state board so that all available state and federal funds shall continue to constitute eighty percent of the costs.

(6) (a) Notwithstanding any other provision of this section, the board of county commissioners in each county of this state shall annually appropriate as provided by law such funds as shall be necessary to defray the county's maintenance of effort requirement for the Colorado works program, created in part 7 of article 2 of this title, and the Colorado child care assistance program, created in part 8 of article 2 of this title, including the costs allocated to the administration of each, and shall include in the tax levy for such county the sums appropriated for that purpose. The county's maintenance of effort requirement for the Colorado works program for state fiscal year 1997-98 and for state fiscal years thereafter shall be the targeted spending level identified in section 26-2-714 (6). Such appropriation shall be based upon the county social services budget prepared by the county department pursuant to section 26-1-124, after taking into account state advancements provided for in this section.

(b) Additional funds shall be made available by the board of county commissioners if the county funds so appropriated prove insufficient to defray the county department's maintenance of effort requirements for the Colorado works program and the Colorado child care assistance program, including the costs allocated to the administration of each.

(c) The state department shall establish rules concerning what shall constitute administrative costs and program costs for the Colorado works program. The state treasurer shall make advancements to county departments for the costs of administering the Colorado works program and the Colorado child care assistance program from funds appropriated or made available for such purpose, upon authorization of the state department; except that in no event shall the state department authorize expenditures greater than the annual appropriation by the general assembly for such administrative costs of the county departments. As funds are advanced, adjustment shall be made from subsequent monthly payments for those purposes.

26-1-122.5. County appropriation increases - limitations - definitions. (1) Beginning in calendar fiscal year 1994 and for each calendar fiscal year thereafter to and including calendar fiscal year 1997, the board of county commissioners in each county of this state shall annually appropriate funds for the county share of the administrative costs and program costs of public assistance and food stamps in the county in an amount equal to the actual county share for the previous fiscal year adjusted by an amount equal to the actual county share for the previous fiscal year multiplied by the percentage of change in property tax revenue.

(2) For the purposes of this section:

(a) "County share" means the actual amount of the county share for the previous fiscal year. "County share" shall not include:

(I) The amount expended by the county from the county contingency fund or the county tax base relief fund pursuant to section 26-1-126;

(II) The amount expended by the county for general assistance pursuant to part 1 of article 17 of title 30, C.R.S.; and

(III) The amount expended by the county for programs or services provided by the county on its own, without requirements or funding from any other governmental agency.

(b) "Percentage of change in property tax revenue" means the difference between the total property tax levied for the previous fiscal year less the amount levied for debt service for the previous fiscal year and the total property tax levied for the year for which the percentage of change in tax revenue is being calculated less the amount levied for debt service for the year in which the percentage of change in tax revenue is being calculated divided by the total property tax levied for the previous fiscal year less the amount levied for debt service for the previous fiscal year.

(3) Notwithstanding the provisions of section 26-1-122, no county in the state shall be required to contribute more than the amount set forth in subsection (1) of this section in any fiscal year. Nothing in this section shall be construed to limit the ability of a county to establish programs or services provided by the county on its own, without requirements or funding from any other governmental agency.

(4) (Deleted by amendment, L. 2008, p. 1813, § 4, effective June 2, 2008.)

(5) Any amounts remaining in the county social services fund created in section 26-1-123 at the end of any fiscal year shall remain in the county fund for expenditure as determined by the board of county commissioners for administrative costs and program costs of public assistance, medical assistance, and food stamps.

(6) The limitation set forth in this section on the increase in the county share of the administrative costs and program costs of public assistance and food stamps will result in increased costs to the state. By making state funds available, the state is encouraging counties not to exercise any right a county may have pursuant to section 20 (9) of article X of the Colorado constitution to reduce or end its share of the costs of public assistance and food stamps for the county for three fiscal years following the fiscal

year in which the state funds are received. If a county accepts funds from the state based on the limitation provided in this section for any fiscal year, the county agrees not to exercise any rights the county may have to reduce or end its share of the costs of public assistance and food stamps for the fiscal year in which the funds are accepted. Nothing in this subsection (6) or any agreement pursuant to this subsection (6) shall be construed to affect the existence or status of any rights accruing to the state or any county pursuant to section 20 (9) of article X of the Colorado constitution.

(7) In the event that there are any funds remaining in the department of human services budget which were appropriated for fiscal year 1994-95 to cover the additional state share of expenses required as a result of the limitation established in this section, the executive director of the department of human services shall distribute such remaining funds to counties whose assessed valuation declined between calendar year 1992 and 1993 if such county provides evidence to the department in 1994 that the county has a shortfall. Distributions to counties pursuant to this subsection (7) shall be made on a pro rata basis and shall not exceed the amount of the county's shortfall. For purposes of this section, "shortfall" means the amount by which a county's 1992 county share exceeds the property tax revenue collected by the county through its 1992 social services mill levy levied on the county's 1992 assessed valuation.

26-1-123. County social services fund. (1) A fund to be known as the "county social services fund" is hereby created and established in each of the counties of the state of Colorado, which fund shall consist of such accounts as may from time to time be established pursuant to rules of the state board.

(2) The county social services fund shall consist of all moneys appropriated by the board of county commissioners for public assistance and welfare and related purposes; all moneys allotted, allocated, or apportioned to the county by the state department; such funds as are granted to the state of Colorado by the federal government for public assistance and welfare and related purposes and allocated to the county by the state department; and such other moneys as may be provided from time to time from other sources. The fund shall be available for the program and administrative costs of the county department.

(3) (a) The county board shall administer the fund pursuant to rules adopted by the state department. The county treasurer shall be the treasurer and custodian of the fund and shall disburse money from the fund only upon special county social services warrants drawn by the person duly appointed by the county board. The county treasurer shall not collect any fee as provided in section 30-1-102, C.R.S., for the collection or deposit of any moneys in the county social services fund. Warrants shall be signed by one member of the county board, who shall be designated by resolution for that purpose, and also signed by the person duly appointed by the county board. Such signatures shall indicate

the approval of the board of county commissioners and the county board of social services. At such time as Title XVI of the social security act, as amended by Public Law 92-603, becomes effective, the state board by rule may make other provision for the issuance and signing of warrants under the old age pension, aid to the blind, and aid to the needy disabled.

(b) All increased bonding fees necessitated by reason of the custody by the county treasurer of the county social services fund shall be a part of the administrative costs of the county department and shall be paid by the county board.

26-1-124. County social services budget. (1) As a part of the county budget and in conformity with the county budget law and the rules of the state board, a county social services budget shall be prepared by the county director and reviewed by the county board.

(2) Before such budget is adopted by the board of county commissioners, it shall be submitted by the county board to the state department for review. The state department review shall include an assessment as to whether the county budget includes adequate funding for the county's maintenance of effort for the Colorado works program created in part 7 of article 2 of this title and the Colorado child care assistance program created in part 8 of article 2 of this title.

(3) The state department shall prescribe budget forms and shall furnish a sufficient number of such forms to the county board without charge.

26-1-125. County social services levy - limitations. (Repealed)

26-1-126. County contingency fund - county tax base relief fund - creation.

(1) Repealed.

(1.5) There is hereby created the county tax base relief fund, which shall be expended to supplement county expenditures for public assistance, as provided in this section.

(2) Subject to available appropriations, the state department of human services or the state department of health care policy and financing shall make an advancement, in addition to that provided in section 26-1-122, out of the county tax base relief fund to any county that is eligible for a non-zero amount calculated by using the formula described in subsections (3) and (4) of this section.

(2.1) (a) (Deleted by amendment, L. 2008, p. 1809, § 2, effective June 2, 2008.)

(b) For the fiscal year beginning July 1, 2008, and for each fiscal year thereafter, a county's qualification for an advancement from the county tax base relief fund during the

fiscal year shall be based upon a three-tiered system whereby a county may qualify for a distribution of moneys from one or more tiers. For any fiscal year in which appropriations to the county tax base relief fund are insufficient to provide advancements from each tier as described in subsections (3) and (4) of this section:

(I) Any moneys appropriated to the county tax base relief fund shall first be used to provide advancements from tier 1;

(II) If sufficient moneys are appropriated to provide all advancements from tier 1, the remaining moneys shall be used to provide advancements from tier 2; and

(III) If sufficient moneys are appropriated to provide all advancements from tier 1 and tier 2, the remaining moneys shall be used to provide advancements from tier 3.

(3) Subject to available appropriations, the amount of the additional advancement for each county for each month commencing on or after July 1, 2008, shall be the total of amounts calculated for each of the three tiers from which the county qualifies to receive a distribution of moneys pursuant to section 26-1-126 (2.1) (b), as follows:

(a) A distribution of moneys from tier 1 shall be calculated as seventy-five percent of the remainder of the equation X minus Y, where:

(I) X equals the sum of the monthly amount of the county's obligations pursuant to section 26-1-122 and the county share of the monthly amount expended for administrative costs of medical assistance pursuant to section 25.5-1-122, C.R.S., and section 26-1-122; and

(II) Y equals the amount of moneys that would be raised by a levy of 3.0 mills on the property valued for assessment in the county, divided by twelve.

(b) For a county not receiving a distribution of moneys from tier 1, the distribution from tier 2 shall be calculated as fifty percent of the remainder of the equation X minus Y, where:

(I) X equals the sum of the monthly amount of the county's obligations pursuant to section 26-1-122 and the county share of the monthly amount expended for administrative costs of medical assistance pursuant to section 25.5-1-122, C.R.S., and section 26-1-122; and

(II) Y equals the amount of moneys that would be raised by a levy of 2.5 mills on the property valued for assessment in the county, divided by twelve.

(c) For a county that receives a distribution of moneys from tier 1, the distribution from tier 2 shall be calculated as fifty percent of the remainder of the equation X minus Y, where:

(I) X equals the amount of moneys that would be raised by a levy of 3.0 mills on the property valued for assessment in the county, divided by twelve; and

(II) Y equals the amount of moneys that would be raised by a levy of 2.5 mills on the property valued for assessment in the county, divided by twelve.

(d) For a county not receiving a distribution of moneys from tier 2, the distribution from tier 3 shall be calculated as twenty-five percent of the remainder of the equation X

minus Y, where:

(I) X equals the sum of the monthly amount of the county's obligations pursuant to section 26-1-122 and the county share of the monthly amount expended for administrative costs of medical assistance pursuant to section 25.5-1-122, C.R.S., and section 26-1-122; and

(II) Y equals the amount of moneys that would be raised by a levy of 2.0 mills on the property valued for assessment in the county, divided by twelve.

(e) For a county that receives a distribution of moneys from tier 2, the distribution from tier 3 shall be calculated as twenty-five percent of the remainder of the equation X minus Y, where:

(I) X equals the amount of moneys that would be raised by a levy of 2.5 mills on the property valued for assessment in the county, divided by twelve; and

(II) Y equals the amount of moneys that would be raised by a levy of 2.0 mills on the property valued for assessment in the county, divided by twelve.

(4) (a) (I) Except as provided in paragraph (b) of subsection (2.1) of this section, in the event appropriations are insufficient to cover advancements from one or more tiers as provided for in this section, the advancements from a tier from which appropriations are insufficient to cover all advancements from that tier shall be advanced to each county that is eligible to receive an advancement from that tier in an equitable manner, such that each such county shall have the same proportion of the county's obligations paid through the combination of its property tax revenue available and its advancement from the county tax base relief fund.

(II) As used in subparagraph (I) of this paragraph (a):

(A) "County's obligations" means a county department's share of the overall cost of providing the assistance payments, food stamps (except the value of food stamp coupons), and social services activities delivered in the county, including the costs allocated to the administration of each, as described in section 26-1-122; and the county share of the administrative costs of medical assistance in the county, as described in section 25.5-1-122, C.R.S.

(B) "Property tax revenue available" means the amount of moneys that would be raised by a levy of 3.0 mills on the property valued for assessment in the county if moneys are insufficient to cover advancements from tier 1, the amount of moneys that would be raised by a levy of 2.5 mills on the property valued for assessment in the county if moneys are insufficient to cover advancements from tier 2, or the amount of moneys that would be raised by a levy of 2.0 mills on the property valued for assessment in the county if moneys are insufficient to cover advancements from tier 3.

(b) (I) The executive director of the department may, on or after May 1 of any fiscal year and before the forty-fifth day after the close of the fiscal year:

(A) Transfer unexpended general fund moneys in the county tax base relief fund line item of the general appropriation act to offset general fund over-expenditures in the

county administration line in the general appropriation act; and

(B) Transfer unexpended general fund moneys in the county administration line in the general appropriation act to offset general fund over-expenditures in the county tax base relief fund line item of the general appropriation act.

(II) The transfers authorized by subparagraph (I) of this paragraph (b) shall be in addition to any other transfers within the department that are authorized by law or that are authorized in the general appropriation act and are required to implement appropriations conditioned on the distribution or transfer of the appropriated amounts.

(III) The total amount of moneys transferred pursuant to subparagraph (I) of this paragraph (b) shall not exceed one million dollars for any fiscal year.

(5) Each county eligible for county tax base relief fund moneys pursuant to this section shall only be responsible for an amount equal to the county's pro rata share of the general assembly's appropriation to the county tax base relief fund. If state and county appropriations are insufficient to meet the administrative and program costs of public assistance and the administrative costs of medical assistance and food stamps, then the executive director of the department of human services, the executive director of the department of health care policy and financing, and the state board of human services shall act pursuant to sections 26-1-121 (1) (c) and 26-1-122 (5) to reduce the rate of expenditure so that it matches the available funds.

(6) Repealed.

26-1-126.5. Effect of supreme court's interpretation of section 26-1-126, creating the county contingency fund for public assistance and welfare programs. The general assembly hereby finds and declares that the Colorado supreme court decision entitled *Colorado Department of Social Services v. Board of County Commissioners of the County of Pueblo and Samuel J. Corsentino*, No. 83SA316, March 11, 1985, which interpreted section 26-1-126 to require the general assembly to fully fund the county contingency fund, leaving no discretion with the general assembly to determine annually the level of funding of said fund, has not been adopted by the general assembly. The general assembly specifically rejects this interpretation and any implication in such decision which would result in any state liability for amounts not appropriated for such fund in previous fiscal years.

26-1-127. Fraudulent acts. (1) Any person who obtains or any person who willfully aids or abets another to obtain public assistance or vendor payments or medical assistance as defined in this title to which the person is not entitled or in an amount greater than that to which the person is justly entitled or payment of any forfeited installment grants or benefits to which the person is not entitled or in a greater amount

than that to which the person is entitled, by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device, commits the crime of theft, which crime shall be classified in accordance with section 18-4-401 (2), C.R.S., and which crime shall be punished as provided in section 18-1.3-401, C.R.S., if the crime is classified as a felony, or section 18-1.3-501, C.R.S., if the crime is classified as a misdemeanor. To the extent not otherwise prohibited by state or federal law, any person violating the provisions of this subsection (1) is disqualified from participation in any public assistance program under article 2 of this title for one year for a first offense, two years for a second offense, and permanently for a third or subsequent offense. Such disqualification is mandatory and is in addition to any other penalty imposed by law.

(1.5) To the extent not otherwise prohibited by state or federal law, any person against whom a county department of social services or the state department obtains a civil judgment in a state or federal court of record in this state based on allegations that the person obtained or willfully aided and abetted another to obtain public assistance or vendor payments or medical assistance as defined in this title to which the person is not entitled or in an amount greater than that to which the person is justly entitled or payment of any forfeited installment grants or benefits to which the person is not entitled or in a greater amount than that to which the person is entitled, by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device, is disqualified from participation in any public assistance program under article 2 of this title for one year for a first incident, two years for a second incident, and permanently for a third or subsequent incident. Such disqualification is mandatory and is in addition to any other remedy available to a judgment creditor.

(2) (a) If, at any time during the continuance of public assistance under this title, the recipient thereof acquires any property or receives any increase in income or property, or both, in excess of that declared at the time of determination or redetermination of eligibility or if there is any other change in circumstances affecting the recipient's eligibility, it shall be the duty of the recipient to notify the county department within thirty days in writing or take steps to secure county assistance to prepare such notification in writing of the acquisition of such property, receipt of such income, or change in such circumstances; and any recipient of such public assistance who knowingly fails to do so commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. If such property or income is received infrequently or irregularly and does not exceed a total value of ninety dollars in any calendar quarter, such property or income shall be excluded from the thirty-day written reporting requirement but shall be reported at the time of the next redetermination of eligibility of a recipient.

(b) The county departments shall use an application form which contains appropriate and conspicuous notice of the penalties for fraud and shall deliver to each recipient, with the first check and each redetermination thereafter, a notice explaining what changes in circumstances require written notification to the county department under

paragraph (a) of this subsection (2). The county department shall make available suitable forms which may be used for the purposes of this notification.

(3) Any recipient or vendor who falsifies any report required under this title commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

(4) Subject to available appropriations, additional costs incurred by the district attorneys in enforcing this section shall be billed to the county departments in the judicial district in such proportion for each county as specified in section 20-1-302, C.R.S., and the county departments shall pay such costs as an expense of public assistance administration.

(5) Notwithstanding the provisions of this section, the state department, county departments, or district attorney may elect, in the alternative, to prosecute under the general criminal statutes.

(6) Repealed.

26-1-127.5. Prevention of erroneous payments to prisoners - incentives. (1) In the event the identifying information transmitted to the state department and the county departments pursuant to section 17-26-118.5 (2), C.R.S., results in the termination of benefits from any program administered by the state department or county departments, the state department or county department shall pay as a reward to the sheriff ten percent of each of the following:

(a) Any portion of one month's benefit that would have been payable to the incarcerated recipient that consists of state or county moneys;

(b) Any portion of one month's benefit that would have been payable to the incarcerated recipient that consists of federal moneys granted to the state or counties, unless federal law prohibits the use of such grant moneys for the purpose specified in this subsection (1);

(c) Any portion of one month's benefit that would have been payable to the incarcerated recipient that consists of federal moneys made available by waiver for the purpose specified in this subsection (1).

(2) The executive director may apply for any federal waivers necessary to maximize the amount of the incentive payments to sheriffs.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3), the state department or county departments shall not pay a reward to a sheriff for providing identifying information pursuant to subsection (1) of this section in connection with a participant in the Colorado works program, created pursuant to part 7 of article 2 of this title, unless the federal government permits any amount paid as a reward to qualify as an expenditure for the purposes of meeting the state maintenance of historic effort required pursuant to section 26-2-713.

(b) The state department or county departments shall not pay a reward as authorized under this section if the state or county costs of implementing the provisions of this section exceed the overall saving of state or county moneys that the state department or county departments estimate shall be realized by implementing this section.

26-1-128. Report required. (Repealed)

26-1-129. Comprehensive information - packet of aged services and programs - implementation. (1) The general assembly hereby finds and declares that, while numerous programs and services are available for the aged, their access to such programs and services is often fragmented due to a lack of knowledge and information, and, as a result, needs which could be met are not. The general assembly further finds that compiling a single information packet on all programs and services would assist the aged in utilizing these programs and services more effectively.

(2) (a) To assist the aged in utilizing existing programs and services for which they may become eligible at sixty-two years of age or older, the state department shall compile a list of all such programs at the federal, state, and local level.

(b) The state department shall supervise the compilation of an information packet containing information on the said programs and services, their eligibility requirements, mode of delivery, and application forms, and shall make a single copy of the compiled information available to specified local agencies serving the aged, including the county departments of social services and the area agencies on aging.

(c) The packet shall contain only the listing of federal, state, and local services and programs, referral agencies, information pamphlets, and application forms. It shall not contain any materials which represent or promote the aims of private agencies or organizations.

(3) The designated local agencies shall:

(a) Provide appropriate assistance to individuals utilizing the information packet; and

(b) Coordinate client referrals to community agencies serving the aged and to institutional and noninstitutional programs, services, and activities within the community, as appropriate.

26-1-130. Applications for licenses - authority to suspend licenses - rules - definitions. (1) Every application by an individual for a license issued by the state department or any authorized agent of said department shall require the applicant's name, address, and social security number.

(2) The state department or any authorized agent of the state department shall

deny, suspend, or revoke any license pursuant to the provisions of section 26-13-126, and any rules promulgated in furtherance thereof, if the state department or agent thereof receives a notice to deny, suspend, or revoke from the state child support enforcement agency because the licensee or applicant is out of compliance with a court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or because the licensee or applicant has failed to comply with a properly issued subpoena or warrant relating to a paternity or child support proceeding. Any such denial, suspension, or revocation shall be in accordance with the procedures specified by rule of the state department and rules promulgated by the state board for the implementation of this section and section 26-13-126.

(3) (a) The state department shall enter into a memorandum of understanding with the state child support enforcement agency, which memorandum shall identify the relative responsibilities of the state department and the state child support enforcement agency with respect to the implementation of this section and section 26-13-126.

(b) The appropriate rule-making body of the state department is authorized to promulgate rules to implement the provisions of this section.

(4) For purposes of this section, "license" means any recognition, authority, or permission that the state department or any authorized agent of said department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not necessarily limited to, any license, certificate, certification, letter of authorization, or registration issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

26-1-131. (Reserved)

26-1-132. Department of human services - rate setting - residential treatment service providers - monitoring and auditing - report. (1) The state department shall develop a rate-setting process consistent with medicaid requirements for providers of residential treatment services in the state of Colorado. Representatives of counties and the provider community shall be involved in the actual development of the rate-setting process. The rate-setting process for rates funded by medicaid shall be approved by the department of health care policy and financing. The rate-setting process developed pursuant to this section may include, but shall not be limited to:

(a) A range for reimbursement that represents a base-treatment rate for serving a child who is subject to out-of-home placement due to dependency and neglect, a child placed in a residential child care facility pursuant to the "Child Mental Health Treatment

Act", article 67 of title 27, C.R.S., or a child who has been adjudicated a delinquent, which includes a defined service package to meet the needs of the child;

(b) A request for proposal to contract for specialized service needs of a child, including but not limited to: Substance-abuse treatment services; sex offender services; and services for the developmentally disabled; and

(c) Negotiated incentives for achieving outcomes for the child as defined by the state department, counties, and providers.

(2) In auditing residential treatment providers, the state department shall apply compliance requirements and monitoring functions consistently across all division and monitoring teams.

(3) The rate-setting process developed by the state department, counties, and providers and approved by the department of health care policy and financing pursuant to subsection (1) of this section shall include a two- or three-year implementation timeline with implementation beginning in state fiscal year 2008-09.

(4) (a) The state department, in conjunction with the counties and providers, shall submit an initial report to the joint budget committee of the general assembly on or before January 1, 2008. The report shall include the rate-setting process and the implementation timeline developed pursuant to this section.

(b) The department of health care policy and financing and the state department, in consultation with the representatives of the counties and the provider community, shall review the rate-setting process every two years and shall submit any changes to the joint budget committee of the general assembly.

26-1-133. Colorado mental health institute at Pueblo - forensic unit - authority to enter into lease. (Repealed)

26-1-133.5. Rental properties - fund created. (1) The executive director is authorized to rent surplus facilities on the campuses of the various institutions operated by the state department so long as the rentals are not prohibited by contractual agreement, state law, or other legal restrictions on the state department's possession or use of the property. The state department shall not enter into any lease agreement that would endanger the state's ownership of the property or that is expected to result in a financial loss to the state.

(2) All moneys collected from the rental of surplus facilities pursuant to subsection (1) of this section shall be transmitted to the state treasurer, who shall credit the same to the department of human services buildings and grounds cash fund, which fund is hereby created and referred to in this section as the "fund".

(3) The moneys in the fund shall be subject to annual appropriation by the general

assembly to the state department to be used in operating, repairing, remodeling, or demolishing the facilities of any properties rented by the state department pursuant to subsection (1) of this section.

(4) Any moneys in the fund not expended for the purposes of subsection (3) of this section 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. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

26-1-134. Home- and community-based services for persons with developmental disabilities - cooperation. It is the intent of the general assembly that the department of health care policy and financing and the state department cooperate to the maximum extent possible in designing, implementing, and administering the program authorized under part 4 of article 6 of title 25.5, C.R.S.

26-1-135. Child welfare action committee - reporting - cash fund - created. (1) As part of the work done by the governor's child welfare action committee, created by executive order B 006 08, the state department shall make periodic reports of findings and recommendations, including a report of the child welfare action committee's initial recommendations, to the health and human services committees of the senate and the house of representatives, or any successor committees, and the joint budget committee on or before January 31, 2009.

(2) (a) (I) There is hereby created in the state treasury the child welfare action committee cash fund, referred to in this section as the "fund". The fund shall be comprised of moneys transferred to the fund in accordance with paragraph (b) of this subsection (2), moneys credited to the fund pursuant to subsection (3) of this section, and any other moneys appropriated to the fund. All interest earned on the investment of moneys in the fund shall be credited to the fund.

(II) Moneys in the fund are continuously appropriated to the department of human services to pay any necessary expenses related to the governor's child welfare action committee, created by executive order B 006 08, and the implementation of any recommendations of the committee.

(III) Any moneys credited to the fund and unexpended at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(b) Notwithstanding any law to the contrary, any moneys appropriated from the general fund to the department of human services for the fiscal year commencing on July 1, 2007, that are unexpended or unencumbered as of the close of the 2007-08 fiscal year

shall not revert to the general fund but shall be transferred by the state treasurer and the controller to the child welfare action committee cash fund created in subsection (2) of this section; except that the amount so transferred shall not exceed two hundred thousand dollars.

(c) Notwithstanding any provision of this section to the contrary, the state treasurer shall transfer to the general fund any unexpended and unencumbered moneys remaining in the fund as of July 1, 2011.

(3) The state department is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of this section; except that no gift, grant, or donation may be accepted if it is subject to conditions that are inconsistent with this section or any other law of the state. All private and public moneys received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the child welfare action committee cash fund, created in subsection (2) of this section.

26-1-136. Persons in a department of human services facility - medical benefits application assistance - county of residence - rules. (1) (a) Beginning as soon as practicable, but no later than January 1, 2009, no later than one hundred twenty days prior to release, state department facility personnel shall assist the following persons in applying for medical assistance pursuant to part 1 or 2 of article 5 of title 25.5, C.R.S.:

(I) A person who was receiving medical assistance pursuant to section 25.5-5-101 (1) (f) or 25.5-5-201 (1) (j), C.R.S., immediately prior to entering the state department facility and is likely to be terminated from receiving medical assistance while committed or otherwise placed or is reasonably expected to meet the eligibility criteria specified in section 25.5-5-101 (1) (f) or 25.5-5-201 (1) (j), C.R.S., upon release; and

(II) (A) A person who is committed to a state department facility pursuant to part 1 of article 8 of title 16, C.R.S.; or

(B) A person who is a patient or a juvenile who is placed in a state department facility pursuant to court order.

(b) If the person is committed or placed for less than one hundred twenty days, state department personnel shall make a reasonable effort to assist the person in applying for medical assistance as soon as practicable.

(2) As soon as practicable, but no later than January 1, 2009, no later than one hundred twenty days prior to release, state department facility personnel shall assist the following persons in applying for supplemental security income benefits under Title II of the federal "Social Security Act", 42 U.S.C. sec. 301, et seq., as amended, and in any associated appeals process:

(a) A person who was eligible for supplemental security income benefits under Title II of the federal "Social Security Act", 42 U.S.C. sec. 301, et seq., as amended,

immediately prior to entering the state department facility and is likely to be terminated from receiving supplemental security income benefits while committed or otherwise placed, or is reasonably expected to meet the eligibility criteria for supplemental security income benefits upon release; and

(b) (I) A person who is committed to a state department facility pursuant to part 1 of article 8 of title 16, C.R.S.; or

(II) A person who is a patient who is placed in a state department facility pursuant to court order.

(3) The department of health care policy and financing shall provide information and training on medical assistance eligibility requirements and assistance to the facility personnel at each facility to assist in and expedite the application process for medical assistance for a person held in custody who meets the requirements of paragraph (a) of subsection (1) of this section.

(4) The state department shall provide information and education regarding the supplemental security income systems and application processes to personnel at each facility.

(5) (a) For purposes of determining eligibility pursuant to section 25.5-4-205, C.R.S., the county of residence of the person shall be the county specified by the person as his or her county of residence upon release.

(b) The executive director of the department of health care policy and financing shall promulgate rules to simplify the processing of applications for medical assistance pursuant to paragraph (a) of subsection (1) of this section and to allow a person determined to be eligible for such medical assistance to access the medical assistance upon release and thereafter. If a county department determines that a person is eligible for medical assistance, the county shall enroll the person in medicaid effective upon his or her release. At the time of the person's release, the facility personnel shall give the person information and paperwork necessary for the person to access medical assistance. The information shall be provided to the facility by the applicable county department.

(c) Each state department facility shall attempt to enter into prerelease agreements with local social security administration offices, and, if appropriate, the county department or the department of health care policy and financing in order to:

(I) Simplify the processing of applications for medical assistance or for supplemental security income to enroll, effective upon release, a person who is eligible for medical assistance pursuant to section 25.5-5-101 (1) (f) or 25.5-5-201 (1) (j), C.R.S.; and

(II) Provide the person with the information and paperwork necessary to access medical assistance immediately upon release.

26-1-137. Persons committed to or placed in a department of human services

facility - prohibition against the use of restraints on pregnant women. (1) As used in this section, "facility staff" means the staff of a state department facility or facility supervised by the executive director.

(2) Facility staff, in restraining a woman who is committed to or placed pursuant to this title or title 27, C.R.S., in a state department facility or a facility supervised by the executive director, shall use the least restrictive restraint necessary to ensure safety if the facility staff have actual knowledge or a reasonable belief that the woman is pregnant. The requirement that staff use the least restrictive restraints necessary to ensure safety shall continue during postpartum recovery and transport to or from a facility.

(3) (a) (I) Facility staff or medical staff shall not use restraints of any kind on a pregnant woman during labor and delivery of the child; except that staff may use restraints if:

(A) The medical staff determine that restraints are medically necessary for safe childbirth;

(B) The facility staff or medical staff determine that the woman presents an immediate and serious risk of harm to herself, to other patients, or to medical staff; or

(C) The facility staff determine that the woman poses a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (a) to the contrary, under no circumstances shall staff use leg shackles or waist restraints on a pregnant woman during labor and delivery of the child, postpartum recovery while in a medical facility, or transport to or from a medical facility for childbirth.

(b) The facility or medical staff authorizing the use of restraints on a pregnant woman during labor or delivery of the child shall make a written record of the use of restraints, which record shall include, at a minimum, the type of restraint used, the circumstances that necessitated the use of the restraint, and the length of time the restraint was used. The state department shall retain the record for a minimum of five years and shall make the record available for public inspection with individually identifying information redacted from the record unless the woman who is the subject of the record gives prior written consent for the public release of the record. The written record of the use of restraint shall not constitute a medical record under state or federal law.

(4) After childbirth and upon return to a state department facility or a facility supervised by the executive director, the woman shall be entitled to have a member of the state department's medical staff present during any strip search.

(5) When a woman's pregnancy is determined, the facility staff shall inform a pregnant woman committed to or placed in a state department facility or a facility supervised by the executive director in writing in a language and in a manner understandable to the woman of the provisions of this section concerning the use of restraints and the presence of medical staff during a strip search.

(6) The executive director shall ensure that facility staff receive adequate training

concerning the provisions of this section.

26-1-138. Memorandum of understanding - notification of risk - rules. (1) On or before July 1, 2011, the department of human services and the department of education shall enter into a memorandum of understanding, pursuant to section 22-2-139, C.R.S., concerning the enrollment of students in the public school system from a state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101, C.R.S.

(2) The state board may promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., concerning the implementation of the memorandum of understanding, including but not limited to rules regarding notification of and sharing of information as described in section 22-2-139, C.R.S.

26-1-139. Child fatality and near fatality prevention - legislative declaration - process - department of human services child fatality review team - reporting - rules. (1) The general assembly hereby finds and declares that:

(a) It is of the utmost importance and a community responsibility to mitigate the incidents of egregious abuse or neglect, near fatalities, or fatalities of children in the state due to abuse or neglect. Professionals from disparate disciplines share responsibilities for the safety and well-being of children as well as expertise that can promote that safety and well-being. Multidisciplinary reviews of the incidents of egregious abuse or neglect, near fatalities, or fatalities of children due to abuse or neglect can lead to a better understanding of the causes of such tragedies and, more importantly, methods of mitigating future incidents of egregious abuse or neglect, near fatalities, or fatalities.

(b) There is a need for agency transparency and accountability to the public regarding an incident of egregious abuse or neglect against a child, a near fatality, or a child fatality that involves a suspicion of abuse or neglect when the child or family has had previous involvement, as defined in paragraph (c) of subsection (2) of this section, with the state or county within three years prior to the incident.

(c) There is a need for a multidisciplinary team to conduct in-depth case reviews after an incident of egregious abuse or neglect against a child, a near fatality, or a child fatality that involves a suspicion of abuse or neglect and when the child or family has had previous involvement, as defined in paragraph (c) of subsection (2) of this section, within three years prior to the incident. The multidisciplinary reviews would complement that of the review conducted by the Colorado state child fatality prevention review team in the department of public health and environment pursuant to article 20.5 of title 25, C.R.S. The goal of the multidisciplinary review shall not be to affix blame, but rather to improve understanding of why the incidents of egregious abuse or neglect against a child, near

fatalities, or fatalities of a child due to abuse or neglect occur, to identify and understand where improvements can be made in the delivery of child welfare services, and to develop recommendations for mitigation of future incidents of egregious abuse or neglect against a child, near fatalities, or fatalities of a child due to abuse or neglect.

(d) It is the intent of the general assembly to codify the department of human services child fatality review team as well as modify certain aspects of its processes to promote an understanding of the causes of each incident of egregious abuse or neglect, near fatality, or fatality of a child due to abuse or neglect, identify systemic deficiencies in the delivery of services and supports to children and families, and recommend changes to help mitigate future incidents of egregious abuse or neglect against a child, near fatalities, or fatalities of children due to abuse or neglect.

(e) It is further the intent of the general assembly to comply with the federal "Child Abuse Prevention and Treatment Reauthorization Act of 2010", Pub.L. 111-320, which requires states to allow for public disclosure of the findings or information about a case of child abuse or neglect that resulted in a child fatality or near fatality, and to include in the disclosure the age, gender, and race or ethnicity of the child to better understand trends and patterns of child fatalities in Colorado as they relate to age, gender, and race or ethnicity.

(2) As used in this section, unless the context otherwise requires:

(a) "Incident of egregious abuse or neglect" means an incident of suspected abuse or neglect involving significant violence, torture, use of cruel restraints, or other similar, aggravated circumstances that may be further defined in rules promulgated by the state department pursuant to this section.

(b) "Near fatality" means a case in which a physician determines that a child is in serious, critical, or life-threatening condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.

(c) "Previous involvement" means a situation in which the county department has received a referral, responded to a report, opened an assessment, provided services, or opened a case in the Colorado TRAILS system that is related to the provision of child welfare services, as defined in section 26-5-101 (3).

(d) "Suspicious fatality or near fatality" means a fatality or near fatality that is more likely than not to have been caused by abuse or neglect.

(e) "Team" means the department of human services child fatality review team established in rules promulgated pursuant to section 26-1-111 and codified pursuant to subsection (3) of this section.

(3) There is hereby established in the state department the department of human services child fatality review team. The team shall have the following objectives:

(a) To assess the records of each case in which a suspicious incident of egregious abuse or neglect against a child, near fatality, or child fatality due to abuse or neglect occurred and the child or family had previous involvement, as defined in paragraph (c) of

subsection (2) of this section, within three years prior to the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect;

(b) To understand the causes of the reviewed incidents of egregious abuse or neglect against a child, near fatalities, or child fatalities;

(c) To identify any gaps or deficiencies that may exist in the delivery of services to children and their families by public agencies that are designed to mitigate future child abuse, neglect, or death; and

(d) To make recommendations for changes to laws, rules, and policies that will support the safe and healthy development of Colorado's children.

(4) The team shall have the following duties:

(a) To review the circumstances around the incident of egregious abuse or neglect against a child, near fatality, or child fatality;

(b) To review the services provided to the child, the child's family, and the perpetrator by the county department for any county with which the family has had previous involvement, as defined in paragraph (c) of subsection (2) of this section, within three years prior to the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect;

(c) To review records and interview individuals, as deemed necessary and not otherwise prohibited by law, involved with or having knowledge of the facts of the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect, including but not limited to all other state and local agencies having previous involvement, as defined in paragraph (c) of subsection (2) of this section, within three years prior to the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect;

(d) To review the county department's compliance with statutes, regulations, and relevant policies and procedures that are directly related to the incident of egregious abuse or neglect against a child, near fatality, or fatality;

(e) To identify strengths and best practices of service delivery to the child and the child's family;

(f) To identify factors that may have contributed to conditions leading to the incident of egregious abuse or neglect against a child, near fatality, or fatality, including, but not limited to, lack of or unsafe housing, family and social supports, educational life, physical health, emotional and psychological health, and other safety, crisis, and cultural or ethnic issues;

(g) To review supports and services provided to siblings, family members, and agency staff after the incident of egregious abuse or neglect against a child, near fatality, or fatality;

(h) To identify the quality and sufficiency of coordination between state and local agencies;

(i) To develop and distribute the following reports, the content of which shall be

determined by rules promulgated by the state department pursuant to subsection (7) of this section:

(I) On or before July 1, 2014, and on or before each July 1 thereafter, an annual child fatality and near fatality review report, absent confidential information, summarizing the reviews required by subsection (5) of this section conducted by the team during the previous year. The report must also include annual policy recommendations based on the collection of reviews required by subsection (5) of this section. The recommendations must address all systems involved with children and follow up on specific system recommendations from prior reports that address the strengths and weaknesses of child protection systems in Colorado. The team shall post the annual child fatality and near fatality review report on the state department's web site and distribute it to the Colorado state child fatality prevention review team established in the department of public health and environment pursuant to section 25-20.5-406, C.R.S., the governor, the health and human services committee of the senate, and the public health care and human services committee of the house of representatives, or any successor committees. The annual child fatality and near fatality review report must be prepared within existing resources.

(II) The final confidential, case-specific review report required pursuant to subsection (5) of this section for each child fatality, near fatality, or incident of egregious abuse or neglect. The final confidential, case-specific review report shall be submitted to the Colorado state child fatality prevention review team established in the department of public health and environment pursuant to section 25-20.5-406, C.R.S.

(III) A case-specific executive summary, absent confidential information, of each incident of egregious abuse or neglect against a child, near fatality, or child fatality reviewed. The team shall post the case-specific executive summary on the state department's web site.

(5) (a) Each county department shall report to the state department any suspicious incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect within twenty-four hours of becoming aware of the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect. If the county department has had previous involvement, as defined in paragraph (c) of subsection (2) of this section, within three years prior to the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect, the county department shall provide the state department with all relevant reports and documentation regarding its previous involvement with the child within sixty calendar days after becoming aware of the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect. The state department may grant, at its discretion, an extension to a county department for delays outside of the county department's control regarding the receipt of all relevant reports and information critical to an effective review, including but not limited to the final autopsy and law

enforcement reports, until such documents can be made available for review by the team.

(b) Within three business days after receiving from a county department the information provided under paragraph (a) of this subsection (5), the department shall disclose to the public that information has been received, whether the department is conducting a review of the incident, whether the child was in his or her own home or in foster care, as defined in section 19-1-103 (51.3), C.R.S., and the child's gender and age. The department may disclose the scope of the review.

(c) The team shall complete its review of each incident of egregious abuse or neglect, near fatality, or fatality of a child due to abuse or neglect, draft a confidential, case-specific review report, and submit the draft report to any county department with previous involvement, as defined in paragraph (c) of subsection (2) of this section, within fifty-five calendar days after the review team meeting. Any county department with previous involvement, as defined in paragraph (c) of subsection (2) of this section, has thirty calendar days after the completion of the draft confidential, case-specific review report to review the draft confidential, case-specific review report and provide a written response to be included in the final confidential, case-specific review report. A confidential, case-specific review report must be finalized and submitted pursuant to paragraph (e) of this subsection (5) no more than thirty calendar days after the county department's response is received by the team or upon confirmation in writing from the county department that a written response will not be provided.

(d) The proceedings, records, opinions, and deliberations of the department of human services child fatality review team shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed by the state department or county department. Nothing in this paragraph (d) shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the department of human services child fatality review team.

(e) The team shall provide the final confidential, case-specific review report to the executive director, the director for any county or community agency referenced in the report, the county board of human services of any county department with previous involvement, as defined in paragraph (c) of subsection (2) of this section, the legislative members of the team appointed pursuant to paragraph (f) of subsection (6) of this section, and the department of public health and environment.

(f) The state department shall post on its web site, within seven business days after the report's finalization, a case-specific executive summary of the final confidential, case-specific review report, absent confidential information as described in paragraph (i) of this subsection (5), of each incident of egregious abuse or neglect against a child, near fatality, or child fatality reviewed pursuant to this section.

(g) The case-specific executive summary for a child who was not in foster care, as

defined in section 19-1-103 (51.3), C.R.S., at the time of the fatality must include:

(I) The child's name, date of birth, and date of fatality;

(II) The age, gender, and race or ethnicity of the child and a description of the child's family, including the birth order of the child whose death is being reviewed;

(III) A statement of any child welfare services, as defined in section 26-5-101 (3), and any other government assistance or services that were being provided to the child and are recorded in the state's human services case management systems, including TRAILS, the Colorado benefits management system, or the Colorado child care automated tracking system, any member of the child's family, or the person suspected of the abuse or neglect;

(IV) The date of the last contact between the agency providing any child welfare service and the child, the child's family, or the person suspected of the abuse or neglect;

(V) The age, income level, and education level of the legal caretaker at the time of the fatality;

(VI) Information on the person or persons caring for the child at the time of the fatality; and

(VII) Any other information required by rules promulgated by the state department pursuant to subsection (7) of this section.

(h) The case-specific executive summary for a child who was in foster care, as defined in section 19-1-103 (51.3), C.R.S., at the time of the incident must include:

(I) The child's name, date of birth, and date of fatality;

(II) The age, gender, and race or ethnicity of the child;

(III) A description of the foster care placement;

(IV) The licensing history of the foster care placement;

(V) A statement of any child welfare services, as defined in section 26-5-101 (3), and any other government assistance or services that were being provided to the child and are recorded in the state's human services case management systems, including TRAILS, the Colorado benefits management system, or the Colorado child care automated tracking system, any member of the child's family, or the person suspected of the abuse or neglect;

(VI) The date of the last contact between the agency providing any child welfare service and the child, the child's family, or the person suspected of the abuse or neglect; and

(VII) Any other information required by rules promulgated by the state department pursuant to subsection (7) of this section.

(i) The case-specific executive summary or other release or disclosure of information pursuant to this section shall not include:

(I) Any information that would reveal the identity of the child who is the subject of the executive summary, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child;

(II) Any information that would reveal the identity of the person suspected of the abuse or neglect or any employee of any agency that provided child welfare services, as

defined in section 26-5-101 (3), to the child or that participated in the investigation of the incident of fatality, near fatality, or egregious abuse or neglect;

(III) Any information that would reveal the identity of a reporter or of any other person who provides information relating to the incident of fatality, near fatality, or egregious abuse or neglect;

(IV) Any information which, if disclosed, would not be in the best interests of the child who is the subject of the report, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child, as determined by the state department in consultation with the county that reported the incident of fatality, near fatality, or egregious abuse or neglect and the district attorney of the county in which the incident occurred, and after balancing the interests of the child, family, household member, or caregiver in avoiding the stigma that might result from disclosure against the interest of the public in obtaining the information.

(V) Any information for which disclosure is not authorized by state law or rule or federal law or regulation.

(j) The state department may not release the case-specific executive summary if the state department, in consultation with the county, determines that making the executive summary available would jeopardize any of the following:

(I) Any ongoing criminal investigation or prosecution or a defendant's right to a fair trial; or

(II) Any ongoing or future civil investigation or proceeding or the fairness of such proceeding.

(k) If at any point in the review process it is determined that the incident of egregious abuse or neglect against a child, near fatality, or fatality is not the result of abuse or neglect, the review shall cease.

(l) The state department or any county department may release to the public any information at any time to correct any inaccurate information reported in the news media, so long as the information released by the state department or county department is not explicitly in conflict with federal law, is not contrary to the best interest of the child who is the subject of the report, or his or her siblings, is in the public's best interest, and is consistent with the federal "Child Abuse Prevention and Treatment Reauthorization Act of 2010", Pub.L. 111-320.

(6) The team consists of up to twenty members, appointed on or before September 30, 2011, as follows:

(a) Three members from the state department, appointed by the executive director;

(b) Two members from the department of public health and environment, appointed by the executive director of said department;

(c) Three members representing county departments, appointed by a statewide organization representing county commissioners;

(d) At least eight additional multidisciplinary members, to be appointed by the

members described in paragraphs (a) to (c) of this subsection (6), including but not limited to representatives from the office of the child protection ombudsman and from the fields of child protection, physical medicine, mental health, education, law enforcement, district attorneys, child advocacy, and any others as deemed appropriate;

(e) For the purposes of participating in a specific case review, additional members may be appointed at the discretion of the members described in paragraphs (a) to (c) of this subsection (6) to represent agencies involved with the child or the child's family in the twelve months prior to the incident of egregious abuse or neglect against a child, a near fatality, or fatality; and

(f) Two members of the general assembly, one appointed by the majority leader of the senate and one appointed by the majority leader of the house of representatives; except that, if the majority leaders are from the same political party, the minority leader of the house of representatives shall appoint the second member. The members appointed pursuant to this paragraph (f) are nonvoting members and are not required to be present at any meeting of the team.

(6.5) Members of the team serve three-year terms and are eligible for reappointment upon the expiration of the terms. Vacancies shall be filled in a manner and within a time frame to be determined by rules promulgated by the state department pursuant to subsection (7) of this section; except that any vacancy of a member appointed pursuant to paragraph (f) of subsection (6) of this section shall be filled by the appointing authority.

(7) The state department shall promulgate additional rules, as necessary, for the implementation of this section, including but not limited to the confidentiality of information in incidents of egregious abuse or neglect against a child, near fatalities, or child fatalities.

PART 2

PROGRAMS ADMINISTERED BY THE DEPARTMENT

26-1-201. Programs administered - services provided - department of human services. (1) This section specifies the programs to be administered and the services to be provided by the department of human services. These programs and services include the following:

(a) Alcohol and drug abuse programs, as specified in article 80 of title 27, C.R.S.;

(b) Alcoholism and intoxication treatment programs, as specified in article 81 of title 27, C.R.S.;

(c) Drug abuse prevention, education, and treatment programs, as specified in article 82 of title 27, C.R.S.;

(d) Public assistance programs, as specified in article 2 of this title;

(e) Protective services for adults at risk of mistreatment or self-neglect, as specified in article 3.1 of this title;

(f) Child welfare services, as specified in article 5 of this title;

(g) The "Colorado Family Preservation Act", as specified in article 5.5 of this title;

(h) The "Child Care Licensing Act", as specified in article 6 of this title;

(i) The subsidization of adoption program, as specified in article 7 of this title;

(j) The domestic abuse programs, as specified in article 7.5 of this title;

(k) The homeless prevention activities program, as specified in article 7.8 of this title;

(l) The vocational rehabilitation programs, as specified in article 8 of this title;

(m) Independent living programs, as specified in article 8.1 of this title;

(n) The products of the rehabilitation center for the visually impaired program, as specified in article 8.2 of this title;

(o) The blind-made products program, as specified in article 8.3 of this title;

(p) The vending facilities in state buildings program, as specified in article 8.5 of this title;

(q) and (r) Repealed.

(s) The "Older Coloradans' Act", as specified in article 11 of this title;

(t) The "Colorado Long-term Care Ombudsman Act", as specified in article 11.5 of this title;

(u) The state homes for the aged, as specified in article 12 of this title;

(v) The "Colorado Child Support Enforcement Act", as specified in article 13 of this title;

(w) The "Colorado Administrative Procedure Act for the Establishment and Enforcement of Child Support", as specified in article 13.5 of this title;

(x) Programs for the care and treatment of persons with mental illness, as specified in article 65 of title 27, C.R.S.;

(y) Programs for the care and treatment of the developmentally disabled, as specified in article 10.5 of title 27, C.R.S.;

Editor's note: This version of paragraph (y) is effective until March 1, 2014.

(y) Programs, services, and supports for persons with intellectual and developmental disabilities, as specified in article 10.5 of title 27, C.R.S.;

Editor's note: This version of paragraph (y) is effective March 1, 2014.

(z) Charges for patients, as set forth in article 92 of title 27, C.R.S.;

(aa) The Colorado mental health institute at Pueblo, as specified in article 93 of

title 27, C.R.S.; and

(bb) The Colorado mental health institute at Fort Logan, as specified in article 94 of title 27, C.R.S.

PART 3

COLORADO TRAUMATIC BRAIN INJURY PROGRAM

26-1-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Board" means the Colorado traumatic brain injury trust fund board created pursuant to section 26-1-302.

(2) "Program" means the services provided pursuant to sections 26-1-303 and 26-1-304.

(3) "Traumatic brain injury" means injury to the brain caused by physical trauma resulting from but not limited to incidents involving motor vehicles, sporting events, falls, blast injuries, and physical assaults. Documentation of traumatic brain injury shall be based on adequate medical history, neurological examination, including mental status testing or neuropsychological evaluation. Where appropriate, neuroimaging may be used to support the diagnosis. A traumatic brain injury shall be of sufficient severity to produce partial or total disability as a result of impaired cognitive ability and physical function.

(4) "Trust fund" means the Colorado traumatic brain injury trust fund created in section 26-1-309.

26-1-302. Colorado traumatic brain injury trust fund board - creation - powers and duties. (1) There is hereby created the Colorado traumatic brain injury trust fund board within the state department of human services. The board shall exercise its powers and duties as if transferred by a **type 2** transfer.

(2) The board shall be composed of:

(a) The executive director of the state department of human services or the executive director's designee;

(b) The president of a state brain injury association or the president's designee, who shall be appointed by the executive director of the state department of human services;

(c) The executive director of the department of public health and environment or the executive director's designee; and

(d) No more than ten additional persons with an interest and expertise in the area

of traumatic brain injury whom the governor shall appoint with the consent of the senate. The additional board members may include, but need not be limited to, any combination of the following professions or associations with traumatic brain injury:

(I) Physicians with experience and strong interest in the provision of care to persons with traumatic brain injuries, including but not limited to neurologists, neuropsychiatrists, physiatrists, or other medical doctors who have direct experience working with persons with traumatic brain injuries;

(II) Social workers, nurses, neuropsychologists, or clinical psychologists who have experience working with persons with traumatic brain injuries;

(III) Rehabilitation specialists, such as speech pathologists, vocational rehabilitation counselors, occupational therapists, or physical therapists, who have experience working with persons with traumatic brain injuries;

(IV) Clinical research scientists who have experience evaluating persons with traumatic brain injuries;

(V) Civilian or military persons with traumatic brain injuries or family members of such persons with traumatic brain injuries;

(VI) Persons whose expertise involves work with children with traumatic brain injuries; or

(VII) Persons who have experience and specific interest in the needs of and services for persons with traumatic brain injuries.

(3) Board members shall not be compensated for serving on the board, but may be reimbursed for all reasonable expenses related to such members' work for the board.

(4) Initial appointments to the board shall be made no later than March 1, 2003. The terms of appointed board members shall be three years; except that the terms of the appointed members who are initially appointed shall be staggered by the governor to end as follows:

(a) Four members on June 30, 2004;

(b) Three members on June 30, 2005; and

(c) Three members on June 30, 2006.

(5) No member may serve more than two consecutive terms.

(6) The appointed members of the board shall, to the extent possible, represent rural and urban areas of the state.

(7) The board shall annually elect, by majority vote, a chairperson from among the board members who shall act as the presiding officer of the board.

(8) (a) The board shall promulgate reasonable policies and procedures pertaining to the operation of the trust fund.

(b) The board may contract with entities to provide all or part of the services described in this part 3 for persons with traumatic brain injuries.

(c) The board may accept and expend gifts, grants, and donations for operation of the program.

(d) The board shall use trust fund moneys collected pursuant to sections 30-15-402 (3), 42-4-1307 (10) (c), and 42-4-1701 (4) (e), C.R.S., to provide direct services to persons with traumatic brain injuries, support research, and support education grants to increase awareness and understanding of issues and needs related to traumatic brain injury.

(9) Articles 4, 5, and 6 of title 25.5, C.R.S., shall not apply to the promulgation of any policies or procedures authorized by subsection (8) of this section.

26-1-303. Administering entity for services for persons with traumatic brain injuries. (1) An administering entity under contract pursuant to section 26-1-302 may perform all or part of the administrative, eligibility, case management, and claims payment functions relating to the program, including:

(a) Assuring timely payment of grants or requests, including:

(I) Making available information relating to the proper manner of submitting a grant or request for benefits to the program and providing forms upon which submissions shall be made;

(II) Evaluating the eligibility of each grant or request for payment pursuant to guidelines established by the board;

(III) Notifying each applicant, within thirty days after receiving a properly completed and executed proof of grant or request, whether the grant or request is accepted or rejected;

(IV) Ensuring that each accepted grant or request is paid within forty-five days after its acceptance;

(b) Paying grant or request expenses from the moneys in the trust fund; and

(c) Determining the expense of administration and the paid and incurred losses for each year and reporting such information to the board.

(2) The administering entity shall be paid in compliance with policies and procedures established by the board.

(3) If the board does not contract with an administering entity to provide all or part of the services described in this part 3 for persons with traumatic brain injuries, the department shall undertake to provide such services to the best of its ability.

26-1-304. Services for persons with traumatic brain injuries - limitations - covered services. (1) The board shall determine the percentage of moneys credited to the trust fund to be spent annually on direct services for persons with traumatic brain injuries; however, no less than fifty-five percent of the moneys annually credited to the trust fund pursuant to sections 30-15-402 (3), 42-4-1307 (10) (c), and 42-4-1701 (4) (e), C.R.S., shall be used to provide direct services to persons with traumatic brain injuries.

(2) To be eligible for assistance from the trust fund, an individual shall have exhausted all other health or rehabilitation benefit funding sources that cover the services provided by the trust fund. An individual shall not be required to exhaust all private funds in order to be eligible for the program. Individuals who have continuing health insurance benefits, including, but not limited to, medical assistance pursuant to articles 4, 5, and 6 of title 25.5, C.R.S., may access the trust fund for services that are necessary but that are not covered by a health benefit plan, as defined in section 10-16-102 (32), C.R.S., or any other funding source.

(3) (a) All individuals receiving assistance from the trust fund shall receive case management services from the designated entity pursuant to section 26-1-303 or the department.

(b) The case management agency, in coordination with the eligible individual, the individual's family or guardian, and the individual's physician, shall include in each case plan a process by which the eligible individual may receive necessary care, which may include respite care, if the eligible individual's service provider is unavailable due to an emergency situation or unforeseen circumstances. The eligible individual and the individual's family or guardian shall be duly informed by the case management agency of these alternative care provisions at the time the case plan is initiated.

(4) The board may monitor, and, if necessary, implement criteria to ensure that there are no abuses in expenditures, including, but not limited to, reasonable and equitable provider's fees and services.

(5) (a) Services covered by the trust fund may include, but shall not be limited to:

(I) Case management;

(II) Community residential services;

(III) Structured day program services;

(IV) Psychological and mental health services for the individual with the traumatic brain injury and the individual's family;

(V) Prevocational services;

(VI) Supported employment;

(VII) Companion services;

(VIII) Respite care;

(IX) Occupational therapy;

(X) Speech and language therapy;

(XI) Cognitive rehabilitation;

(XII) Physical rehabilitation; and

(XIII) One-time home modifications.

(b) Covered services shall not include institutionalization, hospitalization, or medications.

26-1-305. Education about traumatic brain injury. The board shall determine the percentage of moneys credited to the trust fund to be spent annually on education related to traumatic brain injuries; however, no less than five percent of the moneys annually credited to the trust fund pursuant to sections 30-15-402 (3), 42-4-1307 (10) (c), and 42-4-1701 (4) (e), C.R.S., shall be used to provide education related to increasing the understanding of traumatic brain injury.

26-1-306. Research related to treatment of traumatic brain injuries - grants. (1) The board shall determine the percentage of moneys credited to the trust fund to be spent annually on research related to traumatic brain injuries; however, no less than twenty-five percent of the moneys annually credited to the trust fund pursuant to sections 30-15-402 (3), 42-4-1307 (10) (c), and 42-4-1701 (4) (e), C.R.S., shall be used to support research related to the treatment and understanding of traumatic brain injuries.

(2) The board shall award grants. Persons interested in a grant shall apply to the board in a manner prescribed by the board. The board may consult with educational institutions or other private institutions within Colorado and nationally regarding the merit of an application for a grant. The board shall determine the time frames and administration of the grant program.

26-1-307. Administrative costs. The administrative expenses of the board and the state department shall be paid from moneys in the trust fund. The joint budget committee shall annually appropriate moneys from the trust fund to pay for the administrative expenses of the program.

26-1-308. General fund moneys. Except for initial computer programing costs for the department of revenue, it is the intent of the general assembly that no general fund moneys be appropriated for the implementation, operation, or administration of the trust fund and the services provided by the trust fund.

26-1-309. Trust fund. (1) There is hereby created in the state treasury the Colorado traumatic brain injury trust fund. The trust fund shall consist of any moneys collected from surcharges assessed pursuant to sections 30-15-402 (3), 42-4-1307 (10) (c), and 42-4-1701 (4) (e), C.R.S. The moneys in the trust fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this part 3.

(2) Gifts, grants, donations, or any other moneys that may be made available may

be accepted by the trust fund or the board for purposes of the trust fund.

(3) The trust fund shall be a continuing trust fund. All interest earned upon moneys in the trust fund and deposited or invested may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

(4) The trust fund revenue and its reserves shall be used solely for the purposes and in the manner described in sections 26-1-304 to 26-1-307.

(5) All unexpended and unencumbered moneys remaining in the trust fund shall remain in the trust fund.

26-1-310. Reports to the general assembly. On September 1, 2009, and each September 1 thereafter, the board shall provide a report to the joint budget committee and the health and human services committees of the house of representatives and the senate, or any successor committees, on the operations of the trust fund, the moneys expended, the number of individuals with traumatic brain injuries offered services, the research grants awarded and the progress on such grants, and the educational information provided pursuant to this article.

26-1-311. Repeal. (Repealed)

PART 4

AUTISM COMMISSION

26-1-401 to 26-1-405. (Repealed)

PART 5

TASK FORCE ON CHILDREN
CONCEIVED BY RAPE

26-1-501. Task force on children conceived by rape - legislative declaration - creation - duties - report - repeal of part. (1) (a) The general assembly hereby finds, determines, and declares that:

(I) Section 19-5-105.5, C.R.S., addresses the interests of the parties affected and creates a process to terminate the parental rights of a perpetrator of sexual assault in circumstances in which a parent was convicted of an act of sexual assault against the

victim or convicted of a crime in which the underlying factual basis was sexual assault against the victim and a child was conceived as a result of that sexual assault or crime;

(II) Many sexual assaults are not reported or prosecuted or do not result in a conviction, and in such cases, there is still a need to protect the interests of the victim from future contact with the alleged perpetrator while balancing the due process rights of the alleged perpetrator; and

(III) There remain unresolved and difficult policy issues related to the parental rights of the parties in the circumstances described in subparagraph (I) of this paragraph (a) in which a conviction occurred and also in those circumstances described in subparagraph (II) of this paragraph (a) in which a conviction did not occur and that do not qualify for the process afforded in section 19-5-105.5, C.R.S.

(b) The general assembly therefore finds that it would be beneficial to convene a task force of experts to review and evaluate the process in section 19-5-105.5, C.R.S., and to study the issues associated with parental rights in cases in which there are allegations that a sexual assault occurred, a conviction of or prosecution for sexual assault has not occurred, and a child has been conceived as a result of the alleged sexual assault. It is the intent of the general assembly that the task force make recommendations on future legislation to address these concerns.

(2) There is hereby created the task force on children conceived by rape, referred to in this section as the "task force", which shall meet during the interim after the first regular session of the sixty-ninth general assembly.

(3) The task force shall study and make recommendations to the general assembly concerning protections for rape victims and concerning parental rights of the parties involved in cases involving convictions and in cases in which there are allegations that a sexual assault occurred, a conviction of or prosecution for sexual assault has not occurred, and a child has been conceived as a result of the alleged sexual assault. The task force study must include but is not limited to the following issues:

(a) Whether a process for addressing the parental rights of both parents in cases involving convictions for sexual assault and in cases involving allegations of sexual assault where there were no convictions is more appropriately addressed by district courts pursuant to article 10 of title 14, C.R.S., or by juvenile courts pursuant to article 5 of title 19, C.R.S. The task force must conduct an analysis that includes, but is not limited to, the advantages and disadvantages of each approach, whether there is a potential for unintended consequences from either approach, the fiscal impact to the state, county departments of social services, and the judicial branch to staff the different approaches, and the impact of each approach on the parties, the state, the county departments of social services, and the judicial branch.

(b) What mechanisms and due process protections can be established for the court to limit or terminate parental rights, make decisions about allocation of rights and responsibilities of the parents, and issue protective no-contact orders;

(c) What burden of proof should be used by the court in making the findings in paragraph (b) of this subsection (3);

(d) The unique considerations and challenges that are presented by cases involving domestic violence;

(e) The unique considerations and challenges that are presented by cases where the person who committed or is alleged to have committed the sexual assault is a woman and the woman becomes impregnated and conceives a child;

(f) How parental rights should be determined and addressed through dependency or neglect proceedings in the juvenile justice system;

(g) How parental responsibilities should be allocated in domestic relations cases brought under article 10 of title 14, C.R.S.;

(h) How to address the visitation rights of grandparents of the child in these circumstances;

(i) How the rights of parents and children are affected by the federal "Indian Child Welfare Act", 25 U.S.C., chapter 21;

(j) The necessity of obtaining consent from both biological parents to the adoption of the child and how to obtain that consent;

(k) Whether and how to allow a birth parent to relinquish the child through an expedited relinquishment procedure for a child under one year of age and seek the termination of the parent-child legal relationship of the other parent who is alleged to be the perpetrator of sexual assault so that the child may legally be available for adoption;

(l) With respect to the alleged perpetrator's parental rights, the advantages and disadvantages of and comparisons of:

(I) Not allocating parental responsibilities, including parenting time and decision-making responsibilities, to a parent alleged or found to be a perpetrator; or

(II) Not allocating parental responsibilities, including parenting time and decision-making responsibilities, to a parent alleged or found to be a perpetrator, and leaving the parent's obligation to provide child support for the child intact; or

(III) Terminating all parental rights and responsibilities of a parent alleged or found to be a perpetrator, including not allocating parental responsibilities regarding parenting time and decision-making responsibilities, and terminating all obligations to provide child support for the child;

(m) The feasibility of allowing the victim to exercise parental choice about whether the obligations for child support of the other parent are left intact or are eliminated, including balancing the rights of the child to be financially supported with the victim's choice to waive child support, and including an examination of whether such a choice can be waived in circumstances in which the child would qualify for public assistance benefits;

(n) The resources and training needed to train domestic relations staff in the judicial branch who work with the parties and the costs associated with providing

resources and training; and

(o) The impact of the process created in section 19-5-105.5, C.R.S., upon the child welfare system, including the impact on the collection of fees for children placed in foster care, and upon the collection and enforcement of child support obligations.

(4) The task force shall submit a written report of its findings and recommendations to the sponsors and co-sponsors of Senate Bill 13-227, enacted in 2013, and to the judiciary committee of the senate and to the judiciary committee of the house of representatives, or any successor committees, on or before December 1, 2013. Upon request of a member of the task force, summaries of dissenting opinions shall be prepared and attached to the final report of findings and recommendations.

(5) The task force shall consist of the following members:

(a) Six members appointed by the governor as follows:

(I) A representative of a statewide sexual assault coalition;

(II) A representative of a statewide domestic violence coalition;

(III) An expert in the federal "Indian Child Welfare Act", 25 U.S.C., chapter 21;

(IV) A representative from a children's advocacy center or statewide organization representing children's advocacy centers;

(V) A representative of a statewide disability rights organization;

(VI) A representative of a statewide organization that advocates on behalf of crime victims;

(b) A representative of the department of human services who is familiar with child welfare, adoption services, and child support enforcement appointed by the executive director of the department of human services;

(c) A representative from the office of the child's representative appointed by the chief justice of the Colorado supreme court;

(d) A representative from the judicial branch appointed by the chief justice of the Colorado supreme court;

(e) A representative of the attorney general's office appointed by the state attorney general;

(f) A representative of county departments of social services who works in child protective services appointed by Colorado counties, inc.;

(g) An attorney who represents a county and who is appointed by the association that represents county human services directors in Colorado;

(h) A representative from the family law section of the Colorado bar association who is familiar with family law and adoption law appointed by the Colorado bar association;

(i) A representative from the juvenile law section of the Colorado bar association appointed by the Colorado bar association;

(j) A representative from the criminal law section of the Colorado bar association who is a criminal defense attorney appointed by the Colorado bar association;

(k) A representative appointed by the Colorado district attorneys' council; and

(l) A person who is a survivor of a sexual assault appointed by a statewide organization that advocates on behalf of sexual assault victims.

(6) The appointing authorities shall make all appointments to the task force on or before June 15, 2013.

(7) (a) The first meeting of the task force shall occur no later than July 20, 2013. The task force shall meet at least four times.

(b) The task force's meetings shall be public meetings.

(c) The members of the task force shall elect a chair and a vice-chair from its membership.

(8) The task force shall solicit and accept reports and public testimony and may request other sources to provide testimony, written comments, and other relevant data to the task force.

(9) Members of the task force shall serve without compensation and shall not be entitled to reimbursement for expenses.

(10) The legislative council staff and the office of legislative legal services shall not provide staff support to the task force.

(11) This part 5 is repealed, effective January 1, 2014.

ARTICLE 2

Public Assistance

PART 1

COLORADO PUBLIC ASSISTANCE ACT

26-2-101. Short title. This article shall be known and may be cited as the "Colorado Public Assistance Act".

26-2-102. Legislative declaration. It is the purpose of this article to promote the public health and welfare of the people of Colorado by providing, in cooperation with the federal government or independently, public assistance for needy individuals and families who are residents of the state and whose income and property are insufficient to meet the costs of necessary maintenance and services as determined by the state department and to assist such individuals and families to attain or retain their capabilities for independence, self-care, and self-support, as contemplated by article XXIV of the state constitution and the provisions of the social security act and the food stamp act. The state of Colorado and

its various departments, agencies, and political subdivisions are authorized to promote and achieve these ends by any appropriate lawful means through cooperation with and utilization of available resources of the federal government and private individuals and organizations.

26-2-102.5. Foster care - Title IV-E of the social security act. (1) Eligibility of a child for Title IV-E foster care shall be based on the aid to families with dependent children (AFDC) rules in effect on July 16, 1996.

(2) Such child shall meet all of the following conditions:

(a) The placement and care of such child are the responsibility of the state department of human services or a county department of social services;

(b) Such child has been placed in a foster home or child care institution as a result of a judicial determination or voluntary placement agreement;

(c) Such child:

(I) Would have received aid in or for the month in which such agreement or court proceedings resulting in such judicial determination were initiated; or

(II) Would have received the aid described in subparagraph (I) of this paragraph (c) if application had been made therefor; or

(III) Had been living with a relative within the six months prior to the month in which such agreement or court proceedings resulting in such judicial determination were initiated, and such child would have received the aid described in subparagraph (I) of this paragraph (c) if in such month he or she had been living with such relative and application therefor had been made.

26-2-103. Definitions. As used in this article and article 1 of this title, unless the context otherwise requires:

(1) "Applicant" means any individual or family who individually or through a designated representative or someone acting responsibly for him has applied for benefits under the programs of public assistance administered or supervised by the state department pursuant to the provisions of this article.

(1.5) Repealed.

(2) "Assistance payments" means financial assistance (other than medical assistance covered by the "Colorado Medical Assistance Act") provided pursuant to rules and regulations adopted by the state department and includes pensions, grants, and other money payments to or on behalf of recipients.

(3) "Blind" means any individual who has not more than ten percent visual acuity in the better eye with correction, or not more than 20/200 central visual acuity in the better eye with correction, or a limitation in the fields of vision such that the widest

diameter of the visual field subtends an angle no greater than twenty degrees.

(4) "Dependent child" means:

(a) A needy child under the age of eighteen who has been deprived of parental support or care by reason of the death, the continued absence from the home, the physical or mental incapacity, or the unemployment of a parent, as determined under standards prescribed by the state department through rules and regulations, and who is living with a person related to such child within the fifth degree in a place of residence maintained by one or more of such relatives as his, her, or their own home, and whose relatives or other person liable under the law for the child's support are not able to provide adequate care and support of such child without assistance payments under a program for aid to families with dependent children; or

(b) A needy child who would meet the requirements of paragraph (a) of this subsection (4) except for his removal from a home of a relative specified in said paragraph (a) by a judicial determination that continued residence in such home would be contrary to the best interests of such child, when all of the following conditions are present:

(I) The placement and care of such child are the responsibility of the state department or a county department;

(II) Such child has been placed in a foster care home or child care institution as a result of such judicial determination;

(III) Assistance payments for such child were received under this article in or for the month in which court proceedings leading to such determination were initiated, or such payments would have been received for such month if application had been made therefor, or, in the case of a child who had been living with a relative specified in paragraph (a) of this subsection (4) within six months prior to the month in which such proceedings were initiated, such payments would have been received in or for such month if in such month he had been living with and removed from the home of such relative and application had been made therefor; or

(c) A person otherwise meeting the requirements of paragraph (a) of this subsection (4) who is under the age of nineteen years and a full-time student in regular attendance at a secondary school or enrolled in an equivalent level of vocational or technical training designed to train him for gainful employment and who is reasonably expected to complete the program of such secondary school or such technical or vocational training before reaching the age of nineteen.

(5) "Essential person" means a person who resides with a recipient of assistance payments under a program for aid to the blind or aid to the needy disabled and, pursuant to rules and regulations adopted by the state department, is determined to be rendering a service to the recipient which, if the recipient were living alone, would have to be provided for him.

(5.5) (Deleted by amendment, L. 97, p. 1230, § 14, effective July 1, 1997.)

(5.7) "Legal immigrant" means an individual who is not a citizen or national of the United States and who was lawfully admitted to the United States by the immigration and naturalization service, or any successor agency, as an actual or prospective permanent resident or whose extended physical presence in the United States is known to and allowed by the immigration and naturalization service, or any successor agency.

(6) (Deleted by amendment, L. 2006, p. 1504, § 47, effective June 1, 2006.)

(7) "Public assistance" means assistance payments, food stamps, and social services provided to or on behalf of eligible recipients through programs administered or supervised by the state department, either in cooperation with the federal government or independently without federal aid, pursuant to the provisions of this article. Public assistance includes programs for old age pensions except for the old age pension health and medical care program, and also includes the Colorado works program, aid to the needy disabled, aid to the blind, child welfare services, food stamps supplementation to households not receiving public assistance found eligible for food stamps under rules adopted by the state board, expenses of treatment to prevent blindness or restore eyesight as defined in section 26-2-121, and funeral and burial expenses as defined in section 26-2-129.

(7.5) "Qualified alien" shall have the meaning ascribed to that term in section 431 (b) of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, as amended.

(8) "Recipient" means any individual or family who is receiving or has received benefits from the programs of public assistance administered or supervised by the state department pursuant to the provisions of this article.

(9) "Resident" means any individual who is living, other than temporarily, within the state of Colorado, or a particular county therein, voluntarily and with the intention of making his home there. "Resident" includes any unemancipated child whose parents, or other person entitled to custody, live within such state or county. Temporary absences from such state or county shall not cause an individual to lose his status as a resident if he has an intent to return and has not abandoned his residence.

(10) "Social security act" means the federal "Social Security Act" and amendments thereto.

(11) (a) "Social services" means services and payments for services available, directly or indirectly, through the staff of the state department of human services and county departments of social services or through state designated agencies, where applicable, for the benefit of eligible persons, which services are provided pursuant to rules adopted by the state board. "Social services" may include but need not be limited to day care, homemaker services, foster care, and other services to individuals or families for the purpose of attaining or retaining capabilities for maximum self-care, self-support, and personal independence and services to families or members of families for the purpose of preserving, rehabilitating, reuniting, or strengthening the family. At such time

as Title XX of the social security act becomes effective with respect to federal reimbursements, "social services" may include but need not be limited to child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services, and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, persons with physical disabilities, and alcoholics and drug addicts.

(b) "Social services" does not include medicaid services unless those services are delegated to the state department. "Social services" does not include medical services covered by the old age pension health and medical care program, the children's basic health plan, or the Colorado indigent care program.

(12) and (13) Repealed.

(14) (a) "Total disability", for the purpose of providing public assistance to persons not receiving federal financial benefits pursuant to Title XVI of the social security act, means a physical or mental impairment which is disabling and which, because of other factors such as age, training, experience, and social setting, substantially precludes the person having such disability from engaging in a useful occupation as a homemaker or as a wage earner in any employment which exists in the community for which he has competence.

(b) For the purpose of the state-funded supplement to persons receiving federal financial benefits pursuant to Title XVI of the social security act, federal definitions promulgated pursuant to the said Title XVI shall apply.

26-2-104. Public assistance programs - electronic benefits transfer service - rules. (1) (a) The state department is hereby designated as the single state agency to administer or supervise the administration of public assistance programs in this state in cooperation with the federal government pursuant to the social security act and this article. The state department shall establish public assistance programs consisting of assistance payments and social services to be made available to eligible individuals, including but not limited to old age pensions, the Colorado works program, aid to the needy disabled, and aid to the blind.

(b) The state department may review any decision of a county department and may consider any application upon which a decision has not been made by the county department within a reasonable time to determine the propriety of the action or failure to take timely action on an application for public assistance. The state department shall make such additional investigation as it deems necessary and shall, after giving the county department an opportunity to rebut any findings or conclusions of the state department

that the action or delay in taking action was a violation of or contrary to state department rules, make such decision as to the granting of assistance payments and the amount thereof as in its opinion is justifiable pursuant to the provisions of this article and the rules of the state department. Applicants or recipients affected by such decisions of the state department, upon request, shall be given reasonable notice and opportunity for a fair hearing by the state department.

(2) (a) The state department is authorized to implement an electronic benefits transfer service for administering the delivery of public assistance payments and food stamps to recipients. The electronic benefits transfer service shall be designed to allow clients access to cash benefits through automated teller machines or similar electronic technology. The electronic benefits transfer service shall allow clients eligible for food stamps access to food items through the use of point of sale terminals at retail outlets. Only those businesses that offer products or services related to the purpose of the public assistance benefits shall be allowed to participate in the electronic benefits transfer service through the use of point of sale terminals. Clients shall not be allowed to access cash benefits through the electronic benefits transfer service from automated teller machines in this state located in licensed gaming establishments as defined in section 12-47.1-103 (15), C.R.S., in-state simulcast facilities as defined in section 12-60-102 (14), C.R.S., tracks for racing as defined in section 12-60-102 (26), C.R.S., commercial bingo facilities as defined in section 12-9-102 (2.3), C.R.S., stores or establishments in which the principal business is the sale of firearms, or retail establishments licensed to sell malt, vinous, or spirituous liquors pursuant to part 3 of article 47 of title 12, C.R.S. In the development and implementation of the service, the state department shall consult with representatives of those persons, agencies, and organizations that will use or be affected by the electronic benefits transfer service, including program clients, to assure that the service is as workable, effective, and efficient as possible. The electronic benefits transfer service shall be applicable to the public assistance programs described in subsection (1) of this section and to food stamps as described in part 3 of this article. The state department shall contract in accordance with state purchasing requirements with any entity for the development and administration of the electronic benefits transfer service. In order to ensure the integrity of the electronic benefits transfer service, the system developed pursuant to this section shall use, but is not limited to, security measures such as individual personal identification numbers, photo identification, or fingerprint identification. The security method or methods selected shall be those that are most efficient and effective. The state board shall establish by rule a policy and procedure to limit losses to a client after the client reports that the electronic benefits transfer card or benefits have been lost or stolen. The state department may authorize county departments of social services to charge a fee to a client to cover the costs related to issuing a replacement electronic benefits transfer card.

(b) The state board is authorized to promulgate rules necessary to implement and

administer the electronic benefits transfer service created in this subsection (2). Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(c) The state department is authorized to request federal waivers as necessary to administer the electronic benefits transfer service.

(d) and (e) Repealed.

26-2-105. Federal requirements. Nothing in this article shall be construed to prevent the state department from complying with federal requirements for public assistance programs expressly provided by law in order for the state of Colorado to qualify for federal funds under the social security act and to maintain said programs within the limits of available appropriations.

26-2-106. Applications for public assistance. (1) Any individual wishing to make application for any of the public assistance programs administered or supervised by the state department under this article shall have the opportunity to do so, and, except as otherwise provided in part 7 of this article, such public assistance shall be furnished with reasonable promptness to each eligible individual in accordance with rules of the state department. The county department shall consider an application for public assistance to be for any category of public assistance for which the applicant may be eligible.

(1.5) All applications for public assistance shall contain the citizenship of the applicant, the number of years the applicant has resided in the United States, and, if the applicant is an alien, the name and the social security number or federal tax number of the person, or persons or organization, if any, who sponsored the applicant's entry into the United States.

(2) The rules of the state department may provide for a simplified application in order that public assistance may be furnished to eligible persons as soon as possible and shall provide adequate safeguards and controls to insure that only eligible persons receive public assistance under this article.

(3) Applications and requests for public assistance under this article shall be made to the county department of the county or the state designated agency, where applicable, for the county in which the applicant is a resident. The state department by its rules shall prescribe the form and procedure for applications or requests for social services. The application for assistance payments shall be in writing or reduced to writing in the manner and upon the form prescribed by the state department, shall contain the name, age, and residence of the applicant, the category or type of assistance payments sought, a statement of the amount of property, both real and personal, in which the applicant has an interest and of all income which he or she may have at the time of the filing of the application, and such other information as may be required by rules of the state department, and shall

be verified by the signature of the applicant or his or her legally appointed guardian. In addition, an applicant who is eighteen years of age or older shall be required to supply a form of personal photographic identification either by providing a valid Colorado driver's license or a valid identification card issued by the department of revenue pursuant to section 42-2-302, C.R.S. The state department may adopt rules that exempt applicants from the requirement of supplying a form of personal photographic identification if such requirement causes an unreasonable hardship or if such requirement is in conflict with federal law. The state department shall also adopt rules that allow for assistance to be provided on an emergency basis until the applicant is able to obtain or to qualify for a driver's license or identification card; however, a county department is not required to recover emergency assistance from an applicant who fails, upon recertification, to meet the photographic identification requirement.

(4) (a) (Deleted by amendment, L. 97, p. 1230, § 16, effective July 1, 1997.)

(b) If the public assistance sought is aid to the needy disabled or aid to the blind, the application shall be signed by the applicant and his natural guardian or legally appointed guardian, if any.

(5) For the purpose of providing public assistance to persons not receiving federal financial benefits pursuant to Title XVI of the social security act:

(a) No application for aid to the blind shall be approved until the applicant has been examined by an ophthalmologist duly licensed to practice in this state and actively engaged in the treatment of diseases of the human eye or by an optometrist duly licensed to practice in this state. The examining ophthalmologist or optometrist shall certify in writing upon forms prescribed by the state department as to diagnosis, prognosis, and visual acuity of the applicant.

(b) Determination of blindness shall be made by the county department in accordance with the provisions of section 26-2-103 (3) and state department rules and regulations.

(c) The county department shall fix the fees to be paid for examination of applicants for and reexamination of recipients of aid to the blind. Such fees shall be allowed and paid to the vendor in the same manner as assistance payments under the program for aid to the blind, pursuant to the rules and regulations of the state department. Payments to such vendors shall be subject to reimbursement by the state in the same manner as said assistance payments for aid to the blind.

(6) (a) No application for aid to the needy disabled shall be approved until the applicant's medical condition has been certified by a physician licensed to practice medicine in this state or an advanced practice nurse licensed in this state. In addition to a physician, an applicant may be examined by a physician assistant licensed in this state, by an advanced practice nurse, or by a registered nurse licensed in this state who is functioning within the scope of such nurse's license and training. The supervising physician or the physician or nurse who conducted the examination shall certify in writing

upon forms prescribed by the state department as to the diagnosis, prognosis, and other relevant medical or mental factors relating to the disability of the applicant. No applicant disabled as a result of a primary diagnosis of alcoholism or a controlled substance addiction shall be approved for aid to the needy disabled except as provided in section 26-2-111 (4) (e).

(b) Determination of the existence of total disability shall be made by the county department after consideration of the factors under the provisions of section 26-2-103 (14) and on the basis of the medical examination or from medical and social data collected and verified by the county departments under the rules and regulations of the state department.

(c) The county department shall fix the fees to be paid to competent medical personnel for examination of applicants for and reexamination of recipients of aid to the needy disabled and for special medical examinations when deemed necessary by the state department pursuant to rules and regulations of the state department. Such fees shall be allowed and paid to the medical vendor in the same manner as assistance payments under the program for aid to the needy disabled, pursuant to the rules and regulations of the state department. Payments to such vendors shall be subject to reimbursement by the state in the same manner as said assistance payments for aid to the needy disabled.

26-2-107. Verification - record. (1) (a) (I) Whenever a county department receives an application for public assistance, it shall promptly make a record concerning the circumstances of the applicant to verify the facts supporting the application and shall examine all pertinent records and shall make a diligent effort to examine all records prior to granting assistance. The records include the following:

(A) Records of the division of unemployment insurance, including unemployment compensation records;

(B) School attendance records;

(C) Vital statistics records;

(D) Records of the department of revenue.

(II) The county department shall also verify such other information as may be required by the rules and regulations of the state department.

(b) If such information is reasonably available, the verification shall be completed prior to approval of any assistance or for continuation of assistance. The provisions of this paragraph (b) shall not apply to those persons receiving old age pensions, aid to the needy disabled, or aid to the blind during the period for which such assistance is continued.

(c) Within ten working days after a discrepancy relating to a fraudulent or suspected fraudulent act affecting eligibility is discovered, it shall be referred to the appropriate investigatory agency for investigation. The investigatory agency shall take action within thirty days following receipt of the information from the county department.

(2) The county department, the state department, and the officers and authorized employees of each may conduct visits to the home of the applicant at reasonable times, make investigations and require the attendance and testimony of witnesses and the production of books, records, and papers by subpoena, and make application to the district court to compel and enforce such attendance and testimony of witnesses and the production of such books, records, and papers. Officers and employees designated by the county department or the state department may administer oaths and affirmations.

26-2-108. Granting of assistance payments and social services. (1) (a) Upon completion of the verification and record of each application for assistance payments, the county department, pursuant to the rules of the state department, shall determine whether the applicant is eligible for assistance payments, the amount of such assistance payments to be granted, and the date upon which such assistance payments shall begin.

(b) In determining the amount of assistance payments to be granted, due account shall be taken of any income or property available to the applicant and any support, either in cash or in kind, that the applicant may receive from other sources, pursuant to rules of the state department. Effective July 1, 2000, a county may pay families that are eligible for temporary assistance for needy families (TANF), as defined in section 26-2-703 (19), an amount that is equal to the state and county share of child support collections as described in section 26-13-108 (1). Such payments shall not be considered income for the purpose of grant calculation. However, such income shall be considered income for purposes of determining eligibility. If a county chooses to pay child support collections directly to a family that is eligible for temporary assistance for needy families (TANF), as defined in section 26-2-703 (19), the county shall report such payments to the state department for the month in which they occur and indicate the choice of this option in its performance contract for Colorado works. For the purposes of determining eligibility for public assistance or the amount of assistance payments, compensation received by the applicant pursuant to the "Colorado Crime Victim Compensation Act", part 1 of article 4.1 of title 24, C.R.S., shall not be considered as income, property, or support available to such applicant.

(c) When the eligibility, amount, and date for beginning assistance payments have been established, the county department shall make an award to or on behalf of the applicant in accordance with rules of the state department, which award shall be binding upon the county and shall be complied with by the county until it is modified or vacated.

(d) (I) Except as provided in subparagraph (II) of this paragraph (d) and part 7 of this article, assistance payments under public assistance programs shall be paid at least monthly to or on behalf of the applicant upon order of the county department from funds appropriated to the county department for this purpose and pursuant to the rules of the state department.

(II) Assistance in the form of aid to the needy disabled for persons who are disabled as a result of a primary diagnosis of alcoholism or a controlled substance addiction shall be paid on the person's behalf to the treatment program in which the person is participating as required pursuant to section 26-2-111 (4) (e) (I) or to the person directly upon the person providing the documentation required pursuant to section 26-2-111 (4) (e) (II).

(e) The county department shall at once notify the applicant and the state department, in writing, of its decisions on assistance payments and the reasons therefor.

(2) The state department, by its rules, shall prescribe procedures for handling applications or requests for social services. Such rules may include, but need not be limited to, the determination of eligibility for social services, the services to be provided, the verification and record, and notice to applicants and the state department.

26-2-109. Right to own certain property. (1) No person otherwise qualified to receive public assistance shall be denied public assistance by reason of the fact that he is the owner of real estate occupied by him as a residence.

(2) No person otherwise qualified shall be denied public assistance by reason of the fact that he is the owner of personal property which is exempt by the laws of Colorado from execution or attachment.

(3) (a) The state department, by its rules and regulations, may establish limitations on the value of real and personal property and other resources, not included in subsections (1) and (2) of this section, which may be available to an applicant or recipient without affecting his eligibility for public assistance.

(b) For public assistance purposes, the value of residential or other real property shall be equal to the actual value of the property, as determined by the county assessor pursuant to article 1 of title 39, C.R.S.

26-2-110. Repayment not required. No person shall be required, in order to receive public assistance, to repay or promise to repay the state of Colorado any money properly paid to him or her as public assistance pursuant to the provisions of this article and the rules of the state department; except that the state may recoup interim assistance authorized under section 26-2-206, concerning blind and disabled individuals.

26-2-111. Eligibility for public assistance. (1) No person shall be granted public assistance in the form of assistance payments under this article unless such person meets all of the following requirements:

(a) The person is a resident of the state of Colorado or, if a dependent child, the

parent or other relatives with whom said child is living is a resident of the state of Colorado or the person is a legal immigrant who would be otherwise eligible in all respects except for citizenship;

(b) The person has insufficient income, property, or other resources to meet his or her needs as determined pursuant to rules and regulations of the state department; except that resource eligibility for the program of aid to the needy disabled shall be as specified in paragraph (d) of subsection (4) of this section, resource eligibility for the program of aid to the blind shall be as specified in subparagraph (III) of paragraph (a) of subsection (5) of this section, and resource eligibility requirements for the old age pension program shall be as specified in paragraph (a) of subsection (2) of this section;

(c) (I) The person has not made a voluntary assignment or transfer of property without fair and valuable consideration for the purpose of rendering himself or herself eligible for public assistance under this article at any time within thirty-six months immediately prior to the filing of application for such assistance pursuant to the provisions of this article; or, in the case of a person already receiving public assistance under this article, the person has not made any such transfer during the time the person has been receiving such public assistance; but, if any such assignment or transfer is made during such thirty-six month period or during such time that public assistance is being received, there is a rebuttable presumption that the assignment or transfer was made for such purpose; but, within such period of time, a person may assign or transfer the ownership of real property owned and used as a residence by such person if:

(A) The transfer or assignment is made for reasons other than to become or remain eligible for public assistance under this article;

(B) The primary purpose of the transfer or assignment is not to acquire moneys or profit but is for some other legitimate reason such as estate planning.

(II) Nothing in this paragraph (c) shall be construed to prohibit a person from selling, transferring, or assigning his or her real estate in a bona fide transaction for good and valuable consideration.

(d) The person is not an inmate of a public institution, except as a patient in a public medical institution, or is not a patient in any institution for tuberculosis or mental diseases, or is not a patient in any medical institution as a result of having been diagnosed as having tuberculosis or psychosis; but the provisions of this paragraph (d) shall not be applicable to or in any way affect the class of old age pension recipients provided for in subsection (2) (a) (III) of this section.

(2) **Old age pension.** (a) Except as provided in paragraphs (c) and (d) of this subsection (2), public assistance in the form of the old age pension shall be granted to any person who meets the requirements of subsection (1) of this section and any one of the following requirements:

(I) The person is a United States citizen or a qualified alien, has attained the age of sixty years or more, and meets the resource eligibility requirements of the federal

supplemental security income program; or

(II) Repealed.

(III) The person is an inmate of an institution, not penal in character, maintained by the state or by a municipality therein or county thereof, and the person has attained the age of sixty years or more. The period of confinement as a patient in such institution shall be considered as residence in the state of Colorado.

(b) No person otherwise qualified shall be denied the old age pension by reason of the fact that relatives may be financially able to contribute to his support and maintenance, but income and property of the spouse of an applicant or recipient of the old age pension shall be considered in determining eligibility pursuant to rules and regulations of the state department, which rules and regulations shall be based upon and relate to the need of the applicant or recipient.

Editor's note: This version of paragraph (b) is effective until January 1, 2014, or the date that notification to the revisor of statutes is received, whichever is earlier. See the editor's note following the section.

(b) An applicant or recipient of the old age pension who is otherwise qualified shall not be denied the old age pension by reason of the fact that relatives may be financially able to contribute to his or her support and maintenance; except that income and resources of the spouse of an applicant or recipient of the old age pension or of a sponsor of an applicant or recipient of the old age pension who is a qualified alien shall be considered in determining eligibility pursuant to rules of the state department.

Editor's note: This version of paragraph (b) is effective upon the earlier of January 1, 2014, or when notification to the revisor of statutes is received. See the editor's note following the section.

(c) (I) Except as otherwise provided in subparagraphs (II) and (III) of this paragraph (c), a qualified alien shall not be granted the old age pension under the provisions of this subsection (2) unless it is shown that:

(A) The person, other than a relative, who sponsored the alien's entry into the United States and who satisfied sponsorship financial requirements at the time of initial sponsorship now has insufficient income, property, or other resources to meet the needs of the alien as determined pursuant to rules and regulations of the state department; and

(B) The qualified alien meets the requirements specified in section 26-2-111.8 (2) (a) relating to entry into the United States prior to August 22, 1996, or the requirements specified in section 26-2-111.8 (2) (b) regarding the five-year bar on receipt of benefits.

(II) The requirements in subparagraph (I) of this paragraph (c) do not apply to a qualified alien who meets the eligibility criteria for the old age pension in paragraph (a)

of this subsection (2) if it is determined pursuant to rules of the state department that:

(A) The qualified alien has been abandoned by or is a victim of mistreatment by his or her sponsor or is an abused spouse and would incur a significant financial hardship; or

(B) The qualified alien who does not have a sponsor would have insufficient income to support himself or herself or would otherwise incur a significant financial hardship.

(III) The requirements in subparagraph (I) of this paragraph (c) do not apply to a qualified alien who meets the eligibility criteria for the old age pension in paragraph (a) of this subsection (2) and who is also eligible for federal financial benefits pursuant to Title XVI of the federal "Social Security Act".

Editor's note: This version of paragraph (c) is effective until January 1, 2014, or the date that notification to the revisor of statutes is received, whichever is earlier. See the editor's note following the section.

(c) (I) Except as otherwise provided in subparagraphs (II) and (III) of this paragraph (c), a qualified alien shall not be granted the old age pension under the provisions of this subsection (2) unless it is shown that:

(A) (Deleted by amendment, L. 2010, (HB 10-1384), ch. 218, p. 954, § 4. (See editor's note following this section.))

(B) The qualified alien meets the requirements specified in section 26-2-111.8 (2) (a) relating to entry into the United States prior to August 22, 1996, or the requirements specified in section 26-2-111.8 (2) (b) regarding the five-year bar on receipt of benefits; and

(C) The qualified alien meets the requirements specified in section 26-2-111.8 (2) (c) regarding the deeming of sponsor income and resources.

(II) The requirements in subparagraph (I) of this paragraph (c) do not apply to a qualified alien who meets the eligibility criteria for the old age pension in paragraph (a) of this subsection (2) if it is determined pursuant to rules of the state department that:

(A) The qualified alien has been abandoned by or is a victim of mistreatment by his or her sponsor or is an abused spouse and would incur a significant financial hardship; or

(B) The qualified alien who does not have a sponsor would have insufficient income to support himself or herself or would otherwise incur a significant financial hardship; or

(C) The person who sponsored the qualified alien's entry into the United States and who satisfied sponsorship financial requirements at the time of initial sponsorship now has insufficient income and resources to meet the needs of the qualified alien.

(III) The requirements in subparagraph (I) of this paragraph (c) do not apply to a

qualified alien who meets the eligibility criteria for the old age pension in paragraph (a) of this subsection (2) and who is also eligible for federal financial benefits pursuant to Title XVI of the federal "Social Security Act".

Editor's note: This version of paragraph (c) is effective upon the earlier of January 1, 2014, or when notification to the revisor of statutes is received. See the editor's note following the section.

(d) (I) A person who is a member of a household that is receiving public assistance under the Colorado works program pursuant to part 7 of this article shall not be eligible to receive public assistance pursuant to this subsection (2).

(II) (Deleted by amendment, L. 2010, (HB 10-1043), ch. 92, p. 315, § 8, effective April 15, 2010.)

(3) **Colorado works program.** (a) By signing an application for the works program created in part 7 of this article, a person assigns, by operation of law, to the state department all rights the applicant may have to support from any other person on his or her own behalf or on behalf of any other family member for whom application is made. For the purposes of this subsection (3), the assignment:

(I) Is effective for current support due and owing during the period of time the person is receiving public assistance under the works program;

(II) Takes effect upon a determination that the applicant is eligible for the works program; and

(III) Shall remain in effect with respect to any unpaid support that accrues under the assignment, up to the amount of the cost of assistance provided.

(IV) (Deleted by amendment, L. 2009, (SB 09-053), ch. 137, p. 594, § 1, effective October 1, 2009.)

(b) The application shall contain a statement explaining this assignment.

(c) Notwithstanding any provision of paragraph (a) of this subsection (3), assignments made prior to October 1, 2009, may include support arrearages that accrued prior to the date the applicant is determined to be eligible for the works program.

(3.5) (a) Repealed.

(b) (Deleted by amendment, L. 97, p. 1232, § 19, effective July 1, 1997.)

(4) **Aid to the needy disabled.** Public assistance in the form of aid to the needy disabled shall be granted to any person who meets the requirements of subsection (1) of this section and all of the following requirements:

(a) He or she has a total disability, as defined by section 26-2-103 (14) and the rules and regulations of the state department, that has lasted or can be expected to last for a period of six months or more or he or she is determined to be disabled and eligible for social security disability insurance benefits under Title II of the social security act.

(b) He or she is eighteen years of age or older.

(b.5) He or she has applied for supplemental security income benefits and complied with any recommendations for referrals made by the county department except for good cause shown.

(c) (I) The person is not a member of a household receiving public assistance under the aid to families with dependent children program set forth in this article. For the purposes of this paragraph (c), "household" has the same meaning as "assistance unit" as used in 45 CFR, 205.40 (a) (1), as amended.

(II) (A) The provisions of subparagraph (I) of this paragraph (c) notwithstanding, on and after January 1, 1992, a supplemental payment funded by state and county funds shall be paid to households that have received public assistance payments for the month of December 1991, under both the aid to families with dependent children program set forth in this article and the aid to the needy disabled program set forth in this subsection (4). The supplemental payment shall be in an amount as will maintain the household's total income at the same level as in December 1991.

(B) The supplemental payment shall be paid only if the household remains continuously eligible to receive public assistance under both the aid to families with dependent children program set forth in this article and the aid to the needy disabled program set forth in this subsection (4).

(d) He or she meets the resource eligibility requirements of the federal supplemental security income program.

(e) If the applicant is disabled as a result of a primary diagnosis of alcoholism or a controlled substance addiction, he or she, as conditions of eligibility, shall be required to:

(I) Participate in treatment services approved by the unit in the state department that administers behavioral health programs and services, including those related to mental health and substance abuse; and

(II) Demonstrate on a periodic and random basis that he or she remains free of the use of alcohol or any nonprescribed controlled substance on a form verified by the treatment program. Any person whose random test results are positive two times in any three-month period shall be denied eligibility.

(f) A person who is disabled as a result of a primary diagnosis of alcoholism or a controlled substance addiction shall not be eligible for aid to the needy disabled based upon that primary diagnosis if the person has received aid to the needy disabled based upon such diagnosis for any cumulative twelve-month period in the person's lifetime.

(5) **Aid to the blind.** (a) For the purpose of providing public assistance to those not receiving federal financial benefits pursuant to Title XVI of the social security act, public assistance in the form of aid to the blind shall be granted to any person who meets the requirements of subsection (1) of this section and who:

(I) Is blind as defined by section 26-2-103 (3) or is determined to be blind and eligible for social security disability insurance benefits under Title II of the social security act; except that any person who is a member of a household that is receiving public

assistance under the aid to families with dependent children program set forth in this article shall not be eligible to receive public assistance pursuant to this subsection (5);

(II) Has applied for supplemental security income benefits and complied with any recommendations for referrals made by the county department except for good cause shown; and

(III) Meets the resource eligibility requirements of the federal supplemental security program.

(b) For the purposes of this subsection (5), "household" has the same meaning as "assistance unit" as used in 45 CFR 205.40 (b) (1), as amended.

(6) The provisions of section 26-2-111.8 shall apply in addition to the provisions of this section in determining the eligibility for public assistance of persons who are not citizens of the United States.

26-2-111.1. Eligibility for assistance - immunization of children. (Repealed)

26-2-111.2. Community work experience program. (Repealed)

26-2-111.3. Work supplementation program. (Repealed)

26-2-111.4. Employment search program. (Repealed)

26-2-111.5. Access to supplemental security income program benefits for old age pension applicants and recipients. The state department shall require old age pension applicants or recipients who may be eligible for supplemental security income to apply for benefits authorized by Title XVI of the federal social security act and to comply with any recommendations for referrals made by the county department except for good cause shown. With funds appropriated by the general assembly, the state department may develop a statewide cost-effective program to assist old age pension applicants or recipients in obtaining such benefits.

26-2-111.6. Old age pension work incentive program. (1) The state department is authorized to implement a work incentive program for persons receiving old age pension benefits, which program shall be called the old age pension work incentive program. Under this program, a person who is already eligible for and receiving old age

pension benefits would be allowed to retain sixty-five dollars of earned income in a month and one-half of the remaining earned income in a month without such moneys being counted as income for purposes of eligibility for the old age pension. In addition, the receipt and retention of such earned income shall not affect the person's eligibility for medical assistance as provided by articles 4, 5, and 6 of title 25.5, C.R.S.

(2) and (3) Repealed.

26-2-111.7. Study of old age pension program - repeal. (Repealed)

26-2-111.8. Eligibility of noncitizens for public assistance. (1) (a) The general assembly hereby finds and declares that passage of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, requires the states to make certain decisions concerning qualified aliens and their eligibility for certain types of public assistance.

(b) The goal of this section is to recognize that foreign-born legal residents of the state of Colorado contribute to our society by working in our communities, supporting local businesses, and paying taxes and should receive certain types of public assistance for certain types of situations. Moreover, the state goal is to provide the types of assistance that will enhance the state's ability to receive federal financial participation, thereby reducing the ultimate burden on the state and local government for emergency health and welfare needs.

(c) This section is also intended to encourage and support efforts to help foreign-born legal residents of the state of Colorado to become citizens of the United States.

(2) (a) **Entry requirements.** A qualified alien who entered the United States before August 22, 1996, and who meets the eligibility criteria specified for a particular public assistance program shall be eligible to receive public assistance under the following programs as described in this article:

(I) The Colorado works program;

(II) The old age pension;

(III) Aid to the needy disabled; or

(IV) Aid to the blind.

(b) **Five-year bar on receipt of benefits.** A qualified alien who entered the United States on or after August 22, 1996, shall be barred from receiving the benefits described in paragraph (a) of this subsection (2) for a period of five years after the date of entry into the United States, unless he or she meets the exceptions set forth in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, as amended.

(c) **Deeming of sponsor income and resources.** After five years, a qualified alien

described in paragraph (b) of this subsection (2) shall be eligible for benefits under this article, but shall have sponsor income and resources deemed to the individual or family under rules established by the state department pursuant to section 26-2-137 (2).

(3) (Deleted by amendment, L. 2010, (HB 10-1384), ch. 218, p. 952, § 2, effective July 1, 2010.)

(3.5) For benefits provided on and after the effective date of this subsection (3.5), the state department may pursue repayment from the qualified alien's sponsor for old age pension benefits provided to the qualified alien during the time that the sponsorship affidavit of support is in effect as determined by United States citizenship and immigration services, or its successor agency.

Editor's note: Subsection (3.5) is effective upon the earlier of January 1, 2014, or when notification to the revisor of statutes is received. See the editor's note following the section.

(4) A qualified alien may receive benefits under section 26-2-122.3 pursuant to rules promulgated by the state department.

(5) As a condition of eligibility for public assistance under this article, a qualified alien shall agree to refrain from executing an affidavit of support for the purpose of sponsoring an alien on or after July 1, 1997, under rules promulgated by the immigration and naturalization service or its successor agency during the pendency of the qualified alien's receipt of public assistance. Nothing in this subsection (5) shall be construed to affect a qualified alien's eligibility for public assistance under this article based upon the qualified alien's responsibilities under an affidavit of support entered into before July 1, 1997.

(6) The state department shall encourage a qualified alien who is eligible to submit an application for citizenship to submit such an application.

26-2-112. Old age pensions for inmates of public institutions. (1) Except as otherwise provided in this section, the application procedure, the investigation of applications, the procedure for granting of pensions, and all other provisions of this article relating to the administration of old age pensions shall apply to the class of old age pensions provided in section 26-2-111 (2) (a) (III).

(2) Where an inmate of an institution, not penal in character, maintained by the state or by a municipality therein or county thereof, meets the requirements for the class of old age pensions provided in section 26-2-111 (2) (a) (III) and has been committed to said public institution by order of the district or probate court, the superintendent or chief administrative officer of such institution shall make application for such pension for and in behalf of said inmate in the same manner as provided in section 26-2-106.

(3) (a) (I) Assistance payments under the old age pension granted to an inmate of the Colorado mental health institute at Pueblo, Colorado, or the Wheat Ridge regional center, the Pueblo regional center, or the Grand Junction regional center shall be paid to the chief financial officer of the institution within which the inmate is confined. Such chief financial officer shall receive and disburse such pension funds as trustee for such inmate and shall account for the same to the state controller in the manner now prescribed by law for the handling and accounting of trust or quasi-trust funds.

(II) Such chief financial officer shall be required to furnish, at the state's expense, a surety bond in such amount as the department of human services shall from time to time deem sufficient in the premises to protect such funds.

(III) It is the duty of such chief financial officer to pay monthly from the assistance payments under the old age pension, as prior claim therefrom, all lawful claims of said public institution for the care, support, maintenance, education, and treatment of said inmate in accordance with article 92 of title 27, C.R.S.

(b) Where assistance payments under the old age pension are granted to an inmate of an institution maintained by any county or municipality, such payments shall be paid to such conservator or guardian as the district or probate court of such county may appoint, and under and amendable to the statutes applicable to conservators and guardians when so appointed.

26-2-113. Funds for old age pensions. (1) The state old age pension fund and the moneys allocated thereto pursuant to the provisions of article XXIV of the state constitution shall include amounts received from the incorporation fees and inheritance taxes imposed pursuant to subsection (2) of this section.

(2) (a) In addition to all other fees, charges, and impositions now fixed by law, there shall be assessed and collected, by the governmental department, person, or party in charge under whose jurisdiction the present collection is now required by law, the following fees, charges, sums, and impositions, which fees, charges, sums, and impositions shall be set aside, allocated, and allotted to the old age pension fund:

(I) Ten percent additional amount of the fees which are due and paid to the secretary of state upon incorporation of any corporation or association for profit; and

(II) Ten percent additional upon the amount of any tax payable under the provisions of the inheritance tax laws of this state.

(b) In computing the amount of the additional tax or fee as provided in paragraph (a) of this subsection (2), the nearest multiple to five cents shall be taken in all cases.

(3) Any and all of such funds collected by any state official or state department pursuant to subsection (2) of this section shall be paid over by such official or department to the state treasurer, who on the first day of each month shall divide and pay the same into each of the county old age pension accounts of the county social services funds in

this state on the pro rata basis which the population of the respective county has to the population of the entire state according to the last official United States census.

26-2-114. Amount of assistance payments - old age pension. (1) The basic minimum award payable to those persons qualified to receive an old age pension shall be one hundred dollars monthly; but the state board may adjust the said basic minimum award above one hundred dollars if, in its discretion, living costs have changed sufficiently to justify such adjustment.

(2) (a) and (a.5) Repealed.

(b) (I) The amount of net income from whatever source, either in cash or in kind, which any person qualified for an old age pension may receive shall be deducted from the amount of monthly pension which such person would otherwise receive. The rules and regulations of the state department may require an applicant or recipient who may be eligible for benefits under another federal or state program or who may have a right to receive or recover other income or resources to take reasonable steps to apply for, otherwise pursue, and accept such benefits, income, or resources.

(II) In computing said net income, the county department shall not consider the ownership of real estate occupied as a residence by the recipient as income. In addition, in computing said net income, the county department shall not consider as income funds received by or on behalf of the recipient from the federal government for rent supplementation or relocation payments or income earned by the recipient up to the maximum extent allowed by Title I, section 2, of the social security act.

(III) Whenever the United States congress shall provide by law for a retroactive increase in monthly benefits under the old age, survivors, and disability provisions of the social security act, or for a retroactive increase in monthly benefits under the railroad retirement act, and the amount of such retroactive increase in monthly benefits shall be subsequently paid to an old age pension recipient in a lump sum, then the amount of such lump sum payment shall not be considered as income and shall not be deducted from the amount of monthly pension otherwise payable to such recipient for the month in which such lump sum payment is received.

(IV) Any special payment by the federal government in the form of a one-time-only credit against or refund of federal income taxes shall not be considered as income for purposes of this title unless required by federal law.

26-2-115. State old age pension fund - priority. All moneys deposited in the state old age pension fund shall be first available for payment of basic minimum awards to qualified old age pension recipients, and no part of said fund shall be transferred to any other fund until such basic minimum awards shall have been paid. Moneys in the state old

age pension fund shall be subject to annual appropriation by the general assembly.

26-2-116. Old age pension stabilization fund. Any moneys remaining in the old age pension fund after full payment of basic minimum awards to qualified old age pension recipients shall be transferred to a fund to be known as the old age pension stabilization fund, which fund shall be maintained at the amount of five million dollars and restored to that amount after any disbursements therefrom. The state board shall use the moneys in such fund only to stabilize payments of old age pension basic minimum awards. Moneys in the old age pension stabilization fund shall be subject to annual appropriation by the general assembly.

26-2-117. Old age pension health and medical care fund - supplemental old age pension health and medical care fund. (Repealed)

26-2-118. Amount of assistance payments - aid to families with dependent children. (Repealed)

26-2-119. Amount of assistance payments - aid to the needy disabled. (1) The amount of assistance payments that shall be granted to a recipient under the program for aid to the needy disabled shall be on the basis of budgetary need, as determined by the county department with due regard to any income, property, or other resources available to the recipient, within available appropriations, and in accordance with rules of the state department. The rules of the state department may require an applicant or recipient who may be eligible for benefits under another federal or state program or who may have a right to receive or recover other income or resources to take reasonable steps to apply for, otherwise pursue, and accept such benefits, income, or resources.

(1.5) and (2) (Deleted by amendment, L. 2010, (HB 10-1146), ch. 281, p. 1302, § 2, effective January 1, 2011.)

(3) and (4) Repealed.

(5) Any special payment by the federal government in the form of a one-time-only credit against or refund of federal income taxes shall not be considered as income for purposes of this title unless required by federal law.

26-2-119.5. Health and medical care program - aid to the needy disabled. (Repealed)

26-2-120. Amount of assistance payments - aid to the blind. (1) The amount of assistance payments that shall be granted to a recipient under the program for aid to the blind shall be on the basis of budgetary need, as determined by the county department with due regard to any income, property, or other resources available to the recipient, within available appropriations, and in accordance with rules of the state department. The rules of the state department may require an applicant or recipient who may be eligible for benefits under another federal or state program or who may have a right to receive or recover other income or resources to take reasonable steps to apply for, otherwise pursue, and accept such benefits, income, or resources.

(1.5) and (2) (Deleted by amendment, L. 2010, (HB 10-1146), ch. 281, p. 1303, § 3, effective January 1, 2011.)

(3) Repealed.

(4) Every recipient of aid to the blind shall submit to a reexamination as to his eyesight at least once every three years, unless excused therefrom by the state department, and at other times when required to do so by the county department or the state department. He shall furnish any medical information required by the county department or the state department.

(5) Repealed.

(6) Any special payment by the federal government in the form of a one-time-only credit against or refund of federal income taxes shall not be considered as income for purposes of this title unless required by federal law.

26-2-121. Expenses of treatment to prevent blindness or restore eyesight. Temporary assistance may be granted by the county department to any applicant for aid to the blind or additional assistance granted to any recipient of aid to the blind who is in need of treatment either to prevent blindness or to restore his eyesight, whether or not he is blind as defined by section 26-2-103 (3) and the rules and regulations of the state department, if he is otherwise qualified for aid to the blind under this article. The temporary assistance may include necessary traveling expenses and other expenses to receive treatment from a hospital or clinic designated by the state department. Such payment shall be allowed and paid in the same manner as aid to the blind provided by this article and shall be subject to reimbursement by the state in the same manner as such aid to the blind.

26-2-122. Public assistance in the form of social services. (1) Subject to available appropriations, the state department may provide those services required by the social security act and applicable federal regulations. Subject to available appropriations,

the state department may, by regulation, elect to provide those services which are optional under the social security act.

(2) Eligible persons shall include those required to be eligible for services by the social security act and federal regulations. Subject to available appropriations, eligible persons may include those persons who are optionally eligible under federal law and regulations whom the state department, by regulation, includes as eligible persons.

(3) The state department shall adopt budgetary standards from which a graduated schedule of fees shall be determined. Said fees shall be paid by persons who receive social services and who have the financial ability to pay in accordance with the schedule of fees established by the state department.

(4) The state department shall prepare and submit to the secretary of the federal department of health and human services a state plan for services that meets the requirements of the social security act, federal regulations, and this section. The state department shall administer the program for services in accordance with the social security act, federal regulations, and this section.

26-2-122.3. Adult foster care and home care allowance. (1) (a) (I) The state department, subject to available appropriations, may provide adult foster care for persons eligible to receive old age pension, aid to the needy disabled, or aid to the blind. For purposes of this paragraph (a), "adult foster care" means care and services that, in addition to room and board, may include, but are not limited to, personal services, recreational opportunities, transportation, utilization of volunteer services, and special diets. Such care and services are provided to recipients of federal supplemental security income benefits who are also eligible for the Colorado supplement program for aid to the needy disabled or aid to the blind and who do not require skilled nursing care or intermediate health care and cannot remain in or return to their residences but who need to reside in a supervised nonmedical setting on a twenty-four-hour basis. Those persons with developmental disabilities as defined in section 27-10.5-102, C.R.S., or who are receiving or are eligible to receive services pursuant to any provision of title 27, C.R.S., do not qualify for adult foster care under this paragraph (a).

Editor's note: This version of subparagraph (I) is effective until March 1, 2014.

(I) The state department, subject to available appropriations, may provide adult foster care for persons eligible to receive old age pension, aid to the needy disabled, or aid to the blind. For purposes of this paragraph (a), "adult foster care" means care and services that, in addition to room and board, may include, but are not limited to, personal services, recreational opportunities, transportation, utilization of volunteer services, and special diets. Such care and services are provided to recipients of federal supplemental security income benefits who are also eligible for the Colorado supplement program for

aid to the needy disabled or aid to the blind and who do not require skilled nursing care or intermediate health care and cannot remain in or return to their residences but who need to reside in a supervised nonmedical setting on a twenty-four-hour basis. Those persons with intellectual and developmental disabilities as defined in section 25.5-10-202, C.R.S., or who are receiving or are eligible to receive services pursuant to article 10 of title 25.5, C.R.S., or any provision of title 27, C.R.S., do not qualify for adult foster care under this paragraph (a).

Editor's note: This version of subparagraph (I) is effective March 1, 2014.

(II) Adult foster care facilities shall be licensed by the department of public health and environment pursuant to section 25-27-105, C.R.S.

(b) (I) Except as provided in subparagraph (II) of this paragraph (b), the state department, subject to available appropriations, may provide home care allowance for persons who meet the functional impairment and financial eligibility criteria as established by the state department by rule and are receiving old age pension, aid to the needy disabled, aid to the blind, or supplemental social security income benefits.

Editor's note: This version of subparagraph (I) is effective until January 1, 2014, or the date that notification to the revisor of statutes is received, whichever is earlier. See the editor's note following the section.

(b) (I) Except as provided in subparagraph (II) of this paragraph (b), the state department, subject to available appropriations, may provide home care allowance for persons who meet the functional impairment and financial eligibility criteria as established by the state department by rule and:

(A) Were receiving old age pension benefits and home care allowance on the day prior to the effective date of this sub-subparagraph (A) and remain continuously eligible for such benefits; or

(B) Are receiving aid to the needy disabled, aid to the blind, or supplemental social security income benefits.

Editor's note: This version of subparagraph (I) is effective upon the earlier of January 1, 2014, or when notification to the revisor of statutes is received. See the editor's note following the section.

(II) Persons eligible to receive home- and community-based services pursuant to article 6 of title 25.5, C.R.S., shall not be eligible for home care allowance under this paragraph (b).

(III) For the purposes of this paragraph (b), "home care allowance" is a program

that provides payments, subject to available appropriations, to functionally impaired persons who meet the criteria specified in subparagraph (I) of this paragraph (b) as determined in accordance with rules. The payments allow recipients who are in need of long-term care to purchase community-based services as defined in rules adopted by the state department. These services may include, but need not be limited to, the supervision of self-administered medications, assistance with activities of daily living as defined in section 25.5-6-104 (2) (a), C.R.S., and assistance with instrumental activities of daily living as defined in section 25.5-6-104 (2) (g), C.R.S. The rules adopted by the state department shall specify, in accordance with the provisions of this section, the services available under the program and shall specify eligibility criteria for the home care allowance program. In addition, the rules shall specifically provide for a determination as to the person's functional impairment and the person's unmet need for paid care and shall address amounts awarded to persons eligible for home care allowance. The state department shall specify in the rules the methods for determining the unmet need for paid care and the amount of a home care allowance that may be awarded to eligible persons. Such methods may be based on how often a person experiences unmet need for paid care or any other method that the state board determines is valid in correlating unmet need for paid care with an amount of a home care allowance award. The state department shall require that eligibility and unmet need for paid care be determined through the use of a comprehensive and uniform client assessment instrument prescribed by the state department. The state department may adjust income eligibility criteria, including any functional impairment standard, or the amounts awarded to eligible persons or may limit or suspend enrollments as necessary to manage the home care allowance program within the funds appropriated by the general assembly. In addition, the state department may adjust which services are available under the program; except that the adjustment shall be consistent with the provisions of this subsection (1).

(c) The state department is authorized to implement pilot programs that it deems feasible to assess the overall impact, if any, of using alternatives to the method described in paragraph (b) of this subsection (1) for determining an eligible person's unmet need for paid care and the amount of a home care allowance awarded to an eligible person.

(2) The state department shall administer the adult foster care program and the home care allowance program. The executive director or the state board, as appropriate, shall promulgate rules necessary for the implementation of this section.

(3) (Deleted by amendment, L. 2010, (HB 10-1146), ch. 281, p. 1304, § 4, effective January 1, 2011.)

(4) Repealed.

(5) The state department shall contract with the single entry point agencies for functions of the home care allowance and adult foster care programs pursuant to the terms of the contract or rule of the state department.

26-2-122.4. Home care allowance grant program - rules - report - repeal. (1) There is hereby established in the state department the home care allowance grant program, referred to in this section as the "program", to provide assistance to certain individuals who were receiving home care allowance but are no longer eligible to receive such assistance. To be eligible for a grant under the program, an individual shall:

(a) Have been receiving home care allowance under section 26-2-122.3 at any time during the period beginning September 1, 2011, and ending December 31, 2011;

(b) No longer be eligible to receive home care allowance because the individual is on either the home- and community-based supported living services waiver or the children's extensive services waiver, or any successor waiver;

(c) Have been within one thousand dollars of his or her maximum benefit under the applicable waiver at any time during the period beginning September 1, 2011, and ending December 31, 2011;

(d) Meet any other eligibility requirements established by the state board by rule; and

(e) Submit an application to the state department.

(2) (a) As soon as practicable after March 22, 2012, the state board shall adopt rules governing the program, including but not limited to information required in an application, standards for eligibility, requirements for eligibility redeterminations, and the amount of any grant.

(b) Subject to available appropriations, the state department may provide to an individual eligible pursuant to subsection (1) of this section a grant in an amount consistent with the benefits available for an eligible person under the home care allowance program. For eligible individuals, the grants may be made retroactive to January 1, 2012. The state department shall administer the program in a manner that will facilitate rapid implementation and minimize administrative costs.

(3) It is the intent of the general assembly that moneys for the program come from the moneys appropriated for home care allowance benefits and that any moneys appropriated for the program that are unused may be used to provide additional benefits under the home care allowance program.

(4) (a) On or before October 15, 2016, the state department shall submit a written report on the program to the health and human services committee of the senate, or any successor committee, the health and environment committee of the house of representatives, or any successor committee, and to the joint budget committee of the general assembly. As part of the report, the state department shall solicit feedback from grant recipients and their families. The report shall include information on the number of grant recipients, the cost of the program, and the effect of repeal of the program on grant recipients and their families.

(b) This section is repealed, effective July 1, 2017, unless extended by the general assembly.

26-2-122.5. Acceptance of available moneys to finance the low-income energy assistance program - rules.

(1) (Deleted by amendment, L. 97, p. 1234, § 22, effective July 1, 1997.)

(2) The executive director of the state department, or said director's designee, is hereby authorized to accept any private contributions, including contributions from the fund created in section 40-8.5-104, C.R.S., and any federal grants, and to expend the same, subject to appropriation, for the purpose of increasing available funds under the low-income energy assistance program.

(3) Notwithstanding the availability of additional moneys pursuant to subsection (2) of this section, the low-income energy assistance program shall be administered within the staffing structure, in existence on July 1, 1991, of the state department of human services and county departments of social services, without additional FTE.

26-2-123. Removal to another county. (1) Any recipient who becomes a resident of another county in this state shall be entitled to receive all forms of public assistance that are provided in the county to which the recipient transfers and for which he or she is eligible, and the county department of the county from which the recipient has moved shall transfer all necessary records relating to the recipient to the county department of the county to which he or she has moved, pursuant to the rules of the state department.

(2) The county to which a recipient moves is required to provide only those services and benefits under the Colorado works program created in part 7 of this article as are stipulated in the receiving county's performance contract.

26-2-124. Reconsideration and changes. (1) All assistance payments and social services provided under this article shall be reconsidered as frequently as and in the manner required by rules and regulations of the state department. After such further verification and record as the county department may deem necessary or the rules and regulations of the state department may require, the amount of assistance payments or the social services provided may be changed, or public assistance may be terminated, if the state department or the county department finds that the recipient's circumstances have altered sufficiently to warrant such action or if changes in state or federal law have been made which would warrant such action.

(2) In accordance with the rules and regulations of the state department, the county department may terminate public assistance at any time for cause, or it may, for cause, suspend public assistance for such period as it may deem proper. Timely notice to persons receiving public assistance, when in fact they are not eligible due to fraudulent acts, may be given five days before the date of a proposed action, in accordance with

federal regulations.

(3) Whenever assistance payments are terminated, suspended, or in any way changed, the county department shall at once report such decision to the recipient and to the state department setting forth the reason for such action. All such decisions shall be subject to review by the state department in accordance with the rules and regulations of the state department.

26-2-125. Colorado works cases - vendor payments. The county department, upon reconsideration in cases involving the Colorado works program as provided in section 26-2-124, may authorize direct payment to vendors of the portion of the assistance grant budgeted for essential services and subsistence items for the children, if evidence has been accumulated that the relative payee is using that portion of the grant provided for the care, maintenance, and welfare of the children for other purposes.

26-2-126. Evidentiary conference. (Repealed)

26-2-127. Appeals. (1) (a) (I) Except as provided in part 7 of this article, if an application for assistance payments is not acted upon by the county department within a reasonable time after filing of the same, or if an application is denied in whole or in part, or if a grant of assistance payments is suspended, terminated, or modified, the applicant or recipient, as the case may be, may appeal to the state department in the manner and form prescribed by the rules of the state department. Every county department or service delivery agency shall adopt procedures for the resolution of disputes arising between the county department or the service delivery agency and any applicant for or recipient of public assistance prior to appeal to the state department. Such procedures are referred to in this section as the "dispute resolution process". Two or more counties may jointly establish the dispute resolution process. The dispute resolution process shall be consistent with rules promulgated by the state board pursuant to article 4 of title 24, C.R.S. The dispute resolution process shall include an opportunity for all clients to have a county conference, upon the client's request, and such requirement may be met through a telephonic conference upon the agreement of the client and the county department. The dispute resolution process need not conform to the requirements of section 24-4-105, C.R.S., as long as the rules adopted by the state board include provisions specifically setting forth expeditious time frames, notice, and an opportunity to be heard and to present information. If the dispute is not resolved, the applicant or recipient may appeal to the state department in the manner and form prescribed by the rules of the state department. Whether at the county level, state level, or both, disputes related to the

delivery of assistance under the Colorado works program established pursuant to part 7 of this article shall be decided in accordance with the rules promulgated by the state board pursuant to this subparagraph (I) and with the county's official written policies adopted pursuant to section 26-2-716 (2.5), which policies govern delivery of assistance under such program. The state board shall adopt rules setting forth what other issues, if any, may be appealed by an applicant or recipient to the state department. County notices to applicants or recipients shall inform them of the basis for the county's decision or action and shall inform them of their rights to a county conference under the dispute resolution process and of their rights to state level appeal and the process of making such appeal. A hearing need not be granted when either state or federal law requires or results in an automatic grant adjustment for classes of recipients, unless the reason for an individual appeal is incorrect grant computation.

(II) Upon receipt of an appeal, the state department shall give the appellant reasonable notice and an opportunity for a fair hearing in accordance with rules of the state department. Any such fair hearing shall comply with section 24-4-105, C.R.S., and the state department's administrative law judge shall preside.

(III) The appellant shall have an opportunity to examine all applications and pertinent records concerning said appellant that constitute a basis for the denial, suspension, termination, or modification of assistance payments.

(IV) The appellant may represent himself or herself or he or she may be represented by legal counsel, or by a relative, friend, or other spokesman, and such representation by nonlawyers shall not be considered to be the practice of law.

(b) The state department, by its rules, may provide for fair hearings and appeals for applicants for and recipients of social services.

(c) (Deleted by amendment, L. 97, p. 1317, § 1, effective July 1, 1997.)

(2) All decisions of the state department shall be binding upon the county department involved and shall be complied with by such county department.

(3) The state department, the department of health care policy and financing, and the office of administrative courts in the department of personnel shall work together to streamline the process for the appeal of disputes that are not resolved at the county level and shall consider proposed legislative changes or federal waivers for the Colorado works program pursuant to part 7 of this article in order to address changes in the appeals process to avoid or mitigate expenses to counties of maintaining benefits during the pendency of state-level appeals.

(4) The state department is authorized to apply to the United States department of agriculture and the health care financing administration for waivers to develop a process for appeals that ensures that issues may be consolidated at the local and state levels. In applying for the waiver, the state department shall demonstrate that due process considerations are addressed through other appeal mechanisms.

26-2-128. Recovery from recipient - estate. (1) If, at any time during the continuance of public assistance, the recipient thereof becomes possessed of any property having a value in excess of that amount set pursuant to the provisions of section 26-2-109 and the rules of the state department or receives any increase in income, it shall be the duty of the recipient to notify the county department of the possession of such property or receipt of such income, and the county department may either terminate the public assistance or alter the amount of assistance payments in accordance with the circumstances and the rules of the state department. To the extent not otherwise prohibited by state or federal law, if the recipient is found to have committed an intentional program violation, the recipient is disqualified from participation in any public assistance program under this article for twelve months for the first incident, twenty-four months for a second incident, and permanently for a third or subsequent incident. Such disqualification is mandatory and is in addition to any other penalty imposed by law. Except as provided in subsections (3) and (4) of this section, any previously paid excess public assistance to which the recipient was not entitled shall be recoverable by the county as a debt due to the state and the county in proportion to the amount of public assistance paid by each respectively; except that any fraudulently obtained public assistance or fraudulently obtained overpayments of public assistance shall be recoverable and payable in proportionate shares as provided in section 26-1-112 (2) (b), and interest shall be charged and paid to the county department on any sum fraudulently obtained, calculated at the legal rate and calculated from the date the recipient obtained such sum to the date such sum is recovered. The following remedies apply for the enforcement and collection of a debt for fraudulently obtained public assistance or fraudulently obtained overpayments of public assistance:

(a) If the debt for fraudulently obtained public assistance, fraudulently obtained overpayments of public assistance, or excess public assistance paid for which the recipient was ineligible has been reduced to a judgment in a court of record in this state, the county department may seek a continuing garnishment to collect the debt under article 54.5 of title 13, C.R.S.

(b) If the person has received an overissuance of food stamp benefits resulting from fraud or willful misrepresentation that has not been recovered by repayment under section 13 (b) (1) of the federal "Food Stamp Act", as amended, the state shall recover the overissuance by withholding unemployment compensation to which the person is entitled pursuant to section 8-73-102 (6), C.R.S.

(2) If, upon the death or mental incompetency of any recipient, the inventory of the recipient's estate shows assets in excess of the amount that the recipient was allowed to have in order to receive public assistance, or if it be shown that the recipient was otherwise ineligible for public assistance, then the claim of the county and state for the excess public assistance paid for which the recipient was ineligible, if filed as required by section 15-12-804, C.R.S., shall have priority as a debt given preference under section 15-

12-805 (1) (f.7), C.R.S.

(3) Except as provided in subsection (4) of this section, when a recipient was ineligible for assistance payments solely because of property in excess of that permitted by state department rules and regulations adopted pursuant to section 26-2-109, the amount for which he shall be liable shall be the amount by which his property exceeded the amount allowable under such rules and regulations or the total amount of assistance payments thus received by him, whichever is the lesser amount. Actions for the recovery of such sums shall be prosecuted by the county or state department in any court of record having jurisdiction thereof.

(4) Notwithstanding subsections (1), (2), and (3) of this section, in any assistance case in which more than the correct amount of payment has been made, there shall be no adjustment of payments to the county or state department or recovery by the county or state department from any person who is without fault and who has reported to the state department any increase in income or changes in resources or property, if such adjustment or recovery would deprive a person of income required for ordinary and necessary living expenses or would be against equity and good conscience. Overpayments in all cases involving a grant of aid to families with dependent children shall be recovered from the caretaker relative in the assistance unit who fraudulently obtained the public assistance or who was the direct payee of the overpayments or from such individual's estate. The state department and the county departments shall pursue all available overpayment recovery options against the caretaker relative in the assistance unit first and during this time all overpayment collection activities against the other overpaid members of the assistance unit shall be suspended. On March 26, 2002, the state department and the county departments shall cease any collection efforts being made against the children of an assistance unit in which public assistance was overpaid or fraudulently obtained by a caretaker relative if the caretaker relative has been located. The state and the county departments may elect not to attempt recovery of an overpayment from an individual no longer receiving public assistance where the overpayment amount is less than thirty-five dollars. Where the overpayment amount owed by an individual no longer receiving public assistance is thirty-five dollars or more, the state department and the county departments may determine, consistent with the six-year time limitation for the execution on judgments involving state debt, that it is no longer cost-effective to continue to pursue recovery of the overpayment. The state department and the county departments shall not pursue overpayment collection activities against children who have been part of a Colorado works program assistance unit.

(5) (a) When a recipient, during or because of continuance of public assistance, receives excess assistance through fraudulent acts, the county department shall make regular deductions consistent with federal regulations from said recipient's monthly grant until the excess payment is fully recovered.

(b) Repealed.

(6) (a) The state department shall have a right to recover any amount of public assistance paid to a recipient because:

(I) The trustee of a trust for the benefit of the recipient has used the trust property in a manner contrary to the terms of the trust;

(II) A person holding the recipient's power of attorney has used the power for purposes other than the benefit of the recipient.

(b) To enforce the right under this subsection (6), the county or state department may institute or intervene in legal proceedings against the trustee or person holding the power of attorney. Any amount of public assistance recovered pursuant to this subsection (6) shall be distributed between the state and county in proportion to the amount of public assistance paid by each respectively.

(c) No action taken by the county or state department pursuant to this subsection (6) or any judgment rendered in such action or proceeding shall be a bar to any action upon the claim or cause of action of the recipient or his guardian, personal representative, estate, dependent, or survivors against the trustee or person holding the power of attorney.

26-2-129. Funeral - burial - cremation expenses - death reimbursement - definitions. (1) The general assembly hereby finds and declares that, subject to available appropriations, the purposes of this section are the following:

(a) To provide appropriate and equitable reimbursement of funeral, cremation, or burial expenses or any combination thereof associated with the final disposition of any deceased public assistance or medical assistance recipient;

(b) To consider the religious and cultural preferences of the decedent and the decedent's family;

(c) To assure that final disposition of a decedent is provided with dignity;

(d) To ensure that reimbursement of a provider of funeral, cremation, or burial services is appropriately disbursed by the county department;

(e) To provide that public funds are made available for reimbursement pursuant to this section only after it has been determined that there are insufficient resources from the estate of the decedent or the decedent's legally responsible family members to cover the funeral, cremation, or burial expenses;

(f) To allow family members and friends of a decedent to contribute towards the charges of funeral, cremation, or burial expenses to the extent such contributions do not exceed the specified maximum combined charges for such expenses.

(2) For purposes of this section, unless the context otherwise requires:

(a) "Contributions" means any monetary payment or donation made directly to the service provider or providers by a nonresponsible person to defray the expenses of a deceased public assistance or medical assistance recipient's funeral, cremation, or burial or any combination thereof.

(b) "Death reimbursement" means the payment made by the county department to the provider of funeral, cremation, or burial services when adequate resources are not available from legally responsible persons or from the personal resources or income of the decedent or from contributions to cover the charges for funeral, cremation, or burial expenses of a deceased public assistance or medical assistance recipient.

(c) "Decedent" means a deceased recipient of or applicant for public assistance or medical assistance who was receiving or was eligible to receive benefits at the time of death.

(d) "Final resting place" means a space, either below or above the surface of the ground, for the interment or entombment of the remains of human bodies.

(e) "Legally responsible person" means a person who:

(I) Is the decedent's spouse or the decedent's parent if the decedent is an unemancipated minor who is under the age of eighteen; and

(II) Bears legal responsibility for the charges associated with the decedent's funeral, cremation, or burial expenses.

(f) "Maximum combined charges" means the total of all charges from all providers but in an amount not to exceed two thousand five hundred dollars.

(g) "Mortuary science practitioner" means one engaged in, or holding himself or herself out as being engaged in or conducting, embalming or final disposition of dead human bodies.

(h) "Nonresponsible person" means one of the following who makes a contribution to the charges for a funeral, cremation, or burial or any combination thereof:

(I) A relative of the decedent who is not a legally responsible person; or

(II) Any other person or party.

(3) Subject to available appropriations, a death reimbursement covering reasonable funeral expenses or reasonable cremation or burial expenses or any combination thereof shall be paid by the county department for a decedent if the estate of the deceased is insufficient to pay such reasonable expenses and if the persons legally responsible for the support of the deceased are unable to pay such reasonable expenses. The county department shall be reimbursed eighty percent of the amount of the death reimbursement paid for recipients of aid to the needy disabled and assistance under the Colorado works program pursuant to part 7 of this article and shall be reimbursed one hundred percent of the amount of the death reimbursement for recipients of old age pensions. If the state department determines that the level of appropriation is insufficient to meet the demand for death reimbursements, the state department shall reduce the amount of the death reimbursement level to meet the amount appropriated by the general assembly for death reimbursements. In the event that such a reduction is made, the county department shall have no additional responsibility beyond the reimbursement level as defined in the state department's rules.

(4) The total amount of a death reimbursement paid by the county department or

state department pursuant to this section shall not exceed one thousand five hundred dollars and the combined charge of a funeral or cremation or burial or any combination thereof shall not exceed two thousand five hundred dollars. Contributions from nonresponsible persons may be made without jeopardizing payment under this section and shall be counted as an offset to the maximum combined charges of the providers. If the combined charges from the providers exceed two thousand five hundred dollars, no death reimbursement shall be paid by the state or county department. Providers may seek contributions from nonresponsible persons only to the extent that moneys are available from such parties.

(5) A legally responsible person shall be required to participate financially towards the charges for final disposition through a contribution to the maximum death reimbursement if his or her resources are above the federal supplemental security income resource limits. A legally responsible person shall not be required to participate if he or she has fewer resources than the supplemental security income resource limits or if participation would result in fewer resources than the supplemental security income resource limits. Any financial participation from a legally responsible person shall be deducted from the maximum death reimbursement in the same manner as the personal resources of the decedent and shall not include the survivor's home or other excluded resources as provided for in the state department's rules. Any financial participation by a legally responsible person in excess of the legally required amount shall be used to reduce the amount of the maximum death reimbursement. Social security lump-sum death benefits payable to a legally responsible person shall not be an automatic deduction from the maximum death reimbursement. For purposes of this section, "resources" means:

(a) Those assets or income that are accessible and available to the legally responsible person;

(b) Disbursement of funds from any insurance policy of the decedent to a legally responsible person or nonresponsible person who is named as a beneficiary or a joint beneficiary of the decedent's policy. Nothing in this paragraph (b) shall grant authority to the county department to attach a lien against such funds or otherwise obtain or access these funds for payment of the final disposition of the decedent.

(6) In calculating the amount of the death reimbursement, any personal resources or income of the decedent shall be counted as a deduction from the maximum allowable death reimbursement. For purposes of this section, personal resources or income of the decedent includes the following:

(a) Any preneed contract for merchandise or services to be provided or performed in connection with the decedent's final disposition;

(b) Any other resources or income accessible and available in the name of the decedent, including jointly owned resources or income but only to the extent of the decedent's share of such jointly owned resources or income;

(c) Any death benefit in which reimbursement is directly paid to a provider of

funeral, cremation, or burial services in connection with the decedent's final disposition.

(7) (a) Ownership by a public assistance or medical assistance recipient of a final resting place, or the purchase thereof during the time the recipient is receiving that assistance, shall not disqualify the recipient from receiving that assistance, nor shall such ownership be deemed cause for any reduction in the amount of the recipient's assistance.

(b) Any portion of the purchase price of a final resting place owned by the decedent in excess of two thousand dollars shall be counted as a personal resource of the decedent in calculating the amount of a death reimbursement pursuant to this section.

(c) A final resting place previously acquired by someone other than the decedent and donated for final disposition of that decedent shall not be counted as a personal resource of the decedent or a legally responsible person in calculating the amount of a death reimbursement pursuant to this section.

(8) A statement of agreement between the providers that shall be on a form prescribed by the state department that sets forth the charges and the amounts of any payments or contributions shall be completed prior to any disbursement of funds by the county. The agreement shall assure that the charges of all providers have been equitably addressed and shall ascertain that the maximum combined charges do not exceed two thousand five hundred dollars and that the combined contributions from all sources do not exceed two thousand five hundred dollars. All payments from a decedent's estate, payments from legally responsible persons, and contributions from nonresponsible persons shall be paid directly to the provider of services. After the provision of all services, the providers shall bill the county department directly for reimbursement for appropriate costs that have not been covered by the resources from or contributions made by the decedent's estate, legally responsible persons, or nonresponsible persons. The county department shall reimburse the appropriate providers directly, based upon the statement of agreement.

(9) (a) Notwithstanding any other provision of law to the contrary, the disposition of a deceased public assistance or medical assistance recipient shall be in accordance with subparagraph (I) or (II) of this paragraph (a), as follows:

(I) A public assistance or medical assistance recipient may express, in writing and in accordance with a procedure established by the state department, a preference to be buried or cremated or both. Such expression shall be honored by the county department within the limits of costs and reimbursements specified in this section.

(II) The disposition of a public assistance or medical assistance recipient who has not expressed a preference shall be determined respectively by such recipient's spouse, adult children, parents, or siblings. Upon the death of a recipient, the county department shall use reasonable effort to contact such an authorized person to determine the disposition of the deceased recipient. If such effort does not result in contact with an authorized relative within twenty-four hours, the county shall immediately have the deceased recipient's body refrigerated or embalmed. If such effort does not result in

contact with and decision by an authorized relative within seven days of the recipient's death, the county department shall determine whether to bury or cremate the deceased recipient on the basis of which option is less costly.

(b) The disposition of any public assistance or medical assistance recipient in accordance with this subsection (9) shall be in a timely and dignified manner.

(c) A mortuary science practitioner or any operator of any cemetery who has contracted for cremation services pursuant to this subsection (9) may dispose of the remains of any public assistance or medical assistance recipient cremated pursuant to this section that are not claimed within one hundred twenty days from the date of cremation. For the purposes of this paragraph (c), disposal of remains shall include, but need not be limited to, placing such remains in a cemetery, scattering grounds, or columbarium.

(10) The state department shall:

(a) Adopt rules and regulations necessary for the implementation of this section; and

(b) (Deleted by amendment, L. 96, p. 1114, § 1, effective August 7, 1996.)

(c) Annually review reimbursement levels to determine whether such levels are adequate to purchase funeral, cremation, or burial services for deceased public assistance or medical assistance recipients.

(11) Notwithstanding any other provision of law to the contrary, any person who, in good faith, disposes of a deceased recipient or the remains of a deceased recipient in accordance with this section shall be immune from any civil or criminal liability.

26-2-130. Fraudulent acts. (Repealed)

26-2-131. Public assistance not assignable. No assistance payments made to an eligible recipient under this article shall be transferable or assignable at law or in equity, and none of the money paid or payable under this article shall be subject to execution, levy, attachment, garnishment, or other legal process or to the operation of any bankruptcy or insolvency law.

26-2-132. Limitation. All public assistance granted under this article shall be granted and held subject to the provisions of any amending or repealing law that may be passed after July 1, 1973, and no recipient shall have any claim for compensation or otherwise by reason of his public assistance being affected in any way by any amending or repealing law.

26-2-133. State income tax refund offset. (1) (a) At any time prescribed by the department of revenue, but not less frequently than annually, the state department shall certify to the department of revenue information regarding persons who are obligated to the state for overpayment of benefits pursuant to the "Colorado Social Services Code". Such information shall include certification of the amount of overpayment which has been determined by final agency action or has been ordered by a court as restitution or has been reduced to judgment.

(b) Such information shall also include the name and the social security number of the person obligated to the state for the overpayment, the amount of same, and any other identifying information required by the department of revenue.

(2) As a condition of certifying an overpayment to the department of revenue as provided in subsection (1) of this section, the state department shall ensure that the obligated person has been afforded the opportunity for a conference at the county department level pursuant to section 26-2-127 or 25.5-4-207, C.R.S., and the opportunity for an appeal to the state department pursuant to section 26-2-127 or 26-2-304. In addition, the state department, prior to final certification of the information specified in subsection (1) of this section to the department of revenue, shall notify the obligated person, in writing, at his last known address, that the state intends to refer the person's name to the department of revenue in an attempt to offset the obligation against the person's state income tax refund. Such notification shall inform the obligated person of the opportunity for a conference with the county department pursuant to section 26-2-127 or 25.5-4-207, C.R.S., and of the opportunity for an appeal to the state department pursuant to section 26-2-127 or 26-2-304. In addition, the notice shall specify issues that may be raised at an evidentiary conference or on appeal, as provided by this subsection (2), by the obligated person in objecting to the offset and shall specify that the obligated person may not object to the fact that an overpayment occurred. A person who has received a notice pursuant to this subsection (2) shall request, within thirty days from the date such notice was mailed, an administrative review or evidentiary conference, as provided in this subsection (2).

(3) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 39-21-108, C.R.S., the state department shall disburse such amounts to the appropriate county for processing for distribution to the federal, state, or local agency to whom the person is obligated.

(4) The state department shall promulgate rules and regulations, pursuant to article 4 of title 24, C.R.S., establishing procedures to implement this section.

(5) The home addresses and social security numbers of persons subject to the income tax refund offset, provided to the state department by the department of revenue, shall be sent to the respective county department of social services.

26-2-134. Checks, drafts, or orders for payment of moneys for public assistance - identification of bearer. (1) To prevent the fraudulent obtainment of public assistance, a person receiving any check, draft, or order for the payment of money issued for any payment for a public assistance program under this article may not cash or accept the check, draft, or order unless the bearer of the check, draft, or order presents proof of identification demonstrating that the bearer is the proper recipient of the public assistance payment. The recipient of the check, draft, or order shall provide notation on the check, draft, or order regarding the identification provided by the bearer.

(2) Proof of identification for a public assistance payment under subsection (1) of this section may be demonstrated only by the presentation of one of the following documents:

(a) A valid driver's license issued by any state;

(b) A valid identification card issued by any state or federal agency;

(c) A social security card;

(d) A military identification card issued by the armed forces of the United States;

(e) A valid passport issued by the United States;

(f) A valid county social services identification card; or

(g) A valid identification card issued by an employer.

(3) If any person cashes or accepts a check, draft, or order for the payment of money without proper identification in violation of the provisions of this section, the appropriate state agency may determine not to make payment on the check, draft, or order if there is an allegation of fraud regarding the check, draft, or order for the payment of money, and, if there is a determination that payment should not be made, the state and any state agency are not liable for payment of the check, draft, or order.

26-2-135. Medically correctable program - fund established - rules. (1) On or before January 1, 1997, the state department shall make preparations for the implementation of a statewide medically correctable program, referred to in this section as the "program". Such preparations shall include but are not limited to staff training, policy development, and rule-making pursuant to article 4 of title 24, C.R.S.

(2) On and after January 1, 1997, the program shall be applicable to a person who:

(a) Has been approved for state aid to the needy disabled;

(b) Is determined to be unlikely to meet the disability criteria for supplemental security income;

(c) Has a disability that can be corrected with medical treatment at a cost that does not exceed twenty thousand dollars so that the person can return to employment; and

(d) Is not otherwise receiving workers' compensation benefits.

(3) The program shall consist of the following features:

(a) A process by which the state department shall determine whether a person

qualifies to receive medical treatment so that the person can return to work;

(b) A set of procedures for monitoring a person's recovery from the medical treatment and return to work after participating in the program; and

(c) Annual reports to the joint budget committee and the house and senate committees on health and human services, or any successor committees, that identify the number of persons who received medical treatment pursuant to the program in the preceding fiscal year, their recovery rates and return to the workforce, and the amount of moneys spent on the program.

(4) The cost of the medical treatment identified in paragraph (c) of subsection (2) of this section shall not be a benefit for purposes of articles 40 to 47 of title 8, C.R.S.

(5) (Deleted by amendment, L. 99, p. 699, § 4, effective July 1, 1999.)

26-2-136. Personal identification systems for public assistance - committee to select methods. (Repealed)

26-2-137. Noncitizens programs. (1) **Emergency assistance.** (a) (I) A general assistance fund is hereby established that shall consist of state general funds appropriated thereto by the general assembly. Moneys in the fund shall be used only for the purpose of providing emergency assistance pursuant to the provisions of this subsection (1) and shall be subject to annual appropriation by the general assembly.

(II) The state department shall allocate moneys in the fund described in subparagraph (I) of this paragraph (a) to the counties for the implementation of the emergency assistance program pursuant to the provisions of this subsection (1) and rules of the state department.

(b) The state department shall promulgate rules for the delivery of emergency assistance to a person who:

(I) Is a legal immigrant and a resident of the state of Colorado;

(II) Is not a citizen of the United States; and

(III) Meets the eligibility requirements for public assistance under this article other than citizen status and is not receiving any other public assistance under this article.

(c) Such emergency assistance may include but need not be limited to the following forms of assistance:

(I) Housing;

(II) Food;

(III) Short-term cash assistance; and

(IV) Clothing and social services for children.

(2) **Sponsor responsibility policies.** (a) The general assembly finds and declares that sponsors shall be expected to meet their moral and financial commitments to the immigrants whom they sponsor and for whom they sign affidavits of support.

(b) The state department shall promulgate rules consistent with this section and federal law to enforce sponsor commitments for noncitizen applicants for or recipients of public assistance or medical assistance.

(c) Enforcement mechanisms shall include but not be limited to the following:

(I) Income assignment;

(II) State income tax refund offset;

(III) State lottery winnings offset; and

(IV) Administrative lien and attachment.

(d) A recipient shall assign rights to any support under affidavits of support to the state of Colorado as a condition of receipt of public assistance or medical assistance under this title.

(e) To the extent not preempted by federal law, the state department shall commence a proceeding or an action to enforce duties under an affidavit of support within a period of time to be determined by the state board after a recipient for whom an affidavit of support has been signed has been approved for public assistance or medical assistance under this title.

PART 2

COLORADO SUPPLEMENTAL SECURITY INCOME ACT

26-2-201. Short title. This part 2 shall be known and may be cited as the "Colorado Supplemental Security Income Act".

26-2-202. Legislative declaration. (1) It is the intent of this part 2 to implement a state supplementation program pursuant to Title XVI of the social security act. It is the object and purpose of this part 2 to promote the public health and welfare of individuals who are residents of Colorado and whose need results from age, blindness, or disability with assistance and services to assist such individuals to attain or retain their capabilities for independence, self-care, and self-support.

(2) The state supplementation shall be accomplished by providing mandatory assistance, as defined in this part 2, where required and by providing optional supplementation in accordance with Title XVI of the social security act and regulations adopted by the state board, within available appropriations. Title XVI of the social security act currently permits, in the determination of eligibility for benefits under that title, the disregard of certain payments which a Title XVI recipient receives from a state or a political subdivision of a state. Those persons receiving benefits under Title XVI of the social security act who also meet the eligibility requirements fixed under part 1 of this article may receive a state supplement to their Title XVI benefits in the form of benefits

provided under such part 1.

26-2-203. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "December 1973 income" means the amount of assistance payment which an individual received for December, 1973, plus income used in computing such payment, according to the state plan approved by the United States department of health, education, and welfare for the state of Colorado as in effect for June, 1973.

(2) "Mandatory minimum state supplementation" means minimum payments required by the social security act to be made by the state to maintain certain former adult assistance recipients at their December 1973 income level.

(3) "Optional state supplement" means cash payments or special needs or both which are paid or provided to or on behalf of a supplemental security income recipient pursuant to the rules and regulations of the state board pursuant to part 1 of this article.

(4) "Special needs" means an amount to be paid to or on behalf of aged, blind, or disabled individuals in specified circumstances, as determined by the state board, for specified individualized needs.

(5) "SSI benefits" means cash payments made by the federal government to eligible aged, blind, or disabled individuals pursuant to Title XVI of the social security act.

26-2-204. Mandatory minimum state supplementation of SSI benefits. The state department, with the approval of the state board, is authorized to enter into an agreement with the secretary of the United States department of health, education, and welfare whereby the state department will provide to qualified individuals residing in the state, within available appropriations, mandatory minimum state supplementation of SSI benefits in accordance with the requirements of Title XVI of the social security act and rules and regulations of the state department.

26-2-205. Optional state supplementation. The state department is authorized to adopt rules and regulations for the provision of optional state supplementation to recipients of SSI benefits residing in the state, within available appropriations, in accordance with Title XVI of the social security act and this part 2. Such benefits may be provided pursuant to part 1 of this article if the individual meets the eligibility requirements established under such part 1. SSI benefits received must be considered as income in determining eligibility under part 1 of this article. Eligibility for and the amount of such payments shall be fixed by the state board. If the federal government

makes a final determination that any such payments must be considered as income in determining eligibility for SSI benefits, the state board shall terminate such payments.

26-2-206. Interim assistance. (1) The state department, with the approval of the state board and in accordance with the rules and regulations of the state department, is authorized to enter into an agreement with the secretary of the United States department of health, education, and welfare for implementation of arrangements for interim assistance as authorized by Title XVI of the social security act.

(2) Payment of legal, professional, or other fees by a recipient of public assistance who is seeking supplemental security income benefits shall be made in accordance with the policies and procedures of the social security act.

(3) Neither the state department nor any county shall pay any portion of costs associated with obtaining supplemental security income, including any legal, professional, or other fees paid by a recipient of public assistance in seeking supplemental security income benefits or any other federal benefit. The interim assistance reimbursement payment authorized under this section shall be used to reimburse the state aid to the needy disabled program, described in section 26-2-111 (4), for benefits paid to the recipient as interim assistance in accordance with the agreement between the state department and the social security administration. Any moneys received by a county in excess of the interim assistance paid by the state department and any county on behalf of the recipient shall be paid to the recipient.

26-2-207. Administration. (1) The provisions of article 1 of this title and, where not inconsistent with this part 2, the provisions of part 1 of this article shall apply to state supplementation under this part 2.

(2) The state department, with the approval of the state board and in accordance with the rules and regulations of the state department, may enter into agreements with the secretary of the United States department of health, education, and welfare to assist in the administration of Title XVI of the social security act and this part 2.

26-2-208. Federal requirements. Nothing in this part 2 shall be construed to prevent the state department from complying with federal requirements expressly provided by federal law in order for the state of Colorado to qualify for federal funds under the social security act.

26-2-209. Limitations. All benefits granted under this part 2 shall be granted and

held subject to the provisions of any amending or repealing law that may be passed after July 1, 1975, and no recipient shall have any claim for compensation or otherwise by reason of his supplementation benefits being affected in any way by any amending or repealing law.

26-2-210. State supplemental security income stabilization fund - creation. (1) There is hereby created in the state treasury the state supplemental security income stabilization fund, referred to in this section as the "stabilization fund", for the purpose of stabilizing the source of funding required to meet the federal requirements for maintenance of effort for the state-funded supplement to persons receiving SSI benefits. The stabilization fund shall consist of any excess moneys recovered due to overpayment of recipients, including regular, fraud, and interim assistance reimbursement recoveries, and any appropriations made to the stabilization fund by the general assembly. The moneys in the stabilization fund are hereby continuously appropriated to the state department to be expended on programs that count toward the maintenance of effort for the state supplemental security income as specified in the state plan when the state department determines that the state is at risk of not meeting the federal maintenance of effort for that calendar year. All interest and income derived from the investment and deposit of moneys in the stabilization fund shall be credited to the stabilization fund. At the end of any fiscal year, an amount not exceeding one million five hundred thousand dollars shall remain in the stabilization fund as a continuous appropriation to be used to meet the state's maintenance of effort requirements under this part 2, and any unexpended and unencumbered moneys remaining in the stabilization fund at the end of any fiscal year in excess of one million five hundred thousand dollars shall revert to the general fund.

(2) The state department shall submit a report to the joint budget committee by February 15 of each year. The report shall indicate whether expenditures were made from the stabilization fund, the aggregate monthly amount of any expenditures, and the particular programs for which the expenditures were made.

PART 3

FOOD STAMPS

26-2-301. Food stamps - administration. (1) The state department is hereby designated as the single state agency to administer or supervise the administration of the food stamp program in this state in cooperation with the federal government pursuant to the federal "Food Stamp Act", as amended, and this part 3.

(2) The state department, with the approval of the state board, may enter into an

agreement with the secretary of the United States department of agriculture to accept federal food assistance benefits for disbursement to qualified households in accordance with federal law. Under state department supervision, the responsibility for disbursement may be delegated, under agreement, to county departments, United States postal service facilities, or other commercial facilities such as but not limited to banks.

(3) The food stamp program shall be implemented and administered in every county in the state by the respective county departments or by the state department pursuant to an agreement with one or more counties. If a county can demonstrate to the satisfaction of the state department that it is impossible or impractical for the county department to administer the program, the state department shall ensure that the program is implemented and administered within such county, and the county shall continue to meet the requirements of section 26-1-122.

(4) (a) The state department shall develop a state outreach plan, referred to in this section as the "outreach plan", to promote access by eligible persons to benefits through the supplemental nutrition assistance program. The outreach plan shall meet the criteria established by the food and nutrition services agency of the United States department of agriculture for approval of state outreach plans. The state department is authorized to seek and accept gifts, grants, and donations to develop and implement the outreach plan.

(b) For purposes of developing and implementing an outreach plan, the state department shall partner with one or more counties and nonprofit organizations for the development and implementation of the outreach plan. If the state department enters into a contract with a nonprofit organization relating to the outreach plan, the contract may specify that the nonprofit organization is responsible for seeking sufficient gifts, grants, or donations necessary for the development and implementation of the outreach plan, and may additionally specify that any costs to the state associated with the award and management of the contract or the implementation or administration of the outreach plan shall be paid out of any private or federal moneys raised for the development and implementation of the outreach plan. The state department shall submit the outreach plan to the food and nutrition services agency for approval by September 1, 2010, and shall request any federal matching moneys that may be available upon approval of the outreach plan. The general assembly strongly encourages the state department to use any additional public or private moneys, including moneys from the federal 2010 department of defense appropriations bill to offset costs associated with increased caseload resulting from the implementation of an outreach plan.

(c) Notwithstanding the provisions of paragraph (a) or (b) of this subsection (4), the state department shall be exempt from implementing or administering an outreach plan, but not from developing an outreach plan, if the state department will not be receiving private or federal moneys sufficient to cover the state's costs associated with the implementation and administration of the outreach plan, including any state or county costs associated with increased caseload resulting from the implementation of the

outreach plan.

(5) The provisions of article 1 of this title and, where not inconsistent with this part 3, the provisions of part 1 of this article shall apply to federal food assistance benefits under this part 3.

26-2-302. Federal requirements. Nothing in this article shall be construed to prevent the state department from complying with federal requirements for the food stamp program expressly provided by federal statute and regulation in order for the state of Colorado to qualify for federal funds under the federal "Food Stamp Act", as amended, and to maintain the food stamp program within the limits of available appropriations.

26-2-303. Evidentiary conference. (Repealed)

26-2-304. Appeals - recoveries. The provisions of section 26-2-127, relating to appeals, and section 26-2-128, relating to recoveries, shall apply to the food stamp program, except when such sections conflict with federal statute or regulation or when a specific conflict with federal statute or regulation is not clearly present and the state department elects by regulation to follow federal statute or regulation.

26-2-305. Fraudulent acts - penalties. (1) (a) Any person who obtains, or any person who aids or abets another to obtain, food stamp coupons or authorization to purchase cards or an electronic benefits transfer card or similar credit card-type device through which food stamp benefits may be delivered to which the person is not entitled, or food stamp coupons or authorization to purchase cards or an electronic benefits transfer card or similar credit card-type device through which food stamp benefits may be delivered the value of which is greater than that to which the person is justly entitled by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device with intent to defeat the purposes of the food stamp program commits the crime of theft, which crime shall be classified in accordance with section 18-4-401 (2), C.R.S., and which crime shall be punished as provided in section 18-1.3-401, C.R.S., if the crime is classified as a felony, or section 18-1.3-501, C.R.S., if the crime is classified as a misdemeanor. Any person violating the provisions of this subsection (1) is disqualified from participation in the food stamp program for one year for a first offense, two years for a second offense, and permanently for a third or subsequent offense. Any person convicted of trafficking in food stamp coupons as described in this subsection (1) having a value of five hundred dollars or more shall be permanently disqualified from the

food stamp program.

(b) Any person found by the agency or convicted in a court of law of having made a fraudulent statement or representation with respect to the identity or place of residence of the person in order to receive multiple benefits simultaneously under the food stamp program shall be disqualified from participating for a ten-year period.

(c) Any person found guilty by a court of law of purchasing controlled substances, as defined in section 18-18-102 (5), C.R.S., with food stamp benefits shall be disqualified from participation in the food stamp program for two years for a first offense and permanently disqualified for the second offense. The disqualification periods shall apply also to individuals with a felony conviction entered on or after July 1, 1997, for possession, use, or distribution of controlled substances if the conviction is directly related to the misuse of food stamp benefits. An individual shall not be ineligible due to a drug conviction unless misuse of food stamp benefits is part of the court findings.

(d) Any person who is found guilty by a court of law of trading ammunition or explosives for food stamp benefits is disqualified permanently from participating in the food stamp program.

(e) A state or federal court may extend a disqualification for up to an additional eighteen months. Such disqualifications are mandatory and are in addition to any other penalty imposed by law.

(1.5) Any person against whom a county department of social services or the state department obtains a civil judgment in a state or federal court of record in this state based on allegations that the person obtained or willfully aided and abetted another to obtain food stamp coupons or authorization to purchase cards or an electronic benefits transfer card or similar credit card-type device through which food stamp benefits may be delivered the value of which is greater than that to which the person is justly entitled by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device with intent to defeat the purposes of the food stamp program, is disqualified from participation in the food stamp program for one year for a first incident, two years for a second incident, and permanently for a third or subsequent incident. Such disqualifications are mandatory and are in addition to any other remedy available to a judgment creditor.

(2) If, at any time during the continuance of participation in the food stamp program, the recipient of food stamp coupons or authorization to purchase cards knowingly acquires any property or receives any increase in income or property, or both, in excess of that declared at the time of determination or redetermination of eligibility or if there is any other change in circumstances affecting the recipient's eligibility or the amount of food stamp coupons or authorization to purchase cards to which he or she is entitled, it is the duty of the recipient to notify the county department, or the state department in food stamp districts administered by the state department, of any such acquisition, receipt, or change in accordance with state department regulations; and any

recipient of food stamp coupons or authorization to purchase cards who knowingly fails to do so, and who by such failure receives benefits in excess of those to which he or she was in fact entitled, commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

(3) The county department, or the state department in food stamp districts administered by the state department, shall use an application form which contains appropriate and conspicuous notice of the penalties for fraud and shall deliver to each recipient with the first issuance of food stamp coupons or authorization to purchase cards and each redetermination thereafter a written notice explaining what changes in circumstances require notification to the county department or state department under subsection (2) of this section.

(4) Additional costs incurred by district attorneys in enforcing this section, in accordance with the rules of the state department, shall be billed to county departments in the judicial district in the proportion to each county as specified in section 20-1-302, C.R.S., and the county departments shall pay such costs as an expense of food stamp administration.

26-2-305.5. Categorical eligibility - repeal. (1) As used in this section, unless the context otherwise requires, "federal law" means the federal "Food and Nutrition Act of 2008", and any amendments to the act and any federal regulations adopted for the implementation of the act.

(2) (a) No later than October 1, 2010, the state department shall create a program or policy that, in compliance with federal law, establishes broad-based categorical eligibility for federal food assistance benefits pursuant to the supplemental nutrition assistance program.

(b) At a minimum, the program or policy shall, to the extent authorized pursuant to federal law, eliminate the asset test for eligibility for federal food assistance benefits.

(3) Notwithstanding any provisions of subsection (2) of this section to the contrary, the provisions of this section shall take effect only if the state department receives moneys pursuant to the federal 2010 department of defense appropriations bill that may be used to implement this section.

26-2-306. Trafficking in food stamps. (1) Any person who obtains, uses, transfers, or disposes of food stamps in the manner specified in paragraphs (a) to (c) of this subsection (1) commits the offense of trafficking in food stamps. A person who traffics in food stamps includes:

(a) Any bona fide recipient of food stamps, or his authorized representative who

knowingly transfers food stamps to another who does not, or does not intend to, use the said food stamps for the benefit of the food stamp household for whom the food stamps were intended as the same is defined in the rules and regulations of the state department;

(b) Any person who knowingly acquires, accepts, uses, or transfers to another for consideration food stamps not issued to him or an authorized representative or to a member of a food stamp household of which he is a member by the state department or another authorized issuing agency in another state;

(c) Any person who knowingly receives, possesses, alters, transfers, or redeems food stamps received, used, or transferred in violation of any federal statute.

(2) Trafficking in food stamps is:

(a) (Deleted by amendment, L. 2007, p. 1696, § 15, effective July 1, 2007.)

(b) A class 2 misdemeanor under section 18-1.3-501, C.R.S., if the value of the food stamps is less than five hundred dollars;

(b.5) A class 1 misdemeanor under section 18-1.3-501, C.R.S., if the value of the food stamps is five hundred dollars or more but less than one thousand dollars;

(c) A class 4 felony under section 18-1.3-401, C.R.S., if the value of the food stamps is one thousand dollars or more but less than twenty thousand dollars;

(d) A class 3 felony under section 18-1.3-401, C.R.S., if the value of the food stamps is twenty thousand dollars or more.

(3) When a person commits the offense of trafficking in food stamps twice or more within a period of six months, two or more of the offenses may be aggregated and charged in a single count, in which event the offenses so aggregated and charged shall constitute a single offense, and, if the aggregate value of the food stamps involved is one thousand dollars or more but less than twenty thousand dollars, it is a class 4 felony; however, if the aggregate value of the food stamps involved is twenty thousand dollars or more, it is a class 3 felony.

(4) As used in this section, "food stamps" means coupons issued pursuant to the federal "Food Stamp Act", 7 U.S.C. 2011 to 2029, as amended.

PART 4

WELFARE REFORM

26-2-401 to 26-2-413. (Repealed)

PART 5

PERSONAL RESPONSIBILITY AND EMPLOYMENT DEMONSTRATION PROGRAM

26-2-501 to 26-2-510. (Repealed)

PART 6

CHILD CARE TRAINING AND EDUCATION PILOT PROGRAM

26-2-601 to 26-2-607. (Repealed)

PART 7

COLORADO WORKS PROGRAM

26-2-701. Short title. This part 7 shall be known and may be cited as the "Colorado Works Program Act".

26-2-702. Legislative intent. (1) The general assembly hereby finds and declares that:

(a) Passage of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Pub.L. 104-193, and the federal "Deficit Reduction Omnibus Reconciliation Act of 2005", Pub.L. 109-171, gives the state a unique opportunity to develop and maintain a public assistance program that emphasizes placing recipients in work and supporting them in sustained employment with food stamps, child care assistance, and medicaid;

(b) The federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Pub.L. 104-193, and the federal "Deficit Reduction Omnibus Reconciliation Act of 2005", Pub.L. 109-171, require increased local input in developing the state plan for public assistance under these laws and allow increased local control over the implementation of such state plan;

(c) The federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Pub.L. 104-193, and the federal "Deficit Reduction Omnibus Reconciliation Act of 2005", Pub.L. 109-171, require additional training for local employees in the area of case management to assist in making recipients self-sufficient.

(2) Therefore, the general assembly finds and declares that it is in the state's best interests to adopt the Colorado works program set forth in this part 7.

26-2-703. Definitions. As used in this part 7, unless the context otherwise requires:

(1) Repealed.

(2) "Assistance" means any ongoing assistance payment or short-term assistance payment as those terms are described in section 26-2-706.6.

(2.5) "Assistance unit" means those family members who are participants in the Colorado works program and who are receiving cash assistance.

(3) "Basic cash assistance grant" means cash assistance provided to a participant in the Colorado works program pursuant to section 26-2-709.

(3.5) (a) "Cash assistance" means cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs such as food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses. "Cash assistance" includes such benefits even when they are:

(I) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual participants; and

(II) Conditioned on participation in a work activity or community service.

(b) Except as otherwise excluded in paragraph (c) of this subsection (3.5), "cash assistance" also includes supportive services provided to families who are not employed such as transportation and child care.

(c) "Cash assistance" does not include:

(I) Nonrecurrent, short-term benefits that:

(A) Are designed to address a specific crisis situation or episode of need;

(B) Are not intended to meet recurrent or ongoing needs; and

(C) Will not extend beyond four months;

(II) Work subsidies such as payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training;

(III) Supportive services such as child care and transportation provided to families who are employed;

(IV) Refundable earned income tax credits;

(V) Contributions to, and distributions from, individual development accounts;

(VI) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(VII) Transportation benefits provided under a job access or reverse commute project to an individual who is not otherwise receiving assistance.

(4) "Colorado child care assistance program" means the state program of child care assistance implemented pursuant to the provisions of part 8 of this article and rules of the state department.

(5) "Colorado works program" or "works program" means the program of public assistance created in this part 7.

(5.5) "Controlled substance" means a substance, a drug, or an immediate precursor included in schedules I to V of part 2 of article 18 of title 18, C.R.S., and any "alcohol beverage" as defined in section 12-47-103 (2), C.R.S.

(5.7) "Countable income" means the receipt by an individual of a gain or benefit in cash or in kind during a calendar month that is used to determine eligibility and the benefit amount for the Colorado works program as specified by the state board.

(6) "County" means a county or a city and county.

(7) "County block grant" means a block grant provided to a county pursuant to the provisions of section 26-2-712.

(8) "County department" means:

(a) The department of social services, human services, or health and human services of a county or a city and county; or

(b) Any combination of departments of social services of a county or a city and county that are approved by the state department to implement a county block grant jointly pursuant to the provisions of section 26-2-718.

(8.5) "Deficit reduction omnibus reconciliation act" means the federal "Deficit Reduction Omnibus Reconciliation Act of 2005", Pub.L. 109-171, as amended.

(9) "Dependent child" means a person who resides with a parent or a specified caretaker and who is under the age of eighteen years or, if the person is a full-time student at a secondary school or vocational or technical equivalent and is reasonably expected to complete the school or vocational or technical equivalent before attaining the age of nineteen years, is under nineteen years.

(9.5) "Disqualified or excluded person" means a person who would otherwise be a member of an assistance unit but who is rendered ineligible to participate due to program prohibitions.

(10) "Federal law" means the personal responsibility and work opportunity reconciliation act, the deficit reduction omnibus reconciliation act, and any federal regulations adopted for the implementation of either act.

(10.2) "Guardian" means a person appointed by court order to be the guardian of another person.

(10.5) "Income" means any cash, payments, wages, in-kind receipts, inheritance, gifts, prizes, rents, dividends, interest, and other gain or benefit in cash or in kind received by members of an assistance unit.

(11) "Indian tribe" means a federally recognized Indian tribe with part or all of its reservation located in the state of Colorado.

(12) "Individual responsibility contract" or "IRC" means the contract entered into by the participant and the county department pursuant to section 26-2-708.

(13) Repealed.

(13.5) "Noncustodial parent", as defined in 45 CFR 260.30, means a person who:

(a) Is the parent of a minor child; and

(b) Lives in Colorado; and

(c) Does not live in the same household as the minor child.

(13.7) "Ongoing assistance" means any cash grant, benefit, service, or other form

of temporary assistance designed to meet an eligible family's ongoing needs.

(14) "Parent" means either a biological parent or a parent by adoption.

(15) "Participant" means an individual who receives any assistance or who participates in a specific component of the Colorado works program.

(16) "Performance contract" means the performance-based contract executed by the state department and the board of county commissioners of each county or the boards of county commissioners of a group of counties pursuant to section 26-2-715.

(17) "Personal responsibility and work opportunity reconciliation act" means the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Pub.L. 104-193, as amended.

(17.5) "Program prohibitions" means a circumstance that, pursuant to this part 7 or federal law, renders an individual unable to participate in the Colorado works program.

(17.7) "Qualified alien" means a qualified alien as defined by rule of the state board in conformance with the personal responsibility and work opportunity reconciliation act.

(17.8) "Receipt" or "receipt of income" means the date on which income is actually received by or becomes legally available to a member of an assistance unit.

(18) "Reservation" means the Ute Mountain Ute Indian Reservation and the Southern Ute Indian Reservation in Colorado.

(18.2) "Short-term assistance" means a nonrecurrent, short-term benefit that is designed to deal with a specific crisis situation or episode of need, is not intended to meet recurrent or ongoing needs, and does not extend beyond four months.

(18.3) "Specified caretaker" means:

(a) A person who exercises responsibility for a dependent child and who is:

(I) A relative by blood, marriage, or adoption who is within the fifth degree of kinship to the dependent child; or

(II) Appointed by the court to be the guardian or the legal custodian of the dependent child; or

(b) A person who exercises responsibility for a dependent child within the person's home if there is no person described in paragraph (a) of this subsection (18.3).

(18.5) "Targeted spending level" means the amount of county funds that a county shall appropriate pursuant to the provisions of section 26-1-122 for the purpose of defraying the county's maintenance of effort requirement for the works program.

(19) "Temporary assistance for needy families" or "TANF" means the program of block grants from the federal government to the states to implement assistance programs pursuant to federal law.

(20) "Tribal member" means an enrolled member of either the Ute Mountain Ute or Southern Ute Indian tribes.

(21) "Work activities" shall have the same definition as is provided in federal law. The state board shall promulgate rules as necessary to further define "work activities" in

accordance with the definition provided in federal law. Participants shall be considered to be engaged in work if they are participating in work activities as described in the federal law or if they are participating in other work activities designed to lead to self-sufficiency as determined by the county and as outlined in their IRC.

(22) "Work participation rate" means the percentage of participants who are involved in work activities as required statewide under federal law.

(23) "Works allocation committee" means the committee created pursuant to section 26-2-714 (6).

26-2-704. No individual entitlement. (1) Nothing in this part 7 or in any rules promulgated pursuant to this part 7 shall be interpreted to create a legal entitlement in any participant to assistance provided pursuant to the works program.

(2) No county administering or implementing the works program with moneys from a county block grant as provided in section 26-2-714 may create or shall be deemed to create a legal entitlement in any participant to assistance provided pursuant to the works program.

26-2-705. Works program - purposes. (1) (a) Effective July 1, 1997, the Colorado works program is implemented pursuant to the personal responsibility and work opportunity reconciliation act and is intended to comply with the express requirements for participation in the TANF block grant program.

(b) Effective January 1, 2009, the Colorado works program is amended to ensure implementation in compliance with the deficit reduction omnibus reconciliation act.

(2) The purposes of the works program are to:

(a) Assist participants to terminate their dependence on government benefits by promoting job preparation, work, and marriage;

(b) Provide assistance to needy families so that children may be cared for in their homes or in the homes of family members;

(c) Prevent and reduce the incidence of out-of-wedlock pregnancies and to establish annual numerical goals for preventing and reducing the incidences of these pregnancies;

(d) Encourage the formation and maintenance of two-parent families;

(e) Develop strategies and policies that focus on ensuring that participants are in work activities as soon as possible so that the state is able to meet or exceed work participation rates specified in the federal law; and

(f) Allow the counties increased responsibility for the administration of the works program.

(3) Nothing in this part 7 is intended to prevent a county or municipality from

implementing a public assistance or general assistance program with local funds.

26-2-706. Target populations. (1) (a) Subject to the provisions of this section and restrictions in the federal law, those persons or families who may receive assistance under the Colorado works program include:

(I) Dependent children under the age of eighteen;

(II) (A) Dependent children between the ages of eighteen and nineteen who are full-time students in a secondary school, home school, or in the equivalent level of vocational or technical training and expected to complete the program before age nineteen. Such children are eligible for assistance through the end of the month in which they complete the program. A dependent child is still considered to be a student in regular attendance during official school or training program vacation periods, absences due to illness, convalescence, or family emergency, or the month in which the child completes a school or training program.

(B) For purposes of this subparagraph (II), "regular attendance" means that the student is enrolled in a program of study or training leading to a certificate or diploma and is physically attending such program or training; "full-time attendance" means that the student is attending school for a minimum of twenty-five hours per week, or an amount of time as specified by the school; and "half-time attendance" means that the student is attending school for a minimum of twelve hours per week, or an amount of time as specified by the school; and

(III) The parents of a dependent child, including expectant parents, or a specified caretaker with whom the dependent child is living.

(a.5) In addition to the eligibility requirements set forth in paragraph (a) of this subsection (1), in order to receive Colorado works benefits and assistance, the assistance unit shall include a dependent child who lives in the home of a parent or other specified caretaker. A dependent child is considered to be living in the home of a specified caretaker as long as the parent or other specified caretaker exercises responsibility for the care of the child even though one or more of the following occurs:

(I) The child is under the jurisdiction of the court; or

(II) Legal custody is held by an agency that does not have physical possession of the child; or

(III) The child is in regular attendance at school away from home; or

(IV) Either the child or the specified caretaker is temporarily absent from the home to receive medical treatment; or

(V) The child is in a voluntary foster care placement for a period not expected to exceed three months.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), the state board shall promulgate rules to provide that two-parent families shall be treated the

same as single-parent families under the provisions of this section.

(c) Notwithstanding the provisions of paragraph (a) of this subsection (1), the state board shall promulgate rules to provide that half siblings residing in the same household not be required to be in the same assistance unit if at least one of the half siblings is receiving child support. In such circumstance, the half sibling receiving child support shall be given the option to not participate in Colorado works.

(d) The state board shall promulgate rules to provide that a noncustodial parent may be allowed to receive services under the Colorado works program, but not assistance, at a county's option and in accordance with the county's plan. Such services provided to a noncustodial parent pursuant to this paragraph (d) shall be intended to promote the sustainable employment of the noncustodial parent and enable such parent to pay child support. Provision of such services shall not negatively impact the eligibility for benefits or services of the custodial parent.

(1.5) To participate in the Colorado works program an applicant or person shall:

(a) Be a resident of Colorado;

(b) Be a citizen of the United States, a qualified alien who entered the United States prior to August 22, 1996, or a qualified alien who entered the United States on or after August 22, 1996, who has been in a qualified alien status for a period of five years or, if less than five years, is in a federal exempt category pursuant to 8 U.S.C. sec. 1613 (b), as amended;

(c) Not be receiving financial assistance from other financial assistance programs administered by the state of Colorado;

(d) Not be an inmate of a public institution, except as a patient in a public medical institution;

(e) Not be an inmate of any institution as a patient admitted for tuberculosis or mental disease, unless the person is a child under the age of twenty-one years receiving psychiatric care under medicaid;

(f) Not be participating in a labor strike;

(g) Provide a social security number or proof of application for a social security number if the social security number is unknown or if the applicant does not have a social security number;

(h) Provide verification of earned income received in the thirty days immediately prior to the date of application; and

(i) Provide verification of pregnancy, if applicable.

(2) (a) The state department shall promulgate rules to identify with specificity who may be a participant in the works program and the income requirements for participation in the works program. An asset test shall not be applied as a condition of eligibility for participation in the works program.

(b) The rules shall provide that an unmarried parent under eighteen years of age shall not receive assistance unless such unmarried parent resides with his or her parent or

other specified caretaker in an adult-supervised home or in any other arrangement approved by the county department.

(3) A person convicted of a drug-related felony offense under the laws of this state, any other state, or the federal government on or after June 3, 1997, shall not be eligible for assistance under the works program, unless such person is determined by the county department to have taken action toward rehabilitation such as, but not limited to, participation in a drug treatment program.

(4) The state board shall promulgate rules to simplify the requirements relating to determination and verification of eligibility criteria. Nothing in this subsection (4) shall authorize the state board to amend or delete eligibility criteria for participation in the works program that the board is not otherwise authorized to amend or delete.

(5) and (6) (Deleted by amendment, L. 2010, (SB 10-068), ch. 160, p. 549, § 3, effective January 1, 2011.)

26-2-706.5. Restrictions on length of participation. (1) Unless cash assistance is provided through segregated funds pursuant to federal law and section 26-2-714, as of June 3, 1997, each month of cash assistance received by an assistance unit that includes a specified caretaker who has received assistance under Title IV-A of the social security act, as amended, shall count toward that specified caretaker's sixty-month lifetime maximum of TANF benefits as established in federal law.

(2) Any month in which a specified caretaker is determined to be a disqualified or excluded person from a basic cash assistance grant shall count as a month of participation in the calculation of the specified caretaker's overall sixty-month lifetime maximum.

(3) (a) The county department shall, where available and applicable, provide for or refer a disqualified or excluded person to other appropriate services, including services that may assist the person toward self-sufficiency.

(b) Nothing in this subsection (3) shall be construed to create any entitlement for services or to require any county to expend resources in addition to existing appropriations.

26-2-706.6. Payments and services under Colorado works - rules. (1) Subject to the provisions of federal law, rules promulgated by the state board pursuant to this section, and available appropriations, the payment types and services specified in this section are available to participants in the Colorado works program.

(2) **Ongoing assistance payment.** An assistance unit that applies and is eligible for ongoing assistance shall, unless voluntarily and knowingly refused, receive cash assistance, which is a recurrent cash payment. In addition to a cash payment, an eligible assistance unit may also receive cash assistance in the form of a cash-equivalent payment,

voucher, or other form of cash benefit that is designed to meet the basic ongoing needs of the persons in the assistance unit. Basic ongoing needs shall consist of food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses. In addition to cash assistance, persons in an assistance unit that is eligible for ongoing assistance may receive supportive services as described in this section.

(3) **Short-term assistance payment.** A participant may choose to receive a short-term assistance payment, formerly referred to as a diversion payment, which is a nonrecurrent, needs-based, cash or cash-equivalent payment designed to meet the short-term needs of the participant. A short-term assistance payment is designed to address a specific crisis situation or episode of need and is not designed to meet the basic ongoing needs of the participant. A short-term assistance payment may not extend beyond four months. In addition to a short-term assistance payment, a participant who is eligible for short-term assistance may receive supportive services as described in subsection (4) of this section. Short-term assistance payments include the following types:

(a) A standard short-term assistance payment, formerly referred to as a state diversion payment, is a nonrecurrent, needs-based, cash or cash-equivalent payment made to a participant who is eligible for short-term assistance.

(b) An expanded short-term assistance payment, formerly referred to as a county diversion payment, is a nonrecurrent, needs-based, cash or cash-equivalent payment made to a participant who is eligible for assistance pursuant to the maximum eligibility criteria for nonrecurrent, short-term benefits established in the state plan pursuant to section 26-2-712 (1), in the county-defined expanded eligibility based on federal poverty and other standardized guidelines, and in county policies.

(4) **Supportive services.** (a) An eligible participant may receive supportive services, including but not limited to:

(I) Work subsidies such as payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training;

(II) Supportive services such as child care and transportation provided to families who are employed;

(III) Refundable earned income tax credits;

(IV) Contributions to, and distributions from, individual development accounts;

(V) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(VI) Transportation benefits provided under a job access or reverse commute project to an individual who is not otherwise receiving assistance.

(b) A county may provide supportive services directly to an eligible participant or through a contract or memorandum of understanding between the county department and another agency, including but not limited to another county department or a community provider.

(c) The state board shall promulgate rules pursuant to which a county shall provide referrals for available supportive services to persons who apply for assistance and to participants who are homeless or in need of mental health services or substance abuse counseling or services. The rules shall not obligate the county to pay for any supportive services to which a person who applies for ongoing assistance or short-term assistance or a participant is referred.

(5) **Individual development accounts.** A county department may make available opportunities for participants to have individual development accounts for home purchase, business capitalization, or higher education in accordance with federal law.

(6) **Child care assistance.** Subject to available appropriations and pursuant to rules promulgated by the state board, a county may provide child care assistance to a participant pursuant to the provisions of part 8 of this article and rules promulgated by the state board for implementation of said part 8.

(7) **Substance abuse control program.** A county may elect to implement a Colorado works controlled substance abuse control program. Under such a program, if the use of a controlled substance prevents the participant from successfully participating in his or her work activity, the county department may require the participant to participate in a controlled substance abuse control program based in whole or in part upon a representation by the participant that he or she is using controlled substances or upon a finding by the county department pursuant to an assessment by a certified drug treatment provider that the participant is or is likely to be using controlled substances. If a county chooses to require the participant to participate in a controlled substance abuse control program, the county department shall:

(a) Require the participant to be assessed by a certified drug treatment provider and to follow a rehabilitation plan as a condition of continued receipt of assistance under the works program. The rehabilitation plan shall be based upon the assessment and developed by a certified drug treatment provider, and may include, but need not be limited to, participation in a controlled substance abuse treatment program. This paragraph (a) shall not create an entitlement to rehabilitation services or to payment for rehabilitation services.

(b) If required by the rehabilitation plan, conduct random testing of the participant to determine whether he or she is remaining free of controlled substances; and

(c) Impose on the participant any applicable adverse action for nonparticipation in a work activity if the participant fails to follow the rehabilitation plan, which nonparticipation may be evidenced by having a positive result on a random test or refusing to participate in a random test pursuant to this subsection (7). A county may not take adverse action against a participant for failing to meet the requirements of the rehabilitation plan if the services required under the plan are not available, if transportation or child care is not available, or if the costs of the services are prohibitive.

(8) **Job skills education voucher.** A county department may provide a voucher

created pursuant to the provisions of section 26-2-712 (11) to a participant for use at one of the community or technical colleges administered pursuant to the provisions of article 60 of title 23, C.R.S., for the purpose of securing short-term educational and academic skills training and job placement services.

26-2-707. Diversion grant. (Repealed)

26-2-707.5. Community resources investment assistance. (1) A county department may use county block grant moneys to invest in the development of community resources that support the purposes of the federal "Personal Responsibility and Work Opportunity Reconciliation Act", Public Law 104-193, and that are designed to assist eligible applicants or participants under section 26-2-706 or 26-2-706.6. An eligible applicant or participant may receive benefits or services from such a community resource without completing an application pursuant to section 26-2-106 or an individual responsibility contract pursuant to section 26-2-708 (2). However, nothing in this subsection (1) precludes a county department from requiring such applications and individual responsibility contracts in a county's individual contracting procedures established pursuant to subsection (2) of this section.

(2) The state board shall establish standards and procedures through rules for the use of county block grant moneys pursuant to this section including but not limited to the contracting procedures counties must follow to ensure that funds are being spent to support TANF-eligible applicants or participants. Such contracting procedures shall include a requirement that a county's contract with a provider shall specify the approximate number of applicants or participants to be served by the provider. Counties shall also be required to adopt official written policies as referenced in section 26-2-716 (2.5) regarding the types of community resources in which counties are investing, the purposes of such community resource investments, the income eligibility standards, and the county's dispute resolution processes.

(3) A county that uses county block grant moneys pursuant to this section shall use all moneys in accordance with all applicable federal and state statutes and regulations.

(4) A county shall not be authorized to use funds pursuant to this section for the purpose of supplanting funds.

(5) Nothing in this section shall preclude a household from applying for and receiving basic cash assistance.

26-2-707.7. Information concerning immunization of children. At the time of application for the works program, the county department shall provide information

concerning immunizations to all applicants, including the exemptions listed in section 25-4-903, C.R.S. The information shall include parent education on vaccines and information concerning where to access vaccines in the local community. The department of public health and environment or the county or district public health agency shall provide the immunization information to the county department.

26-2-708. Assistance - assessment - individual responsibility contract - waivers for domestic violence. (1) Subject to the provisions of the federal law, the provisions of this section, and available appropriations, a county department shall perform an assessment for a new participant who is eighteen years of age or older, or who is sixteen years of age or older but has not yet attained the age of eighteen years of age and has not completed high school or obtained a certificate of high school equivalency and is not attending high school or participating in a high school equivalency program. The initial assessment shall be completed no more than thirty days after the submission of the application for assistance under the works program. Updated assessments may be conducted at the discretion of the county department.

(2) A county department shall develop an individual responsibility contract for a new participant who has been assessed pursuant to subsection (1) of this section, within thirty days after completing the initial assessment of the participant as required in subsection (1) of this section, subject to the provisions of the federal law and this section. The IRC shall be limited in scope to matters relating to securing and maintaining training, education, or work. The county department shall seek the input and involvement of the participant when developing the IRC.

(3) The IRC shall contain provisions in bold print at the beginning of the document that notify the participant of the following:

(a) That no individual is legally entitled to any form of assistance under the Colorado works program;

(b) That the IRC is a contract that contains terms and conditions governing the participant's receipt of assistance under the Colorado works program and that nothing in such contract may be deemed to create a legal entitlement to assistance under the Colorado works program;

(c) That the participant's failure to comply with the terms and conditions of the IRC may result in sanctions, including but not limited to the termination of any cash assistance;

(d) For a county that has elected to implement a Colorado works controlled substance abuse control program described in section 26-2-706.6 (7), that the IRC may require the participant to participate in the Colorado works controlled substance abuse control program, based upon the participant's use of a controlled substance, by requiring the participant to take action toward rehabilitation consistent with the recommendations

of the assessment pursuant to section 26-2-706.6 (7). The program may be included as a county-defined work activity. The rehabilitation plan may include random drug testing, drug treatment, or other rehabilitation activities. The participant may be subject to any sanctions for nonparticipation in a work activity if the participant fails to meet the requirements of the rehabilitation plan; except that a participant may not be sanctioned for failing to meet the requirements of the rehabilitation plan if services required under the plan are not available, if transportation or child care is not available, or if the costs of the services are prohibitive.

(e) That the applicant or participant shall indicate by signature on the IRC either agreement with the terms and conditions of the IRC or that the applicant or participant requests a county level review of the proposed IRC in accordance with section 26-2-710 (4) on the grounds that the proposed IRC is unreasonable within the context of the county's written policies.

(4) (Deleted by amendment, L. 99, p. 272, § 1, effective April 13, 1999.)

(5) The state board shall establish through rules, after consultation with domestic violence service providers, statewide standards and procedures that:

(a) Require counties to provide notice to all past or present victims of domestic violence as described in the federal law or those at risk of further domestic violence of the referrals required pursuant to paragraph (b) of this subsection (5), the possible waivers pursuant to paragraph (c) of this subsection (5), and the applicable procedures described in paragraph (e) of this subsection (5);

(b) Require counties to provide for referrals to any available counseling and supportive services to past or present victims of domestic violence as described in the federal law or those at risk of further violence, but the rules shall not obligate a county to pay for any counseling or supportive services to which a participant is referred;

(c) Allow counties upon a showing of good cause, as determined by rules of the state board, to provide waivers from any program requirements, except as provided in paragraph (d) of this subsection (5), that will make it more difficult for an applicant or a participant to escape domestic violence or that would unfairly penalize such individuals who are or have been victimized by such violence or who are at risk of further violence;

(d) Require counties to submit requests for waivers of work requirements to the state department to determine whether good cause exists to grant such waivers;

(e) Require counties to assure the voluntariness and confidentiality of the procedures for identifying eligibility for referrals to supportive services and waivers, the procedures for applying for waivers, and the procedures by which an applicant or a participant who is denied a waiver may appeal such decision.

(5.5) and (6) (Deleted by amendment, L. 2008, p. 1957, § 9, effective January 1, 2009.)

26-2-708.5. Colorado works controlled substance abuse control program. (Repealed)

26-2-709. Benefits - cash assistance - programs - rules. (1) **Standard of need - basic cash assistance grant.** (a) The state department shall promulgate rules determining the standard of need for eligibility for a basic cash assistance grant, whether an applicant or participant meets the standard of need, and the amount of the basic cash assistance grant. In addition to any other rules necessary for the implementation of this part 7, the state department's rules shall:

(I) Adopt a statewide standard of need for eligibility for a basic cash assistance grant that is not less than the basis for standard of need pursuant to this subsection (1) as it existed on July 1, 2009;

(II) Establish criteria for determining whether an applicant or participant meets the standard of need, including but not limited to what constitutes countable and excludable income for the purposes of eligibility for a basic cash assistance grant; and

(III) Establish the calculation for determining the amount of an eligible applicant's or participant's basic cash assistance grant, which calculation shall include an earned income disregard which shall be applied to the gross countable earned income of an applicant or participant who is employed. The earned income disregard shall promote work and self-sufficiency and shall benefit the applicant or participant by reducing the unintended economic consequences of becoming employed. The rules promulgated by the state department pursuant to this subparagraph (III) shall not establish an earned income disregard that results in an applicant or participant having fewer financial resources available to him or her than a similarly situated applicant or participant would have had under the earned income disregard pursuant to section 26-2-709 as it existed on July 1, 2009.

(b) In establishing the calculation for determining the amount of an eligible applicant's or participant's basic cash assistance grant, the state department shall ensure that the amount of the basic cash assistance grant that a participant or applicant receives is equal to or exceeds one hundred two percent of the need standard for a participant in a similarly sized household on January 1, 2008. The state department is encouraged to establish a calculation for determining the amount of a basic cash assistance grant that results in a basic cash assistance grant that is equal to or exceeds one hundred twelve percent of the need standard for a participant in a similarly sized household on January 1, 2008.

(c) Except as otherwise provided in this part 7 and subject to available appropriations, an applicant or participant who meets the eligibility criteria established by the state department pursuant to paragraph (a) of this subsection (1) shall receive a basic cash assistance grant in an amount determined by the state department pursuant to

paragraphs (a) and (b) of this subsection (1). An increase in the amount of the basic cash assistance grant approved by the state department shall not take effect unless the funding for the increase is included in the annual general appropriation act or a supplemental appropriation act.

(1.3) **Redetermination of eligibility for persons receiving cash assistance.** The county department shall perform an annual redetermination of eligibility for all assistance units receiving cash assistance.

(1.5) **Rules concerning cash assistance.** The state department shall promulgate rules as may be necessary to comply with changes in federal regulations relating to the definition of the term "cash assistance".

(2) **Other assistance.** (a) Subject to available appropriations, a county department may provide assistance, including but not limited to cash assistance, in addition to the basic cash assistance grant described in subsection (1) of this section that is authorized pursuant to the provisions of the federal law or this section. Such other assistance shall be based upon a participant's assessed needs.

(b) and (c) (Deleted by amendment, L. 2008, p. 1960, § 11, effective January 1, 2009.)

(3) (Deleted by amendment, L. 2008, p. 1960, § 11, effective January 1, 2009.)

26-2-709.5. Exit interviews and follow-up interviews of participants. (1) In order to follow the legislative intent declared in section 26-2-702 (1) (a), a county department is strongly encouraged to conduct exit and follow-up interviews upon case closure, either in person or by telephone, with all participants of the Colorado works program, including participants who are or have been receiving short-term assistance payments pursuant to section 26-2-706.6. The interviews shall be for the purpose of providing information to the participant and offering assistance with applications for or continuance of assistance under medicaid, food stamps, the Colorado child care assistance program, the earned income tax credit, or other programs such as welfare-to-work or other county benefits or services.

(2) Repealed.

26-2-710. Administrative review. (1) The state department shall promulgate rules for an administrative review process.

(2) All decisions of the state department shall be binding upon the county department involved and shall be complied with by such county department.

(3) If a participant does not agree with or fails to participate in a program or service identified in the IRC, the participant shall continue to receive the basic cash assistance grant that the participant received at the time the appeal is requested during the

pendency of any appeal process.

(4) An applicant or participant who believes the IRC proposed by the county is unreasonable has a right to request a review of the proposed IRC by the county department pursuant to a process designated by the county in its written county policy. If the applicant or participant requests such review, the county shall provide the applicant or participant the opportunity for a county level review by a person not directly involved in the initial determination. The review shall be limited to determining whether the terms of the disputed IRC are reasonable within the context of the county's written policy. The reviewer shall issue a written decision for the county regarding the resolution of the outstanding issues involving the proposed IRC. The time frame for such review shall be specified by the county in its written county policy.

26-2-711. Works program - sanctions against participants - rules. (1) (a) The state board shall promulgate rules for the imposition of sanctions affecting the basic cash assistance grant as described in section 26-2-709 (1). The rules shall require:

(I) Imposition of sanctions upon a participant who fails, without good cause as determined by the county, to comply with the terms and conditions of his or her IRC;

(II) A percentage reduction in the basic assistance grant upon the first imposition of a sanction affecting such basic assistance grant, with the percentage to be specified in the rules but not less than twenty-five percent;

(III) Specific reductions in the basic assistance grant for second and subsequent sanctions affecting the basic assistance grant;

(IV) Imposition of sanctions either in the month following the decision to sanction and in subsequent months thereafter until the full amount of any sanctions have been withheld or, in the event that a participant has appealed the imposition of a sanction, in the month following the final decision of the appeal process and in subsequent months thereafter until the full amount of any sanctions have been withheld.

(b) Nothing in the state board rules promulgated pursuant to paragraph (a) of this subsection (1) shall prevent a county from denying the basic cash assistance grant in its entirety to a participant who refuses, as evidenced by an affirmative statement by the participant or demonstrable evidence, to participate in training, education, or work.

(c) The state board rules promulgated pursuant to paragraph (a) of this subsection (1) shall establish the period of time that sanctions affecting the basic cash assistance grant shall be in effect and the period of time within which a participant who has been denied the basic cash assistance grant by a county pursuant to paragraph (b) of this subsection (1) may take action for reinstatement into the works program.

(2) A county shall have the authority to determine and impose sanctions affecting other assistance as described in section 26-2-706.6. The sanctions shall be based upon fair and objective criteria that have been developed and adopted by the county and are

consistent with state and federal law.

(3) If a county department elects to suspend payment of child care assistance, it may suspend such assistance in its entirety.

(4) In no event shall a county department impose any sanction on a participant that adversely affects the participant's receipt of food stamps beyond those allowable sanctions provided for in federal regulations and state rules or medical assistance pursuant to the provisions of articles 4, 5, and 6 of title 25.5, C.R.S.

(5) (a) A person shall not be required to participate in work activities if good cause exists as determined by the county.

(b) Good cause does not constitute an exemption from work or time limits. Good cause is, however, a proper basis for not imposing a sanction for nonparticipation in a work activity, and may include, but need not be limited to, participation in a Colorado works controlled substance abuse control program pursuant to section 26-2-706.6 (7).

(6) (Deleted by amendment, L. 2008, p. 1963, § 13, effective January 1, 2009.)

(7) If a participant or an applicant has misrepresented residence to obtain benefits in two or more states at the same time, such person shall be ineligible for benefits under the works program for a period of ten years.

26-2-712. State department duties - authority. (1) **Plan submission.** The state department shall submit and amend as necessary a plan to the secretary of the federal department of health and human services that is consistent with the provisions of this part 7 and federal law.

(2) **County block grant allocation.** (a) The state department shall allocate the amount of moneys that shall be provided to a county as a county block grant for the purposes of a county's administration and implementation of the works program pursuant to section 26-2-714.

(b) Except as provided in section 26-2-720.5, the county block grant shall represent the total amount that a county shall receive from the state for the administration and implementation of the Colorado works program.

(3) **Maintenance of effort.** The state department shall monitor the state's progress toward meeting the levels of spending required under the federal law and section 26-2-713.

(4) **Performance measurements.** (a) The state department shall develop performance goals and a formula for measuring a county's progress toward meeting such performance goals in administering and implementing the works program with county block grants. The state department shall provide data gathered on behalf of each county to the general assembly on a quarterly basis regarding employment- and training-related performance measures for the works program. Such data shall include wages earned by works program participants upon leaving the program, job retention rates, and other

related information. Such data shall be provided through the state department's computerized systems, if available. Counties shall not be required to provide additional manual or computerized systems to gather such data. The state department shall work with the state work force development council to gather data on works program participants who participate in training and job placement programs offered by work force development boards and the result of such participation. Such data shall be provided to the state auditor's office on at least an annual basis as a part of the works program audit pursuant to section 26-2-723.

(b) The formula may be based upon the formula developed by the secretary of the federal department of health and human services after consultation with the national governors' association and the American public welfare association for measuring states' performance under the TANF block grants.

(5) **Oversight.** In connection with overseeing the works program, the state department shall have the specific duties to:

(a) Oversee the implementation of the works program statewide and, in connection with such oversight, develop standardized forms for the counties' use in streamlining the application process, delivery of services, and tracking of participants;

(b) Monitor the state's progress in meeting the work participation requirements set forth in federal law;

(c) Establish a process to implement the provisions for regionalization set forth in section 26-2-718 pursuant to which any combination of county departments may be approved by the state department to administer and implement the works program pursuant to the provisions of this part 7;

(d) Establish statewide goals and monitor the state's progress toward meeting such goals for the reduction in the incidence of out-of-wedlock pregnancies;

(e) Monitor the counties' provision of basic cash assistance grants pursuant to section 26-2-706.6 and, if necessary due to increased caseloads or economic downturns, do the following to ensure that the basic cash assistance grant is provided in a consistent manner statewide:

(I) Grant moneys to one or more counties from the county block grant support fund administered pursuant to section 26-2-720.5; or

(II) If no funds administered pursuant to section 26-2-720.5 are available:

(A) Request supplemental appropriations from the general assembly, including but not limited to an appropriation from the Colorado long-term works reserve created pursuant to section 26-2-721; or

(B) Reduce the county block grant of any county that maintains moneys in a county reserve account pursuant to section 26-2-714 (5) in order that moneys may be made available to one or more counties to avoid the need to reduce or eliminate the basic cash assistance grant statewide. If the state department makes a reduction in a county's reserve account pursuant to this sub-subparagraph (B), the state department shall increase

the county's block grant for the following fiscal year by the amount of the reduction authorized pursuant to this sub-subparagraph (B); or

(III) After taking the actions described in subparagraphs (I) and (II) of this paragraph (e), take any actions necessary to reduce the costs of, or reduce or eliminate, the basic cash assistance grant statewide.

(6) (Deleted by amendment, L. 2008, p. 1964, § 14, effective January 1, 2009.)

(7) **Colorado works program capacity building.** The state department shall develop training for case workers and other service providers so that they are knowledgeable and may assist persons who receive assistance through the Colorado works program in:

(a) Identifying goals, including work activities, time frames for achieving self-sufficiency, and the means required to meet these benchmarks;

(b) Obtaining supportive services such as mental health counseling, substance abuse counseling, domestic violence services, life skills training, and money management and parenting classes;

(c) Utilizing the family's existing strengths;

(d) Providing ongoing support and assistance to the family in overcoming barriers to training and employment;

(e) Monitoring the progress of the family toward attaining self-sufficiency;

(f) Understanding and properly utilizing data reporting systems to report participation data and outcomes required by the state department; and

(g) Providing opportunities for persons working with Colorado works participants to access professional-level curriculum to become proficient in assessing participant needs and developing individual plans to address those needs.

(8) **Domestic violence services training - rules.** (a) To facilitate the proper identification, screening, and assessment of past and present victims of domestic violence who apply for or participate in the Colorado works program and to assist counties in complying with the provisions of this subsection (8) and section 26-2-708 (5), the state board shall promulgate rules that require the state department to provide ongoing domestic violence training and appropriate domestic violence training materials to county staff and to:

(I) Assist counties in developing local resources and using available community resources to provide counseling and supportive services to past and present victims of domestic violence; and

(II) Require counties to make applicants to and participants in the Colorado works program aware of the services and assistance provided by the state department pursuant to this subsection (8) and by the county.

(b) The state department may contract with an individual or entity that has demonstrated expertise in the area of domestic violence assistance for the provision of the services specified in this subsection (8).

(9) **Waiver process.** (a) Except as provided in paragraph (c) of this subsection (9), the governor and the state department, acting jointly, may grant a county's application for a waiver of any requirement of this part 7 or the rules promulgated pursuant to this part 7. Any waiver granted pursuant to this subsection (9) shall be designed to improve methods of achieving participants' self-sufficiency, meeting work participation rates and performance goals, or reducing dependency.

(b) Any application for a waiver shall include a statement of the purpose of the waiver. The application shall be submitted to the governor and the state department no later than October 1 of the year immediately preceding the year in which the county intends to implement the waiver. The county shall provide notice of its application to all adjacent counties. The governor and the state department shall grant or deny the county's application no later than December 1 of the year in which the county applied. A waiver granted pursuant to this subsection (9) shall take effect on January 1 of the year immediately following approval of such waiver. The governor and the state department shall specify the duration of such waivers.

(c) The state department and the governor shall not approve an application under this subsection (9) that proposes to waive any statute or rule governing statewide eligibility, the amount of the basic cash assistance grant, the county maintenance of effort, or any requirement of the federal law. The governor and the state department shall not approve an application under this subsection (9) that proposes to waive a participant's right to appeal a county determination under the works program, but they may approve the waiver of statutes or rules governing the method or procedure for such appeal.

(d) The governor and the state department may approve any number of applications for waivers of one or more provisions of this part 7 or of the rules promulgated pursuant to this part 7, so long as such waivers meet the requirements of paragraphs (a), (b), and (c) of this subsection (9).

(e) In the event that the governor has reason to believe that a county's implementation of the works program pursuant to a waiver granted under this subsection (9) fails to satisfy the requirements of the federal law or is inconsistent with the purposes of the works program as set forth in section 26-2-705, the governor may revoke the waiver granted to the county and require the county to resume implementation of the works program pursuant to the provisions of this part 7 and the rules promulgated pursuant to this part 7.

(f) In the event that the governor and the state department grant waivers to a county pursuant to this subsection (9), the performance contract entered into between the county and the state department pursuant to section 26-2-715 shall be amended to reflect the county's authority to implement the works program in accordance with the waivers granted and the governor's authority to revoke the waivers in accordance with paragraph (e) of this subsection (9).

(10) **Job market analysis.** The state department, the department of labor and

employment, and the state board for community colleges and occupational education created in section 23-60-104 (1) (b), C.R.S., shall annually analyze job market information in order to establish a compilation of the types of jobs most appropriate and likely to lead to long-term self-sufficiency for participants. As used in this subsection (10), "job market information" means any state or regional job market or labor data or statistics or any information related to state or regional labor trends that the department of labor and employment may have or to which it may have access.

(11) **Tuition voucher system.** (a) The state department shall collaborate with the state board for community colleges and occupational education, created in section 23-60-104 (1) (b), C.R.S., to develop a tuition voucher system pursuant to which a participant may attend courses at an institution in the state's system of community and technical colleges by using a tuition voucher.

(b) The state department and the state board for community colleges and occupational education, created in section 23-60-104 (1) (b), C.R.S., shall enter into a cooperative arrangement to make available appropriate educational and academic training programs for participants who receive tuition vouchers.

26-2-713. State maintenance of effort. The general assembly shall make annual appropriations from state funds for the works program which, together with the expenditures made by counties under the works program, shall be applied toward the state's maintenance of historic effort as specified in section 409 (a) (7) of the social security act.

26-2-714. County block grants formula - use of moneys - rules.

(1) (Deleted by amendment, L. 2008, p. 1967, § 15, effective January 1, 2009.)

(1.5) Moneys appropriated by the general assembly to the county block grant line shall remain appropriated and available to counties pursuant to the procedures specified in this section.

(2) Subject to available appropriations, in state fiscal year 2009-10 and in each fiscal year thereafter, the state department, with input from the works allocation committee, shall set the amount of the county block grants based on demographic and economic factors within the counties.

(2.5) In the event that the state department and the works allocation committee do not reach an agreement in setting the amounts of the county block grants pursuant to the provisions of subsection (2) of this section on or before June 15 of each state fiscal year, the works allocation committee shall submit alternatives to the joint budget committee of the general assembly from which the joint budget committee shall identify each individual county's block grant for the state fiscal year commencing on the immediately succeeding

July 1.

(3) Nothing in subsections (2) and (2.5) of this section shall prevent a county from transferring at any time during the fiscal year, pursuant to procedures established by the state department and the works allocation committee, a portion of the county's current federal TANF allocation to another county in exchange for an amount of county moneys equal to the maintenance of effort associated with the allocation.

(4) The state department shall identify the portion of moneys in the county block grant that may be spent on administrative costs.

(5) (a) (I) (A) A county shall be authorized to maintain a reserve account of county block grant moneys pursuant to rules promulgated by the state department.

(B) Pursuant to the provisions of subparagraph (V) of paragraph (c) of subsection (6) of this section, upon the conclusion of state fiscal year 2010-11, and upon the conclusion of each state fiscal year thereafter, the works allocation committee may transfer to another county on or before November 1 of the succeeding fiscal year, any unspent county TANF reserves in excess of forty percent of the county's county block grant for the concluding state fiscal year. TANF reserves transferred to a county pursuant to this sub-subparagraph (B) shall be available to the county in the succeeding state fiscal year.

(C) (Deleted by amendment, L. 2011, (SB 11-124), ch. 183, p. 695, § 1, effective May 19, 2011.)

(D) If the works allocation committee transfers excess unspent TANF reserves pursuant to sub-subparagraph (B) of this subparagraph (I), the county from which the reserves are transferred shall receive appropriate maintenance of effort credit for those reserves. The county receiving the TANF reserves shall be responsible for providing an amount of county moneys equal to the maintenance of effort associated with the TANF reserves.

(E) (Deleted by amendment, L. 2011, (SB 11-124), ch. 183, p. 695, § 1, effective May 19, 2011.)

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (a) to the contrary, in state fiscal year 2008-09, and in each state fiscal year thereafter, a county with an annual county block grant amount of two hundred thousand dollars or less shall make available to the works allocation committee for transfer to another county pursuant to the provisions of subparagraph (V) of paragraph (c) of subsection (6) of this section any unspent TANF reserves in excess of one hundred thousand dollars.

(III) As used in this subsection (5), "unspent TANF reserves" means the amount deposited in a county reserve account plus any unspent TANF transfers authorized pursuant to this subsection (5) and subsections (7) and (9) of this section.

(IV) (Deleted by amendment, L. 2011, (SB 11-124), ch. 183, p. 695, § 1, effective May 19, 2011.)

(b) A county shall be required to maintain in such county's social services fund

created pursuant to section 26-1-123 any county funds that were appropriated pursuant to section 26-2-716 (1) (a) and section 26-1-122 (6) in order to meet the targeted spending level required pursuant to subsection (6) of this section but not actually expended on the works program during the state fiscal year for which the county appropriated such funds.

(5.5) (a) The state department is authorized to segregate county block grant funds allocated under this section.

(b) If the state department segregates county block grant funds as authorized under this subsection (5.5):

(I) County departments shall report to the state expenditures they have made in a segregated manner, according to rules promulgated by the state board in accordance with applicable federal law;

(II) The counties shall develop policies regarding the use of segregated funds under this subsection (5.5);

(III) Funds shall be segregated in order to ensure maximum flexibility and to allow counties to provide additional assistance or services, in accordance with federal law.

(c) Repealed.

(d) The state board shall promulgate rules as necessary to implement this subsection (5.5).

(6) (a) **Targeted spending levels.** For state fiscal year 1997-98 and each state fiscal year thereafter, a county's targeted spending level shall be an amount that meets or exceeds one hundred percent of the county's spending on AFDC, JOBS, and the administrative costs related to those programs in state fiscal year 1995-96.

(b) Repealed.

(c) **Actual spending levels - 1998-99 and thereafter.** (I) For state fiscal year 1998-99 and for each state fiscal year thereafter, all counties collectively shall be required to meet levels of spending on the works program that are set forth in the annual long appropriation act, subject to the provisions of subsection (8) of this section.

(II) For state fiscal year 1998-99 and for each state fiscal year thereafter, each county's actual level of spending shall be identified by the works allocation committee created in subparagraph (IV) of this paragraph (c) no later than June 15 of each state fiscal year for the immediately succeeding state fiscal year. Prior to determining each county's actual spending level, the works allocation committee shall ensure that all counties have been notified of the recommended actual spending level and given an opportunity to provide comment on the recommendation. In the event that the works allocation committee does not reach an agreement on each individual county's actual level of spending for a state fiscal year on or before June 15 of such prior state fiscal year, the committee shall submit alternatives to the joint budget committee of the general assembly from which such joint budget committee shall identify each individual county's level of spending for a state fiscal year. The amount identified for a county's level of spending

shall be identified in the county's performance contract with the state department entered into pursuant to section 26-2-715.

(III) The works allocation committee shall also identify the amount of mitigation that shall be allocated for a small county in accordance with the provisions of subsection (8) of this section. The works allocation committee may create a subcommittee that represents the interests of small counties as defined in subsection (8) of this section, which subcommittee may make recommendations concerning the mitigation amounts to be allocated for a small county pursuant to the provisions of subsection (8) of this section.

(IV) There is hereby created the works allocation committee that shall consist of eleven members, eight of whom shall be appointed by a statewide association of counties and three of whom shall be appointed by the state department. Of the members appointed by the statewide association of counties, at least two members shall be from small or medium-sized counties, and at least three shall be from large counties. The appointing authorities shall consult with each other to ensure that the works allocation committee is representative of the counties in the state. A representative from the county that has the greatest percentage of the state's works caseload will automatically be appointed, which appointment shall be credited against the eight appointments allocated to the statewide association of counties. The works allocation committee shall develop its own operational procedures.

(V) The works allocation committee shall determine the priority criteria for transfers of excess unspent TANF reserves to a county pursuant to sub-subparagraph (B) of subparagraph (I) of paragraph (a) of subsection (5) of this section and the amount of the transfers. With the goal of increasing the counties' minimum percentage reserve balances, the works allocation committee's priority criteria shall give first priority to transfers to counties that have no more than a ten percent balance in the county's TANF reserve account. If moneys remain after satisfying the first priority criterion, second priority shall be given to transfers to those counties whose TANF reserves are more than ten percent, but no more than twenty percent.

(7) The county may transfer any amount of the county block grant that is designated as federal funds and that is specified by the state department as being available for transfer within the limitation imposed by the federal law on transfers of federal funds from the temporary assistance for needy families block grant to the child care development fund if child care funds are not available.

(8) (a) As used in this subsection (8), unless the context otherwise requires:

(I) "Annual maximum mitigation amount" means that portion of the total amount of county funds identified in the annual long appropriation act that may be used for mitigation for small counties in that state fiscal year.

(II) "Mitigation" means a specific reduction in a county's targeted spending level established pursuant to paragraph (a) of subsection (6) of this section or a specific reduction in a county's actual spending level established pursuant to paragraph (c) of

subsection (6) of this section that is authorized pursuant to the provisions of this subsection (8). Mitigation can occur for targeted spending levels or actual spending levels or for both types of spending levels.

(III) "Small county" means a county with less than thirty-eight one hundredths of one percent of the total caseload of the works program statewide. The state department, with input from the works allocation committee, shall determine what shall constitute the total caseload of the works program and the time at which such caseload shall be established.

(b) Subject to the identification of an annual maximum mitigation amount in the annual long appropriation act and the criteria identified in paragraph (c) of this subsection (8), the works allocation committee created pursuant to subparagraph (IV) of paragraph (c) of subsection (6) of this section is authorized to identify the amount or amounts of any mitigation that shall be allocated to a small county in a specific state fiscal year. The works allocation committee shall notify the state department of any agreement concerning the allocation of any annual maximum mitigation amount in accordance with the provisions of this subsection (8).

(c) The criteria that the works allocation committee shall use include but are not limited to the following:

(I) The assessment of the equity of a small county's total program expenditures as they relate to the targeted or actual spending level for the small county;

(II) The extent to which the small county will have insufficient revenues to meet its targeted or actual spending level; and

(III) The extent to which the provision of any mitigation may enhance the efforts of a small county or group of small counties to regionalize pursuant to the provisions of section 26-2-718.

(9) (a) For state fiscal year 1997-98, and for each state fiscal year thereafter, a county may transfer any amount of the county block grant that is designated as federal funds and that is specified by the state department as being available for transfer within the limitation imposed by the federal law on transfers of federal funds from the temporary assistance for needy families block grant to programs funded by Title XX of the federal social security act.

(b) A county may make the transfer authorized by paragraph (a) of this subsection (9) only for expenditures that are allowable under programs funded by Title XX of the federal social security act, subject to the following provisions:

(I) If the funds transferred are used for the provision of child welfare services as defined in section 26-5-101 (3), the county may only make the transfer:

(A) After the county has made allowable expenditures of all funds in the county's capped or targeted allocation or allocations for child welfare services, other than for core services as referred to in section 26-5-101 (3) (f); and

(B) For the expenditures for child welfare services other than out-of-home

placement services as described in section 26-5-101 (3) (i).

(II) A county shall not be required to appropriate funds to provide a county match pursuant to the provisions of section 26-1-122 for any funds transferred pursuant to the provisions of this subsection (9).

(III) A county shall not be authorized to use funds transferred pursuant to the provisions of this subsection (9) for the purpose of supplanting funds that:

(A) The county would otherwise be required to appropriate pursuant to section 26-1-122 in order to provide a county match for public assistance programs; or

(B) The county would otherwise appropriate in order to continue the provision of services under a program of public assistance administered with county only funds in the prior fiscal year.

(c) The state board shall promulgate rules governing procedures for transfers authorized pursuant to the provisions of this subsection (9).

(d) A county may make a transfer authorized by paragraph (a) of this subsection (9), within the limitations imposed by state and federal law on such transfers, in order to fund various programs for the improvement of child care. Such transfers may be used for minor remodeling of licensed child care facilities or facilities legally exempt from licensing requirements pursuant to section 26-6-103 (1), including but not limited to physical modifications for the purpose of licensure or accreditation, construction or improvement of fencing or other safety and security fixtures or other uses not prohibited under 42 U.S.C. sec. 1397d.

(10) (a) If the state meets federal work participation rates and qualifies for a percent reduction in the state's maintenance of effort as specified in federal law for any year, the actual spending level for the works program of all counties collectively shall be reduced by the same amount as the amount of the reduction in the federal maintenance of effort requirement.

(b) For the purposes of this subsection (10), "percent reduction" means the percent of reduction of historical expenditures as that term is defined in section 409 (7) (b) of the federal social security act, as amended.

(c) For any year in which a percent reduction in the state's maintenance of effort requirement occurs, the works allocation committee created pursuant to subparagraph (IV) of paragraph (c) of subsection (6) of this section shall determine each county's share of the reduction in actual spending levels. Prior to making such determination, the works allocation committee shall ensure that all counties have been notified of the recommended reduction for each county and given an opportunity to provide comment on the recommendation. In the event that the works allocation committee does not reach an agreement on each individual county's reduction in actual spending levels, the committee shall submit alternatives to the joint budget committee of the general assembly from which such joint budget committee shall identify each individual county's reduction in actual spending levels. The state department is authorized to adjust each county's share of

the reduction in actual spending levels. The state department is authorized to adjust each county's actual spending level for any percentage reduction earned in accordance with the determination of the works allocation committee concerning each county's share of the reduction.

26-2-714.5. Adjusted work participation rate - notification - county authorization - vocational education. (1) As used in this section, unless the context otherwise requires, "federal credit" means the caseload reduction credit as calculated pursuant to 45 CFR 261.40 or any employment credit, caseload reduction credit, or other credit against such rate for a fiscal year that may be subsequently adopted by the federal government.

(2) The state department shall notify each county, within thirty days after the beginning of the state fiscal year, of the state department's projection regarding the adjusted rate that the state must attain for the fiscal year in order to be in compliance with federal requirements, based on the state's estimate of the federal credit the state anticipates qualifying to receive. This adjusted rate shall be the county's adjusted work participation rate for that state fiscal year.

(3) Each county is authorized to place participants in vocational education, as that term is defined by rule of the state board, for longer than twelve months in order to meet critical skills shortages in the labor market; except that the percentage of participants allowed to satisfy program requirements through vocational education of longer than twelve months in a county shall not exceed seventy-five percent of the state's estimate of the federal credit.

(4) The provisions of this section shall be implemented by the state department consistent with the requirement of section 26-2-715 (1) (a) (III).

(5) The state department may suspend a county's ability to place participants in vocational education for longer than twelve months if the state department certifies that allowing vocational education to count toward a works participant's required work activities would affect the state's ability to meet federal work participation rates.

26-2-714.7. Work participation rates - increases - county strategies - report - repeal. (Repealed)

26-2-715. Performance contracts. (1) (a) Each county, either acting singly or with a group of counties, shall enter into an annual performance contract with the state department that shall identify the county's or group of counties' duties and responsibilities in implementing the works program and the Colorado child care assistance program, described in part 8 of this article. The performance contract shall include but not be

limited to:

(I) Requirements and provisions that address the county's or group of counties' duty to administer and implement the works program and the Colorado child care assistance program using fair and objective criteria;

(II) Provisions that prohibit the county or group of counties from reducing the basic cash assistance grant administered pursuant to section 26-2-709 and monitored by the state department pursuant to section 26-2-711 and provisions that prohibit the county or group of counties from restricting eligibility or the provision of services or imposing sanctions in a manner inconsistent with the provisions of this part 7 or the provisions in the state plan submitted to the secretary of the federal department of health and human services pursuant to section 26-2-712;

(III) Work participation rates for the county or group of counties that shall ensure that the state will be able to meet or exceed its work participation rates under the federal law.

(b) A county or group of counties may be sanctioned for not meeting any obligation under such performance contract. Such sanctions must be identified in the performance contract and may include a reduction in a future county block grant allocation.

(2) The performance contract shall set forth the circumstances under which the state department may elect that it or its agent assume the county's or group of counties' administration and implementation of the works program and the Colorado child care assistance program.

(3) If the state department and the county or group of counties are unable to reach agreement on the contract, either party may request the state board to consider the matter, and the state board shall schedule the matter for hearing within thirty days after receipt of the request. The state board shall issue a decision on the matter which shall be considered binding on all parties. If necessary to assure services are available within the county or group of counties, the state department may enter into a temporary agreement with the county or group of counties or with another public or private agent until the matter is resolved by the state board.

26-2-716. County duties - appropriations - penalties - hardship extensions - domestic violence extensions - incentives - rules. (1) (a) (I) The board of county commissioners in each county of this state shall annually appropriate as provided by law such moneys as required pursuant to section 26-1-122 (6).

(II) In the case of two or more counties jointly administering a county block grant under the provisions of this part 7, each county involved shall appropriate the funds necessary to defray its proportionate costs of implementing the works program.

(b) A county department shall keep such records and accounts in relation to the

costs of administering and implementing the works program.

(c) Whenever a county anticipates that it may be financially unable to meet requests for assistance from participants, the county may seek additional moneys from the county block grant support fund administered by the state department pursuant to section 26-2-720.5.

(2) In connection with administering a county block grant, a county department shall:

(a) Meet the work participation rate as set forth in the performance contract with the state department pursuant to section 26-2-715;

(b) Report to the state department the information required to enable the state department to track participants' length of time for receipt of assistance and to enable the state department to provide written notice to applicants and participants of their rights;

(c) Provide written notification to applicants and recipients of their responsibilities and options available under the works program, including but not limited to time limits, domestic violence waivers, extensions or exemptions, and services available. Verbal notice shall be provided when requested.

(d) Submit the reports required pursuant to section 26-2-717;

(e) Use an income eligibility verification system (IEVS) to verify eligibility information against federal social security administration and internal revenue service files;

(f) Provide Title IV-D services to participants and require assignment of rights to child support by participants and participant cooperation with establishment and collection of child support, except as to participants receiving short-term assistance pursuant to section 26-2-706.6;

(g) Make available opportunities for participants to have individual development accounts for home purchase, business capitalization, or higher education in accordance with federal law;

(h) Meet the required maintenance of effort as identified in section 26-2-714.

(2.5) The board of county commissioners in each county shall adopt official written policies for implementing aspects of the Colorado works program that counties have the statutory authority and flexibility to determine under this part 7. Such policies shall include, without limitation, a description of the kinds of assistance available under the Colorado works program within the county, any eligibility criteria for assistance that may be unique to the county, and the process by which such eligibility and assistance is determined on an individual basis. Such policies shall not be construed to create an entitlement to any service or benefit under the Colorado works program in any county for any applicant or participant, and shall not limit the flexibility of a county to respond to the individual circumstances of a participant. The board of county commissioners in each county shall make such policies available to applicants and participants.

(3) (a) No person in a work activity described in section 26-2-703 (21) shall be

employed by, or assigned to, an employer if:

(I) Any other person is on layoff from the same or any substantially equivalent job with such employer; or

(II) Such employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of the workforce in order to fill the vacancy with a participant; or

(III) Placement of the person with the employer will result in a reduction of hours, regular or overtime, wages, or benefits of persons currently employed by the employer; or

(IV) The position is available due to a labor dispute, strike, lockout, or violation of a collective bargaining agreement.

(b) A uniform statewide grievance procedure for resolving complaints of alleged violations of displacements shall be established by the department of labor and employment.

(c) All state and federal laws affecting workers and employers shall apply to all participants, including but not limited to state and federal minimum and prevailing wage laws, workers' compensation, unemployment insurance, occupational safety and health administration coverage where applicable, the federal "Fair Labor Standards Act of 1938", as amended, all federal, state, and local antidiscrimination laws, and all labor laws affecting the rights of employees to organize.

(d) All participants shall be entitled to the same wages and benefits, including but not limited to sick leave and holiday and vacation pay, as are offered to employees who are not participants and who have similar training or experience performing the same or similar work at a specific work place.

(4) (a) A county may not use county block grant moneys except as specifically authorized pursuant to the provisions of this part 7 and rules promulgated by the state board or state department to implement the provisions of this part 7. If the state department has reason to believe that a county has misused county block grant moneys and has given the county an opportunity to cure the misuse and the county has failed to cure, the state department may reduce the county's block grant for the succeeding state fiscal year by an amount equal to the amount of moneys misused by the county.

(b) A county found out of compliance with its performance contract or any provision of the works program may be assessed a financial sanction. The financial sanction must be replaced by county moneys. The state board shall promulgate rules for county sanctions that include financial sanctions and may include other sanctions. Any moneys resulting from the imposition of a financial sanction shall be transmitted to the Colorado long-term works reserve created in section 26-2-721, but only if the state has not incurred a federal sanction for the same act that gave rise to the county sanction.

(5) (a) County departments are authorized to administer hardship and domestic violence extensions for needy families that have exceeded the sixty-month lifetime limit for receipt of assistance set forth in the federal law. The county departments shall approve

or deny hardship extensions or domestic violence extensions pursuant to fair and objective criteria established by the state board. The state board, by rule, shall establish hardship criteria, and each county shall apply the hardship criteria to all participants seeking extensions. A county, in its written county policies, may define additional reasons for granting hardship extensions. A county may not grant hardship or domestic violence extensions for a duration longer than six months.

(b) All participants shall have the opportunity to request extensions in their counties of residence. A participant who has been granted an initial extension may request additional extensions prior to the end of the current extension period. If a participant fails to request an extension on a timely basis, an extension may be granted if the participant demonstrates good cause. Whether good cause has been established shall be determined at the sole discretion of the county department and shall not be appealable.

(c) The state department shall send notice to participants approaching the sixty-month limit on lifetime receipt of assistance pursuant to subsection (2) of this section. The county departments shall make all reasonable efforts to contact a participant by phone or in person to explain the extension process and to accept a request for an extension. Participants may also make such requests in writing.

(d) A person who is granted a hardship extension or a domestic violence extension shall be required to complete an individual responsibility contract and shall be required to follow all the terms and conditions of the IRC, including the participation activities required of the participant as a condition of the extension, as outlined in the IRC.

(e) Sanctions and terminations pursuant to section 26-2-711 shall apply during the period of an extension granted pursuant to this section. Participants may appeal adverse actions consistent with sections 26-2-127 and 26-2-710.

(f) The county department shall have thirty days after the receipt of a request for an extension to make a decision whether to grant or deny the extension. When granting the extension the county department shall send notice of such extension to participants. The county department shall send a denial notice to a participant who applies for but is denied a hardship extension due to lack of available extensions or for any other reason, which reason shall be included. The county department shall send a denial notice to a participant who applies for but is denied a domestic violence extension, which shall include the reason for the denial. If the state exceeds the twenty-percent numerical limit on the number of extensions that may be granted under the federal law due to the inclusion of domestic violence extensions, then the state department shall determine how many of those domestic violence extensions qualify as domestic violence waivers granted pursuant to section 26-2-708 (5) and if this determination indicates that the state exceeds the twenty-percent numerical limit due to domestic violence extensions that qualify as domestic violence waivers, the state department shall demonstrate to the federal government that its failure to comply with the sixty-month limit was attributable to federally recognized good cause domestic violence waivers in accordance with the

provisions of 45 CFR 260, subpart B.

(g) The state board shall promulgate rules establishing the criteria for hardship extensions and for establishing a system for allocating the number of extensions available for each county.

(h) Nothing in this section shall be construed to prohibit a former participant from requesting a hardship or domestic violence extension, after the lapse of the sixty-month lifetime limit, when new hardship or domestic violence factors occur, to the extent permissible under state and federal law.

(i) This subsection (5) shall only apply to participation in the Colorado works program, as contained in this part 7.

(6) In the event that a county is unable to meet the need for assistance pursuant to section 26-2-709 (2), it may impose cost-reducing measures, including but not limited to proportionate reductions in such assistance, establishment of waiting lists for such assistance, or elimination of such assistance.

(7) A county that encompasses an Indian reservation shall consult with the respective Indian tribe concerning the administration and implementation of the works program by that county. Such consultation shall include but not be limited to:

(a) Possible exemption of the Indian tribe from the sixty-month time limit of the federal law if that tribe has more than one thousand members and an unemployment rate that exceeds fifty percent;

(b) Collection of statistical data on participants, funding for tribal data collection and tribal administration of federally and tribally funded programs;

(c) Cooperation and agreement concerning when a tribal member shall be referred to his or her respective tribe for assistance in finding work and how the costs for such assistance may be reimbursed by or otherwise shared with the county.

(8) (Deleted by amendment, L. 2008, p. 1969, § 18, effective January 1, 2009.)

(9) County departments shall assist families in completing the reporting requirements for transitional medicaid. This shall include informing 1931 medicaid recipients, as defined in section 25.5-4-103 (1), C.R.S., of the transitional medicaid eligibility requirements and the required reporting calendar.

(10) A county department shall assist participants in applying for and receiving the earned income tax credit under applicable rules of the federal internal revenue service.

26-2-717. Reporting requirements. (1) The state department shall submit, in a timely and accurate manner, case record information on participants to the federal government as required by federal law.

(2) to (4) (Deleted by amendment, L. 2008, p. 1970, § 19, effective January 1, 2009.)

26-2-718. Regionalization. (1) In the event that two or more counties agree to administer and implement the Colorado works program jointly, such counties shall submit resolutions from their boards of county commissioners to the state department that reflect their intention to administer and implement the Colorado works program jointly.

(2) The state department shall make a determination to approve or deny the resolutions and notify the counties within thirty days after the receipt of the resolutions.

(3) The state department, in conjunction with the boards of county commissioners of the affected counties, shall determine administrative, programmatic, and reporting requirements in connection with the joint operation of the works program by the counties.

26-2-719. Private contracting. The state department and any county department are authorized to award contracts for the administration, implementation, or operation of any aspect of the works program to any appropriate public, private, or nonprofit entity in accordance with applicable county regulations, federal law, and the provisions of the state procurement code, articles 101 to 112 of title 24, C.R.S.

26-2-720. Short-term works emergency fund - repeal. (Repealed)

26-2-720.5. County block grant support fund - created. (1) The state department shall create a county block grant support fund that shall consist of moneys annually appropriated thereto by the general assembly. Any unexpended moneys remaining in the county block grant support fund at the end of a fiscal year shall be remitted to the Colorado long-term works reserve.

(2) The state department, with input from the works allocation committee, shall allocate moneys in the county block grant support fund to counties according to criteria and procedures established by the state department and the works allocation committee.

(3) A county that meets the criteria established by the state department and the works allocation committee pursuant to subsection (2) of this section may request moneys from the county block grant support fund. Priority shall be given to any county that exhausts all moneys available in the county's block grant for the Colorado works program for that fiscal year.

(4) The state department, with input from the works allocation committee, may allocate moneys to counties out of the county block grant support fund during the state fiscal year or at the end of a state fiscal year.

(5) The state department shall annually report to the joint budget committee on any allocations made from the county block grant support fund, including the amount

requested by each county and the county's reason for requesting the moneys, and the amount allocated to each county and the reasons for the state department's decision regarding each request.

26-2-721. Colorado long-term works reserve - creation - use. (1) There is hereby created the Colorado long-term works reserve, referred to in this section as the "reserve", that shall consist of unappropriated TANF block grant moneys, state general fund moneys appropriated thereto by the general assembly, and moneys transferred thereto pursuant to sections 26-2-714 (5) (a), 26-2-716 (4) (b), 26-2-720.5 (1), and 26-2-721.3 (1). A county's excess unspent TANF reserves that are transferred to another county pursuant to section 26-2-714 (5) (a) (I) (B) or (5) (a) (I) (C) shall not be considered unappropriated TANF block grant moneys for purposes of this section. Any excess unspent TANF reserves for state fiscal year 2009-10 shall be excluded from the Colorado long-term works reserve and shall be available for transfer to a county pursuant to section 26-2-714 (5) (a) (I) (B).

(2) The general assembly, upon request of the state department, may appropriate the moneys in the reserve for the purposes of:

(a) Implementing the works program, including but not limited to:

(I) Funding the Colorado works program maintenance fund created in section 26-2-721.3; and

(II) Repealed.

(b) Transfers that are allowed under the federal law for transfers to programs funded by Title XX of the social security act or for transfers to the child care development fund.

(3) Prior to requesting any appropriations from the reserve for the purpose of making transfers, the state department shall consult with counties and provide information to the joint budget committee for the purposes of ensuring that all transfers of TANF funds do not exceed the federal limits for transfers and ensuring that the needs of counties to make transfers authorized pursuant to section 26-2-714 (7) and (9) are considered.

26-2-721.3. Colorado works program maintenance fund - creation - use - report. (1) There is hereby created the Colorado works program maintenance fund, referred to in this section as the "maintenance fund". The maintenance fund shall consist of moneys appropriated thereto by the general assembly from the Colorado long-term works reserve. The moneys in the maintenance fund shall be subject to annual appropriation by the general assembly to the executive director for use in responding to emergency or otherwise unforeseen purposes that are authorized by this part 7 or by federal law and that are necessary for the efficient and effective implementation of the

Colorado works program at the state and county levels. Any unexpended moneys remaining in the maintenance fund at the end of a fiscal year shall revert to the Colorado long-term works reserve.

(2) On or before February 15, 2009, and on or before February 15 each year thereafter, the executive director shall report to the joint budget committee and the health and human services committees of the senate and the house of representatives, or any successor committees, concerning the use of moneys appropriated to the maintenance fund in the preceding fiscal year.

26-2-721.5. Strategic allocation committee - created - duties - repeal. (Repealed)

26-2-721.7. Colorado works statewide strategic use fund - created - allocations - rules - evaluation - report - repeal. (Repealed)

26-2-722. Legislative oversight committee - created - repeal. (Repealed)

26-2-723. Evaluation - state department - repeal. (Repealed)

26-2-724. Colorado works - screening for substance abuse and mental health problems - repeal. (Repealed)

PART 8

COLORADO CHILD CARE
ASSISTANCE PROGRAM

26-2-801. Short title. This part 8 shall be known and may be cited as the "Colorado Child Care Assistance Program Act".

26-2-802. Legislative declaration. (1) The general assembly hereby finds and declares that the state's policies in connection with the provision of child care assistance and the effective delivery of such assistance are critical to the ultimate success of any welfare reform program. The general assembly further finds that children in low-income

families who receive services through a child care assistance program need and deserve the same access to a broad range of child care providers as do children in families who do not need assistance.

(2) Therefore, the general assembly hereby finds and declares that it is in the best interests of the state to adopt the Colorado child care assistance program set forth in this part 8. The general assembly further finds and declares that it is in the best interests of the state to adopt consistent, statewide child care provider reimbursement rates set at a floor of the seventy-fifth percentile of each county's market rate or the provider's rate, whichever is lower, to facilitate and increase access to high-quality child care for low-income families.

26-2-803. State department authority - provider rates.

(1) Repealed.

(2) The state department shall establish provider rates for the counties. After notice to the state department, a county may opt out of adhering to the state department provider rates and negotiate its own rates with such providers.

26-2-804. Funding - allocation - maintenance of effort. (1) Subject to available appropriations, a county's block grant for the Colorado child care assistance program for state fiscal year 1997-98 shall be determined by the state department and shall be based upon not less than one hundred percent of the state and federal moneys that the county received in state fiscal year 1996-97 to administer and implement JOBS-related child care and the Colorado child care assistance program, including the administrative costs related to such programs. The state department shall consider factors that include but are not limited to the following:

(a) Historical expenditures on the Colorado child care assistance program;

(b) The number of children in the county under thirteen years of age;

(c) The number of low-income families in the county; and

(d) Provider rates in the county, as established pursuant to section 26-2-803 (2).

(2) In state fiscal years 1998-99 and thereafter, the state department may adjust the county block grant identified in subsection (1) of this section by increasing or reducing the amount of such grants based upon factors that shall include but not be limited to:

(a) The county's population and the Colorado works program caseload;

(b) The unemployment rate in the county based upon the state department of labor and employment assessment of county unemployment rates for the prior year;

(c) The county's performance in meeting the obligations under the performance contract with the state department pursuant to the provisions of section 26-2-715;

(d) The fact that the county received funds from the county block grant support

fund, created in section 26-2-720.5, in the previous fiscal year for allowable child care expenditures, which may indicate that the previous fiscal year's allocation was insufficient to meet the county's needs.

(3) The moneys in a county block grant allocated to a county pursuant to subsection (1) of this section may only be used for the provision of child care services under rules promulgated by the state department.

(4) and (5) Repealed.

(6) For state fiscal year 2005-06 and for each state fiscal year thereafter, each county shall be required to meet a level of county spending for the Colorado child care assistance program that is equal to the county's proportionate share of the total county funds set forth in the annual general appropriation act for the Colorado child care assistance program for that state fiscal year. The level of county spending shall be known as the county's maintenance of effort for the program for that state fiscal year. For any state fiscal year, the state department is authorized to adjust a county's maintenance of effort, reflected as a percentage of the total county funds set forth in the annual general appropriation act for the Colorado child care assistance program for that state fiscal year, so that the percentage equals the county's proportionate share of the total state and federal funds appropriated for the Colorado child care assistance program for that state fiscal year, reflected as a percentage. For any state fiscal year, the sum of all counties' maintenance of effort shall be equal to or greater than the total county funds set forth in the general appropriation act for the state fiscal year 1996-97 for employment-related child care.

26-2-805. Services - eligibility - assistance provided - rules. (1) (a) Subject to available appropriations, and pursuant to rules promulgated by the state department, a county shall provide child care assistance to a participant or any person or family whose income is not more than one hundred thirty percent of the federal poverty line.

(b) (I) Subject to available appropriations and pursuant to rules promulgated by the state department, and except as provided for in subparagraph (II) of this paragraph (b), a county shall provide child care assistance for a family transitioning off the works program due to employment or training without requiring the family to apply for low-income child care, but shall redetermine the family's eligibility within six months after the transition, and may provide child care assistance for any other family whose income does not exceed eighty-five percent of the state median income for a family of the same size. A recipient of child care assistance shall be responsible for paying a portion of such child care based upon the recipient's income and the formula developed by rules of the state board. For any participant or any person or family whose income rises to the level set by the county at which the county may deny said participant, person, or family child care assistance, the county is strongly encouraged to continue to provide such assistance for a

period of six months; except that in no event shall assistance be provided if said income exceeds the maximum level for eligibility for services set by federal law for a family of the same size. During such period the county shall work with said participant, person, or family to provide a gradual transition off of the child care assistance provided pursuant to this paragraph (b) over a six-month period.

(II) A family transitioning off of the works program shall not be automatically transitioned to the Colorado child care assistance program pursuant to subparagraph (I) of this paragraph (b) if any of the following apply:

(A) The family is leaving the works program due to a violation of program requirements as defined in part 7 of this article, rule of the state board, or policy of a county department;

(B) The family is leaving the works program for training and the county in which the family resides does not include training as an eligible activity for low-income child care;

(C) The family is leaving the works program due to employment and will be at an income level that exceeds the county-adopted income eligibility limit for the county's child care assistance program; or

(D) The county in which the family resides has a waiting list for the county's child care assistance program.

(c) A participant who is employed shall pay a portion of his or her income for child care assistance under the Colorado child care assistance program. The amount that such a participant shall be required to pay under the provisions of this paragraph (c) shall be determined by a formula that shall be established by rules of the state board.

(d) On and after January 1, 2005, a county may require a person who receives child care assistance pursuant to this section and who is not otherwise a participant to apply, pursuant to section 26-13-106 (2), for child support establishment, modification, and enforcement services related to any support owed by obligors to their children and to cooperate with the delegate child support enforcement unit to receive these services; except that no person shall be required to submit a written application for child support establishment, modification, and enforcement services if the person shows good cause to the county implementing the Colorado child care assistance program for not receiving these services. On or before October 1, 2004, the state board shall promulgate rules for the implementation of this paragraph (d), including but not limited to rules establishing good cause for not receiving these services, and rules for the imposition of sanctions upon a person who fails, without good cause as determined by the county implementing the Colorado child care assistance program, to apply for child support enforcement services or to cooperate with the delegate child support enforcement unit as required by this paragraph (d).

(e) (I) For a family with a child who is enrolled in both the Colorado child care assistance program created in this part 8 and in a head start program, the family's

eligibility redetermination for child care assistance shall occur no sooner than the end of the last month of the child's first full twelve-month program year of enrollment in the head start program. Child care assistance program eligibility redetermination for a child enrolled in both programs shall occur once every twelve months thereafter.

(II) For a family with a child who is solely enrolled in the Colorado child care assistance program created in this part 8 or dually enrolled with an early education program other than head start or early head start, the family's eligibility redetermination for child care assistance shall occur once every twelve months.

(III) Notwithstanding the provisions of section 26-1-127 (2) (a), a family that receives child care assistance pursuant to this part 8 shall not be required to report income or activity changes during the twelve-month eligibility period; except that, within the twelve-month eligibility period, a family shall be required to report a change in income if the family's income exceeds eighty-five percent of the state median income. If a family is no longer participating in the eligible activity under which it was made eligible in the child care case, the family shall report that change within four weeks from the time it ceased participating in the eligible activity.

(IV) A parent shall not be determined ineligible to receive child care assistance pursuant to this part 8 as a result of:

(A) Taking maternity leave; or

(B) Being a separated spouse or parent under a validly issued temporary order for parental responsibilities or child custody where the other spouse or parent has disqualifying financial resources.

(1.5) If a county reduces its income eligibility requirements, a child receiving child care assistance services when the change is implemented shall continue to receive said services until the family's next eligibility redetermination or for six months, whichever is longer.

(2) A county shall have the authority to develop a voucher system for participants pursuant to which participants could secure relative or unlicensed child care.

(2.5) An early care and education provider may conduct a pre-eligibility determination for child care assistance for a family to facilitate the determination process. The early care and education provider shall submit its pre-eligibility documentation to the county for final determination of eligibility for child care assistance. The early care and education provider may provide services to the family prior to final determination of eligibility and shall be reimbursed for such services only if the county determines the family is eligible for services and there is no need to place the family on a waiting list. If the family is found ineligible for services, the early care and education provider shall not be reimbursed for any services provided during the period between its pre-eligibility determination and the county's final determination of eligibility.

(3) As used in this section, unless the context otherwise requires:

(a) "Early care and education provider" means a school district or provider that is

licensed pursuant to part 1 of article 6 of this title or that participates in the Colorado preschool program pursuant to article 28 of title 22, C.R.S.

(b) "Head start program" means a program operated by a local public or private nonprofit agency designated by the federal department of health and human services to operate a head start program under the provisions of Title V of the federal "Economic Opportunity Act of 1964", as amended.

(c) "Participant" means a participant in the Colorado works program as defined in section 26-2-703 (15).

26-2-805.5. Exemptions - requirements. (1) Notwithstanding any provision of section 26-2-805 to the contrary, an exempt family child care home provider, as defined in section 26-6-102 (3.7), shall not be eligible to receive child care assistance moneys through the Colorado child care assistance program if he or she fails to meet the criteria established in section 26-6-120.

(2) As a prerequisite to entering into a valid Colorado child care assistance program contract with a county office or to being a party to any other payment agreement for the provision of 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, an exempt family child care home provider shall sign an attestation that affirms he or she, and any qualified adult residing in the exempt family child care home, has not been determined to be insane or mentally incompetent by a court of competent jurisdiction and a court has not entered, pursuant to part 3 or 4 of article 14 of title 15, C.R.S., or section 27-65-109 (4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the provider cannot safely operate an exempt family child care home.

26-2-806. No individual entitlement. (1) Nothing in this part 8 or any rules promulgated pursuant to this part 8 shall be interpreted to create a legal entitlement in any person to child care assistance.

(2) No county may create or shall be deemed to create a legal entitlement in any person to assistance under this part 8.

26-2-807. Child care provider reimbursement rate task force - creation - duties - repeal. (Repealed)

26-2-808. Pilot program to continue child care assistance with modifications -

legislative declaration - county participation - report - repeal. (1) The general assembly declares that the purpose of this section is to create a pilot program to study whether a new approach to the Colorado child care assistance program can mitigate the circumstance, referred to in this section as the "cliff effect", that sometimes occurs when working parents who are participants in the Colorado child care assistance program receive a minor increase in their income that makes them ineligible for child care assistance and the increase in wages is not enough to cover the costs for child care without the child care assistance. The general assembly finds that this phenomenon often creates disincentives for families to achieve self-sufficiency. The general assembly also encourages counties participating in the pilot program to create effective public and private partnerships with nonprofit organizations and businesses to find additional innovative ways to continue child care assistance for working parents as an economic benefit to families and for continuity of quality early education for the child. The general assembly finds that allowing working parents to continue to receive child care assistance through the pilot program established in this section will be beneficial to:

(a) Children who are able to continue in a stable day care environment;

(b) Working parents who are able to continue to work and advance in their jobs and become more self-sufficient; and

(c) Employers who have a work force that is more stable because their employees have consistent child care arrangements and have an incentive to stay with and advance in the same employment.

(2) Beginning on April 13, 2012, the state department is authorized to develop and oversee a pilot program in which the Colorado child care assistance program as outlined in section 26-2-805 is modified to mitigate the cliff effect for low-income families that are working and receiving child care assistance, referred to in this section as the "pilot program". County departments of social services may apply to the executive director or his or her designee to participate in the pilot program. The executive director or his or her designee may select up to ten counties that will participate in the pilot program as described in this section. In selecting the counties, the executive director or his or her designee shall seek diversity in the size of population, regional location, and demographic composition.

(3) Subject to available appropriations, a county that is participating in the pilot program shall continue to provide child care assistance for a period of up to two years for any person who has been receiving child care assistance from the county and whose income exceeds the county-adopted income eligibility limit for the county's child care assistance program. The county shall require a parent who is receiving extended child care assistance to pay a series of incremental increases in the portion of the parental share of the child care costs on a scheduled basis based upon a formula established by the county; except that assistance shall not be provided if said income exceeds the maximum level for eligibility for services set by federal law for a family of the same size. The

county shall work with the person to provide a gradual transition off of the child care assistance over a two-year period. Each county department shall set its own parental fee schedule and may consult with the state department on setting the parental fee schedule.

(4) A family that is receiving child care assistance for an extended period of time under the pilot program shall report income changes to the county during the two-year period and is subject to a redetermination by the county after the first twelve months.

(5) As part of the pilot program, a county is encouraged to create effective public and private partnerships with nonprofit organizations and businesses to find innovative ways to supplement its child care assistance program funds to help parents continue to pay for child care, including the possibility of using the Colorado child care contribution credit pursuant to section 39-22-121, C.R.S., to leverage additional moneys to provide a stipend to assist the family through the time period after the family's income makes them ineligible or at risk of being ineligible for child care assistance.

(6) A county may participate in the pilot program on and after July 1, 2012, and through July 1, 2016. A county shall operate the pilot program for at least two years. A county may apply to participate in the pilot program on or before January 1, 2014. Each participating county shall collect data on the pilot program and shall work with the state department to evaluate and report on the pilot program using measurable outcomes.

(7) The state department shall compile the data submitted by the counties pursuant to subsection (6) of this section and submit a report on the pilot program with the state department's findings and recommendations to the house health and environment committee and to the senate health and human services committee, or any successor committees. The state department shall submit its report on or before October 1, 2015.

(8) This section is repealed, effective July 1, 2016.

PART 9

COLORADO SELF-SUFFICIENCY AND EMPLOYMENT ACT

26-2-901 to 26-2-905. (Repealed)

PART 10

INCENTIVES FOR SELF-SUFFICIENCY

26-2-1001. Short title. This part 10 shall be known and may be cited as the "Individual Development Account Act".

26-2-1002. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) The unrealized and lost human resource potential of low-income and working-poor individuals of this state results in an overall loss to the potential of the entire state;

(b) It is in the best interests of all Coloradans to structure incentives in a way that will result in a greater likelihood that low-income and working-poor individuals will attain self-sufficiency;

(c) It is in the best interests of all Coloradans to concentrate appropriate assets and investments on low-income and working-poor individuals and in low-income and working-poor neighborhoods and communities in order to allow low-income individuals, neighborhoods, and communities to benefit from the developments achieved through the growth in assets and investments;

(d) Achieving self-sufficiency and assessing economic opportunity for low-income and working-poor individuals can be addressed through public policy that invests in asset accumulation and is supported by private sector philanthropy;

(e) Providing a structured savings situation for low-income and working-poor individuals enhances such individuals' chances of fulfilling major life goals and opportunities and incorporates such individuals into the economic mainstream; and

(f) Such self-sufficiency may, in turn, result in fewer people needing to seek public assistance.

(2) Therefore, the general assembly hereby authorizes the implementation of an individual development account program to provide incentives and motivation for low-income and working-poor individuals and families to develop and concentrate assets and investments for use by such individuals who are striving for self-sufficiency and need a jump-start for economic opportunity.

26-2-1003. Definitions. As used in this part 10, unless the context otherwise requires:

(1) "Charitable donor" means a person who contributes to a sponsoring organization for the purposes of the IDA program.

(2) "Financial institution" means an organization that is federally insured and is authorized to do business under state or federal laws relating to financial institutions and includes a bank, trust company, savings bank, building and loan association, savings and loan company or association, and credit union.

(3) "Individual development account" means a contract of deposit between a depositor and a financial institution selected by a sponsoring organization.

(4) "Program" or "IDA program" means the individual development account program established pursuant to this part 10.

(5) "Service provider" means an institution of higher education; a provider of

occupational or vocational education; a trade school; a bank, savings and loan, or other mortgage lender; a title company; or the lessor or vendor of any office supplies, office equipment, retail space or office space or other business space, or such other provider of goods or services to be used for the commencement of a business.

(6) "Sponsoring organization" means a nonprofit organization that is exempt from taxation under section 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, that participates in IDA programs, and that verifies authorized use of individual development accounts.

26-2-1004. Individual development account program - rules. (1) The IDA program shall provide that eligible individuals who establish individual development accounts, as set forth in section 26-2-1005, shall receive the benefit of matching moneys payable directly to the service provider at the time of the eligible individual's expenditure of the moneys in his or her individual development account for any of the following purposes:

(a) Securing postsecondary education, including but not limited to community college courses, courses at a four-year college or university, or post-college, graduate courses for either the individual or the individual's dependent;

(b) Securing postsecondary occupational training, including but not limited to vocational or trade school training for either the individual or the individual's dependent;

(c) Purchasing a home for the first time, either individually or with another family member; or

(d) Business capitalization.

(2) In addition to the purposes set forth in subsection (1) of this section, an eligible individual may expend up to ten percent of the total moneys from his or her individual development account for supportive counseling, mentoring, tutoring, or other related services as provided by sponsoring organizations and as approved by such individual development account holders.

26-2-1005. Eligibility for participation in the individual development account program. (1) Sponsoring organizations that elect to participate in the program shall recruit individuals or households to participate in the IDA program and shall determine the eligibility of prospective participants based upon the criteria set forth in this subsection (1). All individuals within one family or a single individual shall be eligible to be selected for participation in the IDA program if the individual or household meets the following requirements:

(a) The individual's or household's income may not exceed two hundred percent of the federal poverty line when applied to the savings goals of postsecondary education or

business capitalization. The individual's or household's income may not exceed eighty percent of the area median income when applied to the savings goal of home ownership.

(b) An individual within a household has entered into an individual development account agreement with a sponsoring organization.

(c) An individual within a household has established an individual development account with a financial institution selected by the sponsoring organization and has made a commitment, as set forth in this section, to save and match philanthropic sources of moneys that are available to match the individual or household contributions to the individual development account. The individual development account shall accrue interest.

(d) The individual or the household may only open one individual development account.

(e) The individual submitting the application is a citizen of the United States and is a legal resident of the state.

(2) All of the following duties shall be undertaken by one or more sponsoring organizations:

(a) To determine the eligibility of individuals or households to participate in the IDA program;

(b) To counsel such individuals and households about the IDA program;

(c) To conduct orientations with individuals or households on the philosophy underlying the IDA program and the general requirements of the program;

(d) To facilitate the opening of individual development accounts with participating financial institutions;

(e) To provide credit counseling, budgeting, and financial management training to the program participants;

(f) To jointly develop specific goals and performance criteria with each program participant;

(g) To set appropriate matching ratios of philanthropic moneys to contributions made by program participants;

(h) Repealed.

(i) To raise contributions for the IDA program.

(3) The program participant may withdraw contributions made by the participant for uses other than those uses authorized under this program one time but, upon the second such action, shall be terminated from the IDA program. A participant who has been terminated from the IDA program may withdraw all moneys that the participant contributed to the account along with any interest accrued on the participant's contribution.

(4) The maximum amount of moneys in an individual development account that may be matched by a charitable donor is ten thousand dollars. The individual may deposit an amount greater than ten thousand dollars, but funds in excess of ten thousand dollars

are subject to any applicable state and federal income taxes, and shall not be matched by a charitable donor. Only one account per family may be established in the IDA program; except that every member of the family may utilize the account.

(5) Nothing in this part 10 shall be construed to create an entitlement to matching moneys. The number of individuals who may receive disbursement of matching philanthropic moneys by sponsoring organizations pursuant to the IDA program shall necessarily be limited by the amount of philanthropic moneys available in any given year for such purpose.

(6) and (7) Repealed.

PART 11

TRANSITIONAL JOBS PROGRAM

26-2-1101. Legislative declaration. (1) The general assembly hereby finds and declares:

(a) Transitional jobs have proven to be an effective policy response to stubbornly high unemployment rates and the difficulties that many smaller employers face in filling job vacancies and expanding job opportunities. Transitional jobs have helped to:

(I) Stabilize individuals and families with earned income;

(II) Stimulate local economies through wages paid;

(III) Contribute to the economic health of employers;

(IV) Provide unemployed and underemployed adults an opportunity to experientially learn, model, and practice successful workplace behaviors that will help them to get and keep unsubsidized employment;

(V) Build work histories and references for participants to more easily move into unsubsidized and stable employment;

(VI) Address barriers to work that have kept the unemployed and underemployed out of the regular labor market; and

(VII) Reduce recidivism and public costs.

(b) Colorado has already demonstrated the value of transitional jobs through its successful HIRE Colorado initiative. Operated with federal funds from October 2009 through September 2010, HIRE Colorado provided transitional jobs to over one thousand seven hundred unemployed Coloradans, enabling them to do productive, wage-paying work for local governments, nonprofit agencies, and for-profit employers. According to data from the Colorado department of human services, HIRE Colorado helped nearly seventy-five percent of its participants to move into unsubsidized employment. In states whose transitional jobs programs focused on those with the most acute job search challenges, nearly fifty percent, an unusually high success rate for such a population,

moved into unsubsidized work.

(c) While nationally unemployment is falling slowly and although Colorado's unemployment rate is better than the national average, Coloradans still face difficulty in finding full-time jobs. According to a recent analysis, nearly two hundred thousand Coloradans are "officially" unemployed, but there are fewer than seventy-five thousand job openings. At the same time that unemployed and underemployed Coloradans struggle to find employment in the face of this job shortage, many employers have found it difficult to fill the job vacancies they do have. Transitional jobs are part of the solution to both unemployment and unfilled job vacancies.

26-2-1102. Definitions. As used in this part 11, unless the context otherwise requires:

(1) "Employer of record" means an organization that has been selected by the state department to be responsible for providing the following employer services, in an effective and efficient manner and at the lowest cost, with respect to transitional job workers who perform work for a host site employer:

(a) Payment of wages to a transitional job worker, upon receipt from the host-site employer of certification, in the manner prescribed by the state department, that the transitional job worker has worked a specified number of hours;

(b) Withholding and payment of payroll taxes, including FICA, medicare, and, if applicable, unemployment insurance taxes, to the appropriate federal and state agencies;

(c) Provision, if applicable, of worker's compensation coverage;

(d) Preparation and distribution of federal and state tax forms, including W-2 and I-9 forms; and

(e) Provision of such other formal employer functions as the department of human services may prescribe.

(2) "Host-site employer" means the employer that agrees with the local agency contractor to be responsible for:

(a) Selecting, training, and supervising a transitional jobs worker;

(b) Certifying to the employer of record, in the manner prescribed by the department of human services, the number of hours that the transitional jobs worker has worked for the employer; and

(c) Cooperating with the local agency contractor in facilitating the movement of the transitional jobs worker into unsubsidized employment; except that the host site employer shall not be required to offer unsubsidized employment to the transitional jobs worker.

(3) "Local agency contractor" means the governmental, nonprofit, or for-profit organizations that the state department has chosen, through a competitive request for proposals and contracting process, to be responsible for administering the transitional jobs

program at the local level, including:

(a) Outreach to prospective transitional jobs workers;

(b) Recruitment of potential transitional jobs workers;

(c) Orientation of transitional jobs workers;

(d) Provision to transitional jobs workers of access to case management;

(e) Provision of job coaching to transitional jobs workers, both prior to and following their selection by host-site employers;

(f) Introduction of transitional jobs workers to host-site employers;

(g) Ongoing communication with host site employers concerning workplace issues with the goal that early identification and prompt resolution will help transitional jobs workers to succeed on the job and move into unsubsidized employment; and

(h) Collection of data required by the state department, including utilization of the common statewide data collection system identified by the state department for data reporting and documentation of transitional jobs program outcomes and performance.

26-2-1103. Transitional jobs programs. (1) The state department shall administer a transitional jobs program. The transitional jobs program must:

(a) Seek to offer the opportunity to work in transitional jobs to eligible individuals from July 1, 2013, through December 30, 2014;

(b) To the greatest extent possible, provide priority transitional job offers to the following groups of eligible individuals, with the highest priority being given to individuals meeting one or more of the following categories:

(I) Noncustodial parents;

(II) Veterans; or

(III) Displaced workers that are fifty years of age or older;

(c) Pay eligible workers at least the applicable minimum wage; and

(d) Place transitional job workers, to the greatest extent feasible, with host-site employers that are small and medium-sized firms that have no more than fifty full-time-equivalent employees.

(2) To be eligible for a transitional job, an individual must:

(a) Be a legal United States resident or otherwise lawfully present and eligible for work in the United States;

(b) Be a resident of Colorado;

(c) Be at least eighteen years of age;

(d) Not be incarcerated and be able to work;

(e) Have a family income of below one hundred fifty percent of the federal poverty level, as adjusted for family size;

(f) Be unemployed or underemployed for no more than twenty hours per week, for at least four consecutive weeks; and

(g) Demonstrate that he or she has actively sought employment utilizing the public workforce system.

(3) An individual who is eligible for a transitional job under subsection (2) of this section may be offered a transitional job, subject to the availability of funds, on the following terms:

(a) The transitional job may not displace any existing employee, or result in filling a job from which an employee was recently terminated, or involve the transitional job worker in a labor dispute;

(b) The transitional job must pay at least the applicable minimum wage, and the wage may be increased with funds provided by the host site or a third party;

(c) The transitional job must provide no fewer than eight hours of work per week of transitional job work and may provide up to forty hours of work per week of transitional job work;

(d) Each transitional job may provide up to thirty total weeks of transitional job work, not to exceed three placements as a transitional job worker with up to three host sites; except that, subject to guidelines provided by the state department, a local agency contractor may offer and provide an individual who remains eligible for a transitional job additional weeks of transitional job work; and

(e) The individual employed in a transitional job must demonstrate that he or she is actively seeking employment utilizing the public workforce system.

(4) The transitional jobs program must operate throughout Colorado, but, based on the availability of funding, the state department may:

(a) Phase in the transitional jobs program in 2013 and 2014 or over a longer time period as determined necessary by the state department; or

(b) Limit the transitional jobs programs to urban and rural counties designated by the state department based on criteria relating to unemployment, poverty, and other factors that the state department identifies.

(5) The state department shall:

(a) Require data reporting and performance outcomes;

(b) Evaluate the outcomes of the transitional jobs program and present the results of its evaluation in a timely and structured manner; and

(c) Rigorously monitor all contracts and ensure full compliance by all contractors with their contractual obligations.

(6) The state department shall use a competitive request for proposal process to select local agency contractors and shall negotiate contracts with the government or nonprofit or for-profit organizations that submit the strongest proposals.

(7) The state department may offer incentives to local agency contractors for high performance.

(8) The state department shall:

(a) Determine the most effective and efficient process and mechanisms to provide

employer of record services;

(b) Establish standards and procedures for considering and approving the applications of organizations that apply to function as employers of record; and

(c) Approve the applications of those organizations that apply to be employers of record if the state department determines the organizations will meet all applicable standards in the most effective and efficient manner and at the lowest cost.

(9) An organization may submit an application to be an employer of record, a local agency contractor, or both. The state department shall review and make decisions about the application of an organization to be an employer of record in the same manner, and using the same criteria, regardless of whether the organization previously never was, previously was, currently is, previously applied to be, or is currently applying to be a local agency contractor. The state department shall review and make decisions about the application of an organization to be a local agency contractor in the same manner, and using the same criteria, regardless of whether the organization never was, previously was, currently is, previously applied to be, or is currently applying to be an employer of record. An employer of record or a local agency contractor, consistent with criteria that the state department may establish, may also serve as a host site employer.

(10) The state department shall utilize any moneys for the transitional jobs program in the following manner:

(a) Transitional jobs program moneys must be used to reimburse the employer of record for the following wage-related costs for each individual who works in a transitional job:

(I) Wage costs equal to the number of hours of transitional jobs work performed for and certified by a host-site employer times the agreed upon wage, which wage must be at least the applicable minimum wage but may be defined by the funding source; and

(II) All resulting payroll taxes, including the employer of record's share of FICA taxes, medicare taxes, any applicable unemployment insurance taxes, and any applicable worker's compensation costs.

(b) The host site or a third party may increase the wage per hour or other compensation that an individual employed in a transitional job receives and shall be responsible for all wages, payroll tax, and other costs associated with the increase.

(c) Transitional jobs program moneys also shall be used to pay for:

(I) Administrative costs incurred by the state department, including payments to employers of record; and

(II) Payments to competitively selected local contracting agencies, pursuant to their contracts, for program and administrative costs actually incurred.

26-2-1104. Repeal. This part 11 is repealed, effective July 1, 2017.

ARTICLE 3

Protective Services

26-3-101 to 26-3-114. (Repealed)

ARTICLE 3.1

Protective Services for Adults
at Risk of Mistreatment or Self-neglect

PART 1

PROTECTIVE SERVICES FOR AT-RISK ADULTS

26-3.1-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "At-risk adult" means an individual eighteen years of age or older who is susceptible to mistreatment, self-neglect, or exploitation because the individual is unable to perform or obtain services necessary for his or her health, safety, or welfare or lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person or affairs.

(2) "Caretaker" means a person who:

(a) Is responsible for the care of an at-risk adult as a result of a family or legal relationship;

(b) Has assumed responsibility for the care of an at-risk adult; or

(c) Is paid to provide care or services to an at-risk adult.

(2.3) "Caretaker neglect" means neglect that occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision is not secured for an at-risk adult or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercise; except that the withholding, withdrawing, or refusing of any treatment, including but not limited to resuscitation, cardiac pacing, mechanical ventilation, dialysis, artificial nutrition and hydration, any medication or medical procedure or device, in accordance with any valid medical directive or order, or as described in a palliative plan of care, shall not be deemed caretaker neglect. As used in this subsection (2.3), "medical directive or order" includes

but is not limited to a medical durable power of attorney, a declaration as to medical treatment executed pursuant to section 15-18-104, C.R.S., a medical order for scope of treatment form executed pursuant to article 18.7 of title 15, C.R.S., and a CPR directive executed pursuant to article 18.6 of title 15, C.R.S.

(2.5) "Clergy member" means a priest; rabbi; duly ordained, commissioned, or licensed minister of a church; member of a religious order; or recognized leader of any religious body.

(3) "County department" means a county or district department of social services.

(4) "Exploitation" means an act or omission committed by a person that:

(a) Uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive an at-risk adult of the use, benefit, or possession of his or her money, assets, or property;

(b) In the absence of legal authority:

(I) Employs the services of a third party for the profit or advantage of the person or another person to the detriment of the at-risk adult; or

(II) Forces, compels, coerces, or entices an at-risk adult to perform services for the profit or advantage of the person or another person against the will of the at-risk adult; or

(c) Misuses the property of an at-risk adult in a manner that adversely affects the at-risk adult's ability to receive health care or health care benefits or to pay bills for basic needs or obligations.

(5) "Financial institution" means a state or federal bank, savings bank, savings and loan association or company, building and loan association, trust company, or credit union.

(6) "Least restrictive intervention" means acquiring or providing services, including protective services, for the shortest duration and to the minimum extent necessary to remedy or prevent situations of actual mistreatment, self-neglect, or exploitation.

(7) "Mistreatment" means an act or omission that threatens the health, safety, or welfare of an at-risk adult or that exposes an at-risk adult to a situation or condition that poses an imminent risk of death, serious bodily injury, or bodily injury to the at-risk adult. "Mistreatment" includes, but is not limited to:

(a) Abuse that occurs:

(I) Where there is infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation;

(II) Where unreasonable confinement or restraint is imposed; or

(III) Where there is subjection to nonconsensual sexual conduct or contact classified as a crime under the "Colorado Criminal Code", title 18, C.R.S.;

(b) Caretaker neglect.

(c) (Deleted by amendment, L. 2012.)

(8) "Person" means one or more individuals, limited liability companies, partnerships, associations, corporations, legal representatives, trustees, receivers, or the state of Colorado, and all political subdivisions and agencies thereof.

(9) "Protective services" means services provided by the state or political subdivisions or agencies thereof in order to prevent the mistreatment, self-neglect, or exploitation of an at-risk adult. Such services include, but are not limited to: Receiving and investigating reports of mistreatment, self-neglect, or exploitation, providing casework and counseling services, and arranging for, coordinating, delivering where appropriate, and monitoring services, including medical care for physical or mental health needs, protection from mistreatment, assistance with application for public benefits, referral to community service providers, and initiation of probate proceedings.

(10) "Self-neglect" means an act or failure to act whereby an at-risk adult substantially endangers his or her health, safety, welfare, or life by not seeking or obtaining services necessary to meet his or her essential human needs. Choice of lifestyle or living arrangements shall not, by itself, be evidence of self-neglect. Refusal of medical treatment, medications, devices, or procedures by an adult or on behalf of an adult by a duly authorized surrogate medical decision maker or in accordance with a valid medical directive or order, or as described in a palliative plan of care, shall not be deemed self-neglect. Refusal of food and water in the context of a life-limiting illness shall not, by itself, be evidence of self-neglect. As used in this subsection (10), "medical directive or order" includes, but is not limited to, a medical durable power of attorney, a declaration as to medical treatment executed pursuant to section 15-18-104, C.R.S., a medical orders for scope of treatment form executed pursuant to article 18.7 of title 15, C.R.S., and a CPR directive executed pursuant to article 18.6 of title 15, C.R.S.

26-3.1-102. Reporting requirements. (1) (a) A person specified in paragraph (b) of this subsection (1) who observes the mistreatment, self-neglect, or exploitation of an at-risk adult or who has reasonable cause to believe that an at-risk adult has been mistreated, is self-neglected, or has been exploited and is at imminent risk of mistreatment, self-neglect, or exploitation is urged to report such fact to a county department not more than twenty-four hours after making the observation or discovery.

(a.5) As required by section 18-6.5-108, C.R.S., certain persons specified in paragraph (b) of this subsection (1) who observe the abuse or exploitation of an at-risk elder, as defined in section 18-6.5-102 (1) and (10), C.R.S., or who have reasonable cause to believe that an at-risk elder has been abused or exploited or is at imminent risk of abuse or exploitation shall report such fact to a law enforcement agency not more than twenty-four hours after making the observation or discovery.

(b) The following persons, whether paid or unpaid, are urged to report as described in paragraph (a) of this subsection (1):

(I) Physicians, surgeons, physicians' assistants, osteopaths, physicians in training, podiatrists, occupational therapists, and physical therapists;

(II) Medical examiners and coroners;

(III) Registered nurses, licensed practical nurses, and nurse practitioners;

(IV) Emergency medical service providers;

(V) Hospital and long-term care facility personnel engaged in the admission, care, or treatment of patients;

(VI) Chiropractors;

(VII) Psychologists and other mental health professionals;

(VIII) Social work practitioners;

(IX) Clergy members;

(X) Dentists;

(XI) Law enforcement officials and personnel;

(XII) Court-appointed guardians and conservators;

(XIII) Fire protection personnel;

(XIV) Pharmacists;

(XV) Community-centered board staff;

(XVI) Personnel of banks, savings and loan associations, credit unions, and other lending or financial institutions;

(XVII) A caretaker, staff member, or employee of or volunteer or consultant for a licensed or certified care facility, agency, home, or governing board, including but not limited to home health providers; and

(XVIII) A caretaker, staff member, employee of, or a volunteer or consultant for, a home care placement agency, as defined in section 25-27.5-102 (5), C.R.S.

(c) In addition to those persons urged by this subsection (1) to report known or suspected mistreatment, self-neglect, or exploitation of an at-risk adult and circumstances or conditions that might reasonably result in mistreatment, self-neglect, or exploitation, any other person may report such known or suspected mistreatment, self-neglect, or exploitation and circumstances or conditions that might reasonably result in mistreatment, self-neglect, or exploitation of an at-risk adult to the local law enforcement agency or the county department. Upon receipt of such report, the receiving agency shall prepare a written report within forty-eight hours.

(2) Pursuant to subsection (1) of this section, the report shall include:

(a) The name and address of the at-risk adult;

(b) The name and address of the at-risk adult's caretaker, if any;

(c) The age, if known, of the at-risk adult;

(d) The nature and extent of the at-risk adult's injury, if any;

(e) The nature and extent of the condition that will reasonably result in mistreatment, self-neglect, or exploitation; and

(f) Any other pertinent information.

(3) A copy of the report prepared by the county department in accordance with subsections (1) and (2) of this section shall be forwarded within twenty-four hours to the district attorney's office and a local law enforcement agency. A report prepared by a local law enforcement agency shall be forwarded within twenty-four hours to the county department and to the district attorney's office.

(4) No person, including a person specified in subsection (1) of this section, shall knowingly make a false report of mistreatment, self-neglect, or exploitation to a county department or local law enforcement agency. Any person who willfully violates the provisions of this subsection (4) commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., and shall be liable for damages proximately caused thereby.

(5) Any person, except a perpetrator, complicitor, or coconspirator, who makes a report pursuant to this section shall be immune from any civil or criminal liability on account of such report, testimony, or participation in making such report, so long as such action was taken in good faith and not in reckless disregard of the truth or in violation of subsection (4) of this section.

(6) No person shall take any discriminatory, disciplinary, or retaliatory action against any person who, in good faith, makes a report or fails to make a report of suspected mistreatment, self-neglect, or exploitation of an at-risk adult.

(7) (a) Except as provided in paragraph (b) of this subsection (7), reports of the mistreatment, self-neglect, or exploitation of an at-risk adult, including the name and address of any at-risk adult, member of said adult's family, or informant, or any other identifying information contained in such reports, shall be confidential, and shall not be public information.

(b) Disclosure of a report of the mistreatment, self-neglect, or exploitation of an at-risk adult and information relating to an investigation of such a report shall be permitted only when authorized by a court for good cause. Such disclosure shall not be prohibited when:

(I) A criminal complaint, information, or indictment based on the report is filed;

(II) There is a death of a suspected at-risk adult from mistreatment, self-neglect, or exploitation and a law enforcement agency files a formal charge or a grand jury issues an indictment in connection with the death; or

(III) Such disclosure is necessary for the coordination of multiple agencies' investigation of a report or for the provision of protective services to an at-risk adult.

(c) Any person who violates any provision of this subsection (7) is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

26-3.1-103. Evaluations - investigations - rules. (1) The agency receiving a

report of mistreatment, self-neglect, or exploitation of an at-risk adult shall immediately make a thorough evaluation of the reported level of risk. The immediate concern of the evaluation shall be the protection of the at-risk adult. The evaluation, at a minimum, shall include a determination of a response time frame and whether an investigation of the allegations is required. If a county department determines that an investigation is required, the county department shall arrange for an investigation and subsequent provision of protective services to be conducted by persons trained to conduct such investigations and provide protective services.

(2) Each county department, law enforcement agency, district attorney's office, and other agency responsible under federal law or the laws of this state to investigate mistreatment, self-neglect, or exploitation of at-risk adults shall develop and implement cooperative agreements to coordinate the investigative duties of such agencies. The focus of such agreements shall be to ensure the best protection for at-risk adults. The agreements shall provide for special requests by one agency for assistance from another agency and for joint investigations. The agreements shall further provide that each agency shall maintain the confidentiality of the information exchanged pursuant to such joint investigations.

(3) Each county or contiguous group of counties in the state in which a minimum number of reports of mistreatment, self-neglect, or exploitation of at-risk adults are annually filed shall establish an at-risk adult protection team. The state board shall promulgate rules to specify the minimum number of reports that will require the establishment of an adult at-risk protection team. The at-risk adult protection team shall review the processes used to report and investigate mistreatment, self-neglect, or exploitation of at-risk adults, review the provision of protective services for such adults, facilitate interagency cooperation, and provide community education on the mistreatment, self-neglect, and exploitation of at-risk adults. The director of each county department shall create or coordinate a protection team for the respective county in accordance with rules adopted by the state board of human services, which rules shall govern the establishment, composition, and duties of the team and shall be consistent with this subsection (3).

(4) Repealed.

26-3.1-104. Provision of protective services for at-risk adults - consent - nonconsent - least restrictive intervention. (1) If a county director or such director's designee determines that an at-risk adult is being mistreated, self-neglected, or exploited, or is at risk thereof, and the at-risk adult consents to protective services, the county director or designee shall immediately provide or arrange for the provision of protective services, which services shall be provided in accordance with the provisions of 28 CFR part 35, subpart B.

(2) If a county director or designee determines that an at-risk adult is being or has been mistreated, self-neglected, or exploited, or is at risk thereof, and if the at-risk adult appears to lack capacity to make decisions and does not consent to the receipt of protective services, the county director is urged, if no other appropriate person is able or willing, to petition the court, pursuant to part 3 of article 14 of title 15, C.R.S., for an order authorizing the provision of specific protective services and for the appointment of a guardian, for an order authorizing the appointment of a conservator pursuant to part 4 of article 14 of title 15, C.R.S., or for a court order providing for any combination of these actions.

(3) Any protective services provided pursuant to this section shall include only those services constituting the least restrictive intervention.

26-3.1-105. Prior consent form. (Repealed)

26-3.1-106. Training. The general assembly strongly encourages training that focuses on detecting circumstances or conditions that might reasonably result in mistreatment, self-neglect, or exploitation of an at-risk adult for those persons who are urged by section 26-3.1-102 (1) to report known or suspected mistreatment, self-neglect, or exploitation of an at-risk adult.

26-3.1-107. Background check. Each county department shall require each protective services employee hired on or after May 29, 2012, to complete a fingerprint-based criminal history records check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation. The employee shall pay the cost of the fingerprint-based criminal history records check unless the county department chooses to pay the cost. Upon completion of the criminal history records check, the Colorado bureau of investigation shall forward the results to the county department. The county department may require a name-based criminal history records check for an applicant or an employee who has twice submitted to a fingerprint-based criminal history records check and whose fingerprints are unclassifiable.

26-3.1-108. Rules. The state department shall promulgate appropriate rules for the implementation of this article.

26-3.1-109. Limitation. Nothing in this article shall be construed to mean that a person is mistreated, neglected, exploited, or in need of emergency or protective services

for the sole reason that he or she is being furnished or relies upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of that person's recognized church or religious denomination, nor shall anything in this article be construed to authorize, permit, or require any medical care or treatment in contravention of the stated or implied objection of such a person.

26-3.1-110. Report concerning the implementation of mandatory reporting of elder abuse and exploitation - repeal. (1) On or before December 31, 2016, the state department shall prepare and deliver to the joint budget committee and to the health and human services committee of the senate; the health, insurance, and environment committee of the house of representatives; and the public health care and human services committee of the house of representatives, or to any successor committee, a report concerning the implementation of Senate Bill 13-111, enacted in 2013, and mandatory reports of abuse and exploitation of at-risk elders, as described in section 18-6.5-108, C.R.S.

(2) To the extent that the state department is able to provide the data, the report shall include, but need not be limited to, the following information:

(a) Caseload information, including the number of reports and number of investigations that resulted in substantiation of allegations;

(b) Demographic information related to each at-risk elder, alleged perpetrator, and reporting party involved in each report;

(c) The availability and utilization of services for at-risk elders who have experienced abuse or exploitation, or the lack of availability of such services;

(d) Community outreach, training, and other activities undertaken by the state department or county departments to inform the public and train persons who are required to report or to investigate allegations of abuse or exploitation of at-risk elders;

(e) Data concerning program expenditures at both the state and local levels;

(f) Average per-worker caseload; and

(g) Information concerning quality assurance activities.

(3) This section is repealed, effective January 1, 2017.

PART 2

FINANCIAL EXPLOITATION OF
AT-RISK ADULTS

26-3.1-201 to 26-3.1-208. (Repealed)

PART 3

ELDER ABUSE TASK FORCE

26-3.1-301. (Repealed)

ARTICLE 4

Colorado Medical Assistance Act

26-4-101 to 26-4-1408. (Repealed)

ARTICLE 4.5

Alternatives to Long-term Nursing Home Care

26-4.5-101 to 26-4.5-404. (Repealed)

ARTICLE 4.6

Task Force on Long-term Health Care

26-4.6-101 to 26-4.6-105. (Repealed)

ARTICLE 5

Child Welfare Services

26-5-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Capped allocation" means a capped amount of funds distributed to counties

or a group of counties for the purpose of providing all or a portion of the child welfare services as defined in subsection (3) of this section.

(1.5) "Caseload" means the number of children who are eligible for child welfare services that are defined in subsection (3) of this section and who are currently receiving such child welfare services on a regular basis from a county.

(2) "Child welfare allocations committee" means a committee that is organized and authorized pursuant to the provisions of section 26-5-103.5.

(3) "Child welfare services" means the provision of necessary shelter, sustenance, and guidance to or for children who are or who, if such services are not provided, are likely to become neglected or dependent, as defined in section 19-3-102, C.R.S. "Child welfare services" includes but is not limited to:

(a) Child protection;

(b) Risk assessment;

(c) Permanency planning;

(d) Treatment planning;

(e) Case management;

(f) Core services, as defined in rules promulgated by the state department, as authorized in sections 26-5-102 and 26-5.5-104;

(g) Adoption and subsidized adoption;

(h) Emergency shelter;

(i) Out-of-home placement, including foster care;

(j) Utilization review;

(k) Early intervention and prevention;

(l) Youth-in-conflict functions;

(m) Administration and support functions;

(n) Services described in section 19-3-208, C.R.S.; and

(o) (I) Provision of verifiable documents to youth who plan to emancipate from foster care.

(II) Verifiable documents shall include, but need not be limited to, a certified copy of the youth's birth certificate and a social security card. The cost of providing the verifiable documents shall not be borne by the youth.

(4) "County" means a county or a city and county or any two or more counties.

(5) "Governing body" means the board of county commissioners of a county or the city council and mayor of a city and county.

(6) "Targeted allocation" means a fixed amount of funds from a capped allocation to a group of counties that is designated for a specific county within that group of counties.

26-5-102. Provision of child welfare services - system reform

goals. (1) (a) The state department shall adopt rules to establish a program of child welfare services, administered by the state department or supervised by the state department and administered by the county departments, and, where applicable, in accordance with the conditions accompanying available federal funds for such purpose. The rules shall establish a fee based upon the child support guidelines set forth in section 14-10-115, C.R.S., requiring those persons legally responsible for the child to pay for all, or a portion, of the services provided under this article. Notwithstanding the rules establishing a fee for services provided under this article, when it serves the best interest of a child, a county department may exempt a family from responsibility for payment of fees for core services, as defined in rules promulgated by the state department. The state department is authorized to promulgate rules to implement the provisions of this article relating to the allocation of funds to counties for the delivery of child welfare services.

(b) Upon appropriate request and within available appropriations, child welfare services shall be provided for any child residing or present in the state of Colorado who is in need of such services. Foster care fees shall be considered child support obligations, and all remedies for the enforcement and collection of child support shall apply. Foster care fees established pursuant to section 14-10-115, C.R.S., may be collected pursuant to the administrative procedures to establish child support enforcement set forth in article 13.5 of this title. Due process is guaranteed in all actions regarding any such administrative process concerning foster care fees, and a court hearing of the matter before the district court may be obtained in the manner prescribed in section 26-13.5-105. Nothing contained in article 13.5 of this title shall be construed to deprive a court of competent jurisdiction from determining the duty of support of any obligor against whom an administrative order is issued pursuant to this article.

(2) Reforms in child welfare and related delivery systems shall be directed at the following objectives:

(a) More efficient and responsive service systems for children, youth, and families;

(b) Increased flexibility and collaboration across multiple agencies and funding streams to more appropriately meet consumer needs and avoid cost shifting between systems;

(c) Encouragement and authorization for a truly integrated service system that incorporates blended funding and administration;

(d) Focus on quality and outcome-driven services with accountability for an entire array of services that families need, rather than forcing families to be transferred from agency to agency;

(e) Development of data systems to support these goals and to allow administrators and policy makers to better manage and evaluate;

(f) Authority and incentives for creative solutions at the local level that are not bound by the constraints of current agency barriers and categorical funding streams,

including authority for local policy makers to create new entities incorporating blended funding and administration;

(g) Successful training efforts directed at county staff, judges, court staff, providers, parents, and families and other appropriate entities that are involved in managed care service systems, which training efforts shall include, but not be limited to, the operation of the child welfare training academy created in section 26-5-109. Notwithstanding any limitation of the "M" notation of the appropriation in the annual appropriation act for child welfare services, the state department is authorized to expend any additional federal or private funding that may be available to support the training efforts identified in this subsection (2).

(h) Promotion of the development of a family-centered, community-based strategy for placement decisions that includes team decision making, family-group decision making, or other agency decision making processes that involve the family and community supports;

(i) Promotion of the local placement of children with families by recruiting and supporting family foster homes within the neighborhoods and communities in which identified children reside.

26-5-103. Coordination with other programs. The program of child welfare services established pursuant to this article shall be coordinated with other social services and assistance payments programs for children of this state and shall be rendered in complement of, and not in duplication of or contrary to, legal processes provided by the "Colorado Children's Code" and services rendered under any public assistance law or other law for the benefit of children, including assistance under the Colorado works program, as described in part 7 of article 2 of this title.

26-5-103.5. Child welfare allocations committee - organization - advisory duties. (1) A child welfare allocations committee shall be convened by the state department as necessary in order to make advisory recommendations as described in this article.

(2) The child welfare allocations committee shall consist of eleven members, eight of whom shall be appointed by a statewide association of counties and three of whom shall be appointed by the state department. Of the members appointed by the statewide association of counties, at least two members shall be from small or medium-sized counties, and at least three shall be from large counties. The appointing authorities shall consult with each other to ensure that the child welfare allocations committee is representative of the counties in the state. A representative from the county that has the greatest percentage of the state's child welfare caseload will automatically be appointed,

which appointment shall be credited against the eight appointments allocated to the statewide association of counties.

(3) The child welfare allocations committee shall develop its own operating procedures.

(4) No later than January 15, 1999, the state department, with input from the child welfare allocations committee, shall make recommendations to the joint budget committee of the general assembly for a definition of what shall constitute administration and support functions as referred to in section 26-5-101 (3) (m) and a method for identifying costs for such functions.

26-5-104. Funding of child welfare services - rules. (1) **Reimbursement.** The state department shall, within the limits of available appropriations, reimburse the county departments eighty percent of amounts expended by county departments for child welfare services, up to the amount of the county's allocation as determined pursuant to the provisions of this section, except as otherwise authorized in accordance with the close-out process described in subsection (7) of this section.

(2) **Parental fees.** The fiscal year beginning July 1, 1990, shall constitute the base fiscal year for the purpose of computing a base amount of parental fee collections by each county on behalf of children in foster care. Commencing with the fiscal year beginning July 1, 1991, any increased amount of parental fees over and above the base amount shall be retained by the county that collected such parental fees. Any moneys retained by each county pursuant to this subsection (2) may be used for child welfare services directed toward early intervention, placement prevention, and family preservation, or any other program funded pursuant to sections 19-2-211, 19-2-212, and 19-2-310, C.R.S.

(3) **Allocation formula.** (a) For state fiscal year 1997-98, and for each state fiscal year thereafter, the state department, after input from the child welfare allocations committee, shall develop formulas for capped and targeted allocations that shall include, effective for state fiscal year 1998-99, the estimated caseload for the delivery of those specific child welfare services to be funded by the moneys in such capped or targeted allocations. If a county receives more than one capped or targeted allocation for the delivery of child welfare services, the formula shall identify the specific caseload estimate attributable to each capped or targeted allocation. The determination of the formulas pursuant to the provisions of this subsection (3) shall also take into consideration such factors as:

(I) (Deleted by amendment, L. 98, p. 782, § 5, effective May 22, 1998.)

(II) The county's allocations and expenditures for child welfare services in the three previous state fiscal years and a comparison of the spending in those prior years with the caseloads in the respective prior state fiscal years;

(III) (Deleted by amendment, L. 98, p. 782, § 5, effective May 22, 1998.)

(III.5) Beginning with the 2012-13 state fiscal year, the county's prior fiscal year

expenditures on preventive family preservation services and the number of families served; and

(IV) Other factors determined by the state department and the child welfare allocations committee that directly affect the population of children in need of child welfare services in a county.

(b) In the event that the state department and the child welfare allocations committee do not reach an agreement on the allocation formula on or before June 15 of any state fiscal year for the succeeding state fiscal year, the state department and the child welfare allocations committee shall submit alternatives to the joint budget committee of the general assembly from which such joint budget committee shall select an allocation formula before the beginning of such succeeding state fiscal year.

(c) The formulas developed by the state department, after input from the child welfare allocations committee, shall identify the portion of the amounts appropriated for child welfare services that shall be allocated to the counties for the provision of child welfare services.

(d) A county's election to make a transfer of federal funds pursuant to section 26-2-714 (9) for the provision of child welfare services shall not be the basis of an adjustment to the formula for developing such county's capped or targeted allocation under the provisions of this article.

(e) A county's cost savings shall not be the basis of an adjustment to the formula for developing such county's capped or targeted allocation under the provisions of this article.

(4) **Allocations.** (a) For state fiscal year 1997-98, and for each state fiscal year thereafter, all counties shall receive capped allocations for child welfare services. A county may receive one or more capped allocations for the provision of child welfare services. The counties may use capped allocation moneys for child welfare services without category restriction within a specific capped allocation if not prohibited by federal law.

(b) (I) The state department shall make capped allocations for counties serving at least eighty percent of the total child welfare services population.

(II) For the balance of the state, the state department shall create one capped allocation or a series of capped allocations for the provision of child welfare services in the balance of the state. The state department shall establish a targeted allocation for each county in such group of counties designated for the purpose of such capped allocation or capped allocations.

(c) The state department, in consultation with the child welfare allocations committee, shall adopt rules for when a county may exceed its capped or targeted allocation or allocations.

(d) The state department may only seek additional funding from the general assembly in a supplemental appropriations bill based upon caseload growth, subject to the

provisions of subsection (7) of this section, or changes in federal law or federal funding. For fiscal years 2006-07 and 2007-08, the state department may seek supplemental funding related to the implementation of the placement of children in a residential child health care program as specified in section 25.5-5-306, C.R.S.

(e) A county's allocation or allocations may be amended due to caseload growth, subject to the provisions of subsection (7) of this section, or changes in federal law or federal funding.

(5) **Management training.** The state department shall develop a management training package to be delivered to the counties no later than October 1, 1997, that shall assist the counties in the development of more effective management strategies for the utilization of resources in the delivery of child welfare services. The state department may utilize portions of the child welfare administration appropriations toward this end and is hereby authorized to pursue any private or public grants to fund such efforts.

(6) **County negotiations with providers.** (a) Subject to rules promulgated by the state department pursuant to paragraph (b) of this subsection (6), a county shall be authorized to negotiate rates, services, and outcomes with providers if the county has a request for proposal process in effect for soliciting bids from providers or another mechanism for evaluating the rates, services, and outcomes that it is negotiating with such providers that is acceptable to the state department.

(b) No later than January 1, 2008, the state department shall promulgate rules governing the methodology by which counties may negotiate rates, services, and outcomes with licensed providers.

(c) A county that negotiates or renegotiates rates, services, and outcomes pursuant to paragraph (a) of this subsection (6) shall include as part of such negotiations or renegotiations cost of living adjustments and provider rate increases approved by the general assembly.

(d) By July 1, 2008, and by July 1 of each even-numbered year thereafter, the state department shall complete a review of the methodology by which counties negotiate rates, services, and outcomes with licensed providers, which methodology is governed by rules promulgated by the state department pursuant to paragraph (b) of this subsection (6). In preparing for and conducting the review, the state department shall invite and accept the participation of representatives of the counties and the provider community.

(6.5) The state department shall analyze and evaluate expenditures as reported by child placement agencies each year and compare such expenditures to county expenditures for the provision of foster care services. The state department shall provide, at least on an annual basis, such analyses and comparisons to county departments.

(7) **Close-out process for county allocations.** (a) For state fiscal year 1998-99, and for each state fiscal year thereafter, and subject to the limitations set forth in this subsection (7), the state department may, at the end of a state fiscal year based upon the recommendations of the child welfare allocations committee, allocate any unexpended

capped funds for the delivery of specific child welfare services to any one or more counties whose spending has exceeded a capped allocation for such specific child welfare services.

(b) A county may only receive funds pursuant to the provisions of paragraph (a) of this subsection (7) if the requirements of section 26-5-103.5 (4) have been satisfied, for expenditures other than those attributable to administrative and support functions as referred to in section 26-5-101 (3) (m), as defined in accordance with the provisions of section 26-5-103.5 (4), and for authorized expenditures attributable to caseload increases beyond the caseload estimate established pursuant to subsection (3) of this section for a specific capped allocation.

(c) A county may not receive funds pursuant to the provisions of paragraph (a) of this subsection (7) for authorized expenditures attributable to caseload increases for services in one capped allocation from unexpended capped funds in another capped allocation.

(d) As used in this section, "unexpended capped funds" means funds that have been appropriated for child welfare services, allocated to a county or group of counties as a capped allocation or allocations pursuant to the provisions of subsection (4) of this section, but not spent by such county or group of counties or subject to the provisions of section 26-5-105.5 (3).

26-5-105. Reimbursement procedure. Claims for state reimbursement under this article shall be presented by the county departments to the state department at such times and in such manner as the state department may prescribe. The state department shall certify to the controller the amount approved, specifying the amount of each county's capped or targeted allocation. The amount so certified shall be paid from the state treasury, upon the voucher of the state department and warrant of the controller, to the respective county treasurers of the counties seeking the reimbursement, from money appropriated to the state department for the purpose of administering the provisions of this article.

26-5-105.3. Federal waivers. The state department shall pursue as soon as possible any waivers that may be necessary to implement this article, including but not limited to waivers for Title IV-E foster care services and medicaid.

26-5-105.4. Title IV-E waiver demonstration project - county performance agreements - Title IV-E waiver demonstration project cash fund created - rules - repeal. (1) There is hereby created in the state department the Title IV-E waiver

demonstration project, referred to in this section as the "project". In administering the project, the state department shall develop a process by which counties or groups of counties will participate in the project. Individual counties or groups of counties may participate in the project for the delivery of child welfare services.

(2) (a) Pursuant to the terms and conditions of the project established to integrate systemic child welfare reforms and innovative practices and any subsequent written documentation that modifies the federal requirements governing the implementation of the project, the state department is hereby authorized to enter into performance agreements with individual counties or groups of counties. An individual county or group of counties that enters into a performance agreement with the state department is exempt from the rules of the state department and state board governing the delivery of child welfare services, as such exemptions to rules are identified in the performance agreement. An exemption in a performance agreement must not negatively impact child safety, permanency, well-being, or compliance with federal requirements.

(b) Any moneys provided to an individual county or a group of counties through a performance agreement may be awarded to the individual county or group of counties separate from and in addition to the capped or targeted allocation received pursuant to paragraph (a) of subsection (4) of this section.

(3) An individual county or group of counties that has entered into a performance agreement with the state department pursuant to subsection (2) of this section is required to participate in an evaluation of the project.

(4) (a) An individual county or group of counties that has entered into a performance agreement with the state department and that underspends in any state fiscal year the Title IV-E portion of its capped or targeted allocation or the moneys awarded to the individual county or group of counties through the project shall use fifty percent of the underspent moneys for additional child welfare services as defined in section 26-5-101 (3) and in a manner and time frame as described in their performance agreement. The balance of such underspent county Title IV-E moneys shall be transmitted to the state treasurer who shall credit the same to the Title IV-E waiver demonstration project cash fund, created in paragraph (b) of this subsection (4).

(b) There is hereby created the Title IV-E waiver demonstration project cash fund, referred to in this subsection as the "fund". Moneys credited to the fund are subject to annual appropriation by the general assembly to the state department for allocation to counties to help defray the costs of performing functions as defined in the performance agreement related to the implementation of the Title IV-E waiver demonstration project. Any moneys in the fund not expended for the purposes specified in this section 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 must be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year must remain in the fund and must not be credited or transferred or revert to the general

fund or any other fund.

(c) The general fund portion of the capped or targeted allocation of any individual county or group of counties that has entered into a performance agreement with the state department and underspends must continue to be distributed in accordance with sections 26-5-104 (7), 26-5-105.5, and 24-1.9-102 (2) (h), C.R.S. General fund savings distributed in accordance with either section 26-5-105.5 or 24-1.9-102 (2) (h), C.R.S., must be reinvested in child welfare services as stipulated in the performance agreement.

(5) Subsection (4) of this section supersedes the requirements found in section 26-1-111 (2) (d) (II) (A) concerning federal revenues earned by the state pursuant to Title IV-E of the federal "Social Security Act", as amended, that exceed the amount necessary to fully fund program, training, and administrative costs.

(6) The state department is authorized to contract for an external evaluation of the project, including the project activities completed by individual counties or groups of counties that have entered into performance agreements with the state department pursuant to this section.

(7) The state board shall promulgate rules as necessary for the implementation of this section.

(8) (a) On or before December 31, 2013, and each December 31 thereafter, the state department shall prepare a report concerning the status of the Title IV-E waiver demonstration project, as described in this section. The state department shall deliver the report to the joint budget committee, the health and human services committee of the senate, the health, insurance, and environment committee of the house of representatives, and the public health care and human services committee of the house of representatives, or any successor committees, no later than December 31 of each year.

(b) To the extent that the state department is able to provide the data, the report must include, but need not be limited to:

(I) The number of counties participating in the project;

(II) The interventions implemented by each county participating in the project;

(III) The outcomes achieved by the project as reported to the federal administration for children and families;

(IV) The moneys expended for the project; and

(V) Any need for additional legislation to further the accomplishment of goals of the project related to child safety, permanency, and well-being.

(9) This section is repealed, effective June 30, 2019.

26-5-105.5. State department integrated care management program - county performance agreements - authorized - performance incentive cash fund created - repeal. (1) (a) There is hereby created the state department integrated care management program. In administering the state department integrated care management program, the

state department shall develop, by rule, principles of integrated care management and a process to allow counties or groups of counties specified in section 26-5-104 (4) (b) (I) to participate in the program. Individual counties or groups of counties specified in section 26-5-104 (4) (b) (I) may participate in the integrated care management program for the delivery of child welfare services.

(b) and (c) (Deleted by amendment, L. 2002, p. 526, § 1, effective May 24, 2002.)

(2) The state department is hereby authorized to enter into performance agreements with individual counties or groups of counties specified in section 26-5-104 (4) (b) (I). A county that enters into a performance agreement with the state department shall be exempt from the rules of the state department and state board governing the delivery of child welfare services, as such exemptions are identified in the performance agreement.

(3) Any county that has entered into a performance agreement with the state department and underspends the general fund portion of its capped or targeted allocation may use those funds, not to exceed five percent of the general fund portion of its total capped or targeted allocation for child welfare services, to either reduce its county share by the amount of the underexpenditure or spend such moneys on additional services for children in the county. Any balance of the general fund portion of its capped or targeted allocation shall be used for additional services for children in the county.

(3.2) Repealed.

(3.5) **Evaluation.** (a) The state department is authorized to contract for an external evaluation of the performance agreements authorized pursuant to subsection (1) of this section. Any such external evaluation shall include any evaluation that may be required in connection with any waiver authorized pursuant to section 26-5-105.3. Criteria for and components of the evaluation shall be developed by the state department with input from the counties authorized pursuant to this section.

(b) (Deleted by amendment, L. 2001, p. 1172, § 9, effective August 8, 2001.)

(c) This subsection (3.5) is repealed on the date the executive director of the state department notifies the revisor of statutes that the state is no longer participating in the waiver authorized pursuant to Title IV-E of the federal "Social Security Act", as amended.

(3.7) The state board shall promulgate rules necessary to implement the integrated care management program established pursuant to this section.

(4) (Deleted by amendment, L. 2002, p. 526, § 1, effective May 24, 2002.)

26-5-105.7. Study of managed care - repeal. (Repealed)

26-5-106. Fraudulent acts. (Repealed)

26-5-107. Limitations of article. All child welfare services granted under this article shall be granted and held subject to the provisions of any amending or repealing law that may be passed after July 1, 1973, and no recipient shall have any claim for compensation or otherwise by reason of his services being affected in any way by any amending or repealing law.

26-5-108. Developmental assessment - rules. The appropriate county department of human services shall refer each child under five years of age who is the subject of a substantiated case of abuse or neglect to the appropriate state or local agency for developmental screening within sixty days after abuse or neglect has been substantiated. The state board shall promulgate rules to implement this section.

26-5-109. Child welfare training academy established - rules. (1) There is hereby established within the state department the child welfare training academy, referred to in this section as the "academy", to ensure that certain persons hired to work within child welfare services receive the necessary training to perform the functions of their jobs responsibly and effectively. The state department shall administer the academy in accordance with rules promulgated by the state department pursuant to subsection (2) of this section.

(2) On or before September 15, 2009, the state department shall promulgate rules for the administration of the academy. The rules shall include:

(a) Identification of specific job titles within child welfare services that shall be required to attain certification from the academy as a mandatory condition of employment;

(b) Identification of specific job titles within child welfare services that shall be required to complete ongoing or occasional training from the academy as a mandatory condition of employment;

(c) Establishment of minimum standards of competence that a person shall be required to demonstrate prior to receiving certification from the academy, which standards of competence shall include, but need not be limited to, a demonstrated ability to perform the duties described in section 19-3-313.5 (2), C.R.S.;

(d) Identification of means by which a person may demonstrate the minimum standards established pursuant to paragraph (c) of this subsection (2); and

(e) Establishment of alternative methods for attaining certification from the academy for persons who have already successfully completed comparable child welfare training, including a description of child welfare training that shall be deemed to be comparable to the training offered by the academy.

26-5-110. Guardianship assistance program - rules. (1) There is hereby established a guardianship assistance program in the state department, referred to in this section as the "program". Assistance from the program shall be made available to relatives, persons ascribed by the family as having a family-like relationship with the child, or persons who have had a prior significant relationship with the child who:

(a) Are committed to the child's or children's permanency;

(b) Were the foster parent or parents of the child or children at the time they assumed guardianship; and

(c) Have assumed guardianship of the child or children.

(2) The state department shall promulgate rules for the implementation of this section.

(3) (Deleted by amendment, L. 2012.)

26-5-111. Statewide child abuse reporting hotline system - legislative declaration - definitions - child abuse hotline steering committee - rules on consistent processes in response to reports and inquiries for information. (1) (a) The general assembly hereby finds, determines, and declares that the purpose of enacting this section is to:

(I) Create, based on recommendations of a steering committee with broad representation, a statewide child abuse reporting hotline system to serve as a direct, immediate, and efficient route to the applicable entity responsible for accepting the report and to the applicable entity responsible for responding to an inquiry and that is available twenty-four hours a day, seven days a week; and

(II) Authorize rule-making by the state board to ensure that there are standards for the consistent screening, assessment, and decision-making in response to reports of known or suspected child abuse and neglect and to inquiries made to a county department or to the hotline system.

(b) The general assembly declares that the hotline system to be developed as outlined in this section enhances the current child welfare system. The hotline system is intended to provide an additional option for the public to make an initial report of suspected or known child abuse or neglect or making an inquiry. The county department will retain screening responsibilities, unless the board of county commissioners of the county department has approved the use of the hotline system on behalf of the county and such arrangement has been approved by the executive director.

(2) As used in this section, unless the context otherwise requires:

(a) "Child abuse reporting hotline system" or "the hotline system" means the uniform method of contact that directly, immediately, and efficiently routes the person to the applicable entity responsible for accepting a report pursuant to section 19-3-307,

C.R.S., or to the applicable entity responsible for responding to an inquiry and that is advertised to the public as a place for reporting known or suspected child abuse or neglect or for making inquiries.

(b) "Information and referral" means an initial contact from the public which does not constitute a report of abuse or neglect but is an inquiry and the response to the inquiry, as defined in rule.

(c) "Inquiry" means a request for information or for specific services.

(d) "Mandatory reporter" means a person who is required to report child abuse or neglect pursuant to section 19-3-304, C.R.S.

(e) "Report" means an initial report of known or suspected child abuse or neglect.

(3) (a) The state department shall develop a child abuse hotline steering committee, including state, county, and comprehensive and appropriate stakeholder representation. The state department shall appoint a person to the steering committee who is a primary provider of emergency fire fighting services, law enforcement, ambulance, emergency medical, or other emergency services and who is familiar with the emergency telephone system that uses the single three-digit number 9-1-1 for reporting police, fire, medical, or other emergency situations. The steering committee is expected to develop an implementation plan for a statewide child abuse reporting hotline system, which is advertised to the public and to mandatory reporters, and to make recommendations for rules relating to the operation of the hotline system and relating to consistent practices for responding to reports and inquiries. The purpose of the hotline system is to provide a direct, immediate, and efficient route to the entity responsible for accepting a report pursuant to section 19-3-307, C.R.S. The public may also contact the hotline system for inquiries. The hotline system must operate twenty-four hours a day, seven days a week. The hotline may consist of multiple methods of communication, as prescribed by rules of the state board. The steering committee shall submit a report no later than July 1, 2014, containing its recommendations to the executive director, who shall provide the report to the state board. The hotline system shall be operational and publicized statewide no later than January 1, 2015.

(b) With the express written consent of the board of county commissioners of a county, a county department may request that the state department assist that county with the taking of calls or initial contacts from the public of reports of possible child abuse or neglect or of inquiries. The executive director of the state department must approve this arrangement in writing.

(c) Based upon the recommendations of the child abuse hotline steering committee, the state department shall establish a statewide child abuse reporting hotline system.

(4) The state board is authorized to adopt rules, based upon the recommendations of the child abuse hotline steering committee, and may revise rules, as necessary, including but not limited to the following:

(a) The type of technology that may be used by the hotline system for directly routing initial contacts from the hotline system to the applicable entity responsible for accepting reports pursuant to section 19-3-307, C.R.S., or to the applicable entity to respond to an inquiry, including but not limited to a single statewide toll-free telephone number, and including technologies for language translation and for communicating with people who are deaf or have hearing impairments, such as telecommunications devices for the deaf (TDD) or text telephone services (TTY), with flexibility to adapt the methods to changing and emerging technologies as appropriate;

(b) The operation of the hotline system, including the central record-keeping and tracking of reports and inquiries statewide, and a requirement that the record-keeping and tracking of reports and inquiries be accessible to all counties through the state's case management system;

(c) Rules governing the standards and steps for information and referral and how an inquiry is routed to the applicable entity responsible for responding to an inquiry;

(d) How an initial report to the hotline system is directly routed to the applicable entity responsible for accepting a report pursuant to section 19-3-307, C.R.S.;

(e) A formal process for a county department to opt to have the state department receive reports or inquiries on behalf of the county department after hours subject to a requirement that the board of county commissioners must officially approve the use of the hotline system on behalf of the county and such arrangement must be approved by the executive director;

(f) A process for a county department to opt to have another county department receive reports or inquiries on behalf of the county department after hours or on a short-term basis with notification of such arrangement to the executive director;

(g) Standardized training and certification standards for all staff prior to taking reports and inquiries;

(h) A consistent screening process with criteria and steps for the county department to follow in responding to a report or inquiry; and

(i) Rules establishing a consistent decision-making process with criteria and steps for the county department to follow when deciding how to act on a report or inquiry or when to take no action on a report or inquiry.

(5) The state department shall submit periodic reports to the appropriate legislative committee pursuant to the requirements of part 2 of article 7 of title 2, C.R.S., pertaining to the implementation or operation of the hotline system, the progress of implementing the hotline system, the outcomes from the operation of the hotline system, and the outcomes from the adoption of rules and practices for consistent screening, assessment, and decision-making for reports of known or suspected child abuse and neglect and for inquiries.

ARTICLE 5.3

Emergency Assistance for Families
with Children at Imminent Risk of
Out-of-Home Placement Act

26-5.3-101. Short title. This article shall be known and may be cited as the "Emergency Assistance for Families with Children at Imminent Risk of Out-of-Home Placement Act".

26-5.3-102. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The state of Colorado recognizes its obligation to protect and provide for the children in Colorado's child welfare system;

(b) The children at imminent risk of being placed out of the home are likely to be placed out of the home immediately if intervention services are not made available to such children and their families;

(c) Community and home-based services are effective in helping to avoid the need to place children out of their homes and to reunite children with their families. However, alternatives to out-of-home placement are available only to a small percentage of children in the state due to insufficient statewide resources.

(d) Families with children at imminent risk of being placed out of the home are families in crisis and in need of emergency assistance to avoid such placement or to reunite families when an emergency has resulted in an out-of-home placement, which assistance includes, but is not limited to, intensive family preservation services and other services designed to maintain a child at home;

(e) Federal financial participation is available to provide emergency assistance to needy families with children in the form of intake, assessment, counseling, treatment, and other family preservation services that meet needs of the family which are attributable to the emergency or crisis situation;

(f) The provision of emergency assistance is likely to reduce the escalating state general fund costs of out-of-home placements, thereby making moneys available for other necessary children and family services or programs; and

(g) Because the child welfare system is a contributing factor to the state's expenditures, it is important to maximize moneys available to the state for child welfare needs by making service delivery systems family-focused, cost-efficient, and accessible statewide.

(2) The general assembly further finds and declares that it is therefore appropriate

to authorize the implementation of an emergency assistance program for families with children at imminent risk of being placed out of the home. In addition, it is appropriate to develop a plan for the use of moneys saved as a result of providing emergency assistance to families.

26-5.3-103. Definitions. As used in this article, unless the context otherwise requires:

(1) Repealed.

(2) "At imminent risk of being placed out of the home" means that without intercession a child will be placed out of the home immediately.

(3) "Emergency assistance program" or "program" means the program for emergency assistance for families with children at imminent risk of out-of-home placement as authorized by this article.

26-5.3-104. Emergency assistance for families with children at imminent risk of being placed out of the home. (1) The executive director of the state department is hereby authorized to include in the state temporary assistance for needy families plan the establishment and implementation of an emergency assistance program for families with children at imminent risk of being placed out of the home. The purpose of the program shall be to meet the needs of the family in crisis due to the imminent risk of out-of-home placement by providing emergency assistance in the form of intake, assessment, counseling, treatment, and other family preservation services that meet the needs of the family which are attributable to the emergency or crisis situation.

(2) Nothing in this article shall prevent the state department from complying with federal requirements for a program of emergency assistance in order for the state of Colorado to qualify for federal funds under the federal "Social Security Act" and to use such federal funds for families with children at imminent risk of immediate out-of-home placement and to reunite children with their families, within the limits of available appropriations.

26-5.3-105. Eligibility requirements - period of eligibility - services available. (1) Families with children at imminent risk of out-of-home placement shall be eligible for emergency assistance. Assistance shall be available to or on behalf of a needy child under twenty-one years of age and any other member of the household in which the child lives if:

(a) Such child is living with any of the relatives described in section 26-2-103 (4) (a) in a place of residence maintained by the relative as the relative's own home;

(b) Such child is without resources immediately accessible to meet the child's needs; and

(c) The emergency assistance is necessary to avoid destitution or to provide living arrangements for the child in a home.

(2) Assistance shall be authorized for a family no more than once during a twelve-month period.

(3) Emergency assistance provided pursuant to this article shall be used for, but shall not be limited to, the following:

(a) Twenty-four-hour emergency shelter facilities or caretakers for children who must be removed from their homes in emergency situations;

(b) Counseling, including crisis counseling available by telephone twenty-four hours a day;

(c) Information referral;

(d) Intensive family preservation services;

(e) In-home supportive homemaker services;

(f) Services used to develop and implement a discrete case plan, as provided by the federal "Social Security Act";

(g) Day treatment services for children.

26-5.3-106. State's savings - cash fund created - use of moneys in fund - plan required. (1) There is hereby created a family issues cash fund. Moneys shall be deposited in the fund as follows:

(a) Any savings to the general fund realized as a result of federal financial participation available to the state based on the implementation of the emergency assistance program authorized by section 26-5.3-104;

(b) Any federal funds earned by the expenditure of moneys deposited in the cash fund.

(c) Repealed.

(1.5) All moneys in the fund shall be subject to annual appropriation by the general assembly and shall be used for the purposes set forth in the plan for improving the child welfare system in the state, developed in accordance with subsection (2) of this section, for the implementation of the emergency assistance program established pursuant to section 26-5.3-104, and for the family resource center program established pursuant to section 26-18-104. Federal funds received by the state for the emergency assistance program shall be used only for such program and not for any other purpose. In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the general fund. It is the general assembly's intent that no additional state or county general fund moneys shall be used to finance the implementation of the plan established in accordance with subsection (2) of this section.

(2) The state department shall develop a strategic plan for improving the child welfare system in the state and for using the moneys in the family issues cash fund created in subsection (1) of this section. The plan shall specify the source of general fund savings deposited in the cash fund. The plan shall provide that the moneys in the fund shall, at a minimum, be used for the following purposes:

(a) Repealed.

(b) The provision of services aimed at reuniting families and avoiding out-of-home placements;

(c) The provision of support services and programs for children and families aimed at preventing out-of-home placements;

(d) The examination and assessment of the feasibility and effectiveness of alternative methods for the provision of services and placement procedures for homeless adolescents or adolescents who are at-risk of being placed out of the home;

(e) The development and implementation of county pilot programs for at-risk children and their families; and

(f) The provision of an expedited procedure for permanent placement of children five years of age or younger who have been placed out of the home.

(3) Repealed.

ARTICLE 5.5

Family Preservation

26-5.5-101. Short title. This article shall be known and may be cited as the "Colorado Family Preservation Act".

26-5.5-102. Legislative declaration. (1) The general assembly finds and declares that:

(a) Maintaining a family structure to the greatest degree possible is one of the fundamental goals that all state agencies must observe, and the state's intervention in family dynamics should not exceed that which is necessary to rectify the cause for intervention;

(b) Out-of-home placement is often the most expensive and disruptive method of providing services to troubled families;

(c) It is becoming increasingly difficult to attract foster parents for the number of children placed out of the home;

(d) The principle of appropriate state intervention is a cornerstone of family

preservation services. Such services, when properly targeted and administered, provide states with an opportunity to initiate the systemic reform of children, youth, and families public services by providing services that are family-focused, outcome-driven, and cost-efficient.

(e) Family preservation programs implemented in other states, such as the "homebuilder's" model in the state of Washington, have resulted in improved family-functioning rates. Placement prevention rates of up to eighty-eight percent have been reported in some of the thirty-one states that have initiated some form of a family preservation program.

(f) A statewide family preservation program may be financed to provide intensive services for families where a child is at risk of an out-of-home placement based on criteria established by the state board of human services and to provide phased-in services aimed at reunifying families where a child has been placed out of the home, where appropriate, by tapping into other available federal funds or through moneys realized from cost avoidance in prevention of placement;

(g) On the basis of the foregoing, it is appropriate to enact the provisions of this article providing for the implementation of a statewide family preservation program that provides for immediate intensive services for at-risk families and phased-in services aimed at reunifying families, where appropriate, when the targeted families for intensive or reunification services have been served.

(2) It is the general assembly's intent that the implementation and financing of the statewide family preservation program be consistent with applicable federal mandates, including any federal financial participation requirements, and that the implementation of the program not place this state at risk of losing federal funds received by the state for children, youth, and families services prior to the enactment of this article.

26-5.5-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "At-risk family" means a family unit with a child who meets out-of-home placement criteria as established by the state board or who, without intervention, risks continued involvement with the child welfare system as established by the state board.

(1.5) Repealed.

(2) "Family preservation services" means services or assistance that focuses on family strengths and includes services that empower a family by providing alternative problem-solving techniques, child-rearing practices, responses to living situations that create stress upon the family, and resources that are available as support systems for the family. Family preservation services include, but are not limited to services and resources described in section 26-5.5-104.

(3) "Intensive services" means immediate, concentrated, and in-home crisis

intervention by one or more family development specialists who assist a family in developing strengths to cope with family stress.

26-5.5-104. Statewide family preservation program - creation - single state agency designated - program criteria established - available services - powers and duties of agencies - local oversight - feasibility report. (1) The executive directors of the departments of health care policy and financing and human services, through the promulgation of rules, may jointly develop, finance, and implement a statewide family preservation program, which program shall be fully implemented no later than July 1, 1996. The state department is hereby designated as the single state agency to administer the program in accordance with this article and applicable federal law.

(2) The program shall be implemented as follows:

(a) No later than January 1, 1996, services aimed at reunification of families shall, within available appropriations, be made available to appropriate families where a child has been placed out of the home;

(b) No later than July 1, 1996, family preservation services shall, within available appropriations, be available to serve appropriate families who are involved in, or who are at risk of being involved in, the child welfare, mental heath, and juvenile justice systems.

(3) Family preservation services shall, at a minimum, include the following:

(a) Screening to determine the appropriateness of providing family preservation services, including intensive services and reunification services, to a family;

(b) An assessment of the risk to a child and the needs of a child and the child's family, considering any special needs of a child and the cultural background of the family;

(c) Appropriate intervention to meet the assessed needs of the child and the child's family, taking into account the geographical location of the family and available resources in such locale;

(d) Referral to community services and support systems; and

(e) Follow-up care, where appropriate.

(4) (a) Intensive services shall be available for an at-risk family in the family home, as deemed necessary by the county department. Intensive services shall include, at a minimum:

(I) Family preservation services described in subsection (3) of this section; except that the screening of a family for intensive services shall occur within twenty-four hours after referral by the investigating or placement agency to decide the appropriateness of providing intensive services to the family where the child has been determined by the investigating or placement agency to be at imminent risk of out-of-home placement or at risk of continued involvement in the child welfare system;

(II) Crisis intervention, including in-home counseling, by a case manager or case

worker, which intervention shall be available on a twenty-four-hour basis;

(III) Concentrated assistance in the development and enhancement of parenting skills, stress reduction, and problem-solving from a case manager or case worker; and

(IV) Individualized and group counseling.

(b) (Deleted by amendment, L. 2008, p. 11, § 2, effective August 5, 2008.)

(c) Intensive services shall be available to a family for a child who requires a more restrictive level of care but who may be maintained at a less restrictive out-of-home placement or in his or her own home with services for a period of time as determined by rule of the state department.

(5) The state department of human services and county departments of social services may seek the assistance of any public or private entity in carrying out the duties set forth in this article. In addition, the state department may contract with any public or private entity in providing the services described in this article. Priority shall be given to vendors who provide the most geographically and culturally relevant services.

(6) On and after July 1, 1994, the executive director of the state department shall annually evaluate the statewide family preservation program and shall determine the overall effectiveness and cost-efficiency of the program. On or before the first day of October of each year, the executive director of the state department shall report such findings and shall make recommended changes, including budgetary changes, to the program to the general assembly, the chief justice of the supreme court, and the governor. In evaluating the program, the executive director of the state department shall consider any recommendations made by the inter-agency family preservation commission in accordance with section 26-5.5-106. To the extent changes to the program may be made without requiring statutory amendment, the executive director may implement such changes, including changes recommended by the commission acting in accordance with subsection (7) of this section.

(7) The inter-agency family preservation commission, established pursuant to section 26-5.5-106, shall be responsible for providing oversight of the local implementation of the statewide family preservation program. In providing oversight, the commission shall, on and after July 1, 1994, annually evaluate the overall effectiveness and cost-efficiency of the program and shall make recommended changes to the executive director of the state department. The commission shall submit to the executive director of the state department a report of its findings on or before the first day of September of each year.

26-5.5-105. Financing of family preservation program. The implementation of the statewide family preservation program shall be subject to the availability of federal financial participation for emergency assistance under Title IV-A of the federal "Social Security Act", other available federal funds, appropriations from the general assembly,

and moneys realized from avoiding costs related to out-of-home placements. In addition, the executive director of the state department is hereby authorized to accept any grants, donations, gifts, or contributions from any other private or public entity.

26-5.5-106. Family preservation commission - establishment or designation - duties. (1) The governing body of each county or city and county shall establish a family preservation commission for the county or city and county to carry out the duties described in subsection (2) of this section. The commission shall be interdisciplinary and multiagency in composition; except that such commission shall include at least two members from the public at large. The governing body may designate an existing board or group to act as the commission. A group of counties may agree to designate a regional commission to act collectively as the commission for all of such counties. A family preservation commission may be consolidated with other local advisory boards pursuant to section 24-1.7-103, C.R.S.

(2) It shall be the duty of each commission established or designated pursuant to subsection (1) of this section to hold periodic meetings and evaluate the family preservation program within the county or city and county, and to identify any recommended changes to such program. On and after July 1, 1994, the commission shall submit an annual report to the executive director of the state department. The report shall consist of an evaluation of the overall effectiveness and cost-efficiency of the program and any recommended changes to such program. The report shall be submitted on or before the first day of September of each year.

ARTICLE 5.7

Homeless Youth

26-5.7-101. Short title. This article shall be known and may be cited as the "Homeless Youth Act".

26-5.7-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "County department" means the county, city and county, or district department of social services.

(2) (a) "Homeless youth" means a child or youth who is at least eleven years of age but is less than twenty-one years of age and who:

(I) Lacks a fixed, regular, and adequate nighttime residence; or

(II) Has a primary nighttime residence that is:

(A) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations; or

(B) A public or private place not designed for, nor ordinarily used as, a regular sleeping accommodation for human beings.

(b) "Homeless youth" shall not include any individual imprisoned or otherwise detained pursuant to an act of congress or a state law.

(3) "Homeless youth shelter" means a facility that is licensed pursuant to section 26-6-104.

(3.5) "Licensed host family home" means a home that meets the requirements established by the state board by rule pursuant to section 26-6-106 (5).

(4) "Parent" means the legal custodian or guardian of the youth.

(5) "Youth" or "child" means any person who is at least eleven years of age but is less than twenty-one years of age.

26-5.7-103. Family reconciliation services. (1) Out of moneys appropriated to the state department for family reconciliation services, the state department may elect to contract directly with private nonprofit organizations or entities for the provision of family intervention reconciliation services or pass the moneys to a county department electing to provide such services. In such circumstances, the county department may provide the family intervention reconciliation services directly or the county department may contract with private nonprofit organizations or entities for the provision of such services. The county may also contract with private nonprofit organizations or entities for the provision of voluntary alternative residences pursuant to sections 26-5.7-107 and 26-5.7-108.

(2) Any county department may elect to establish a program to provide services consistent with this article. If a county department so elects, it shall notify the state department of such action, and any homeless youth or any member of a family that is in conflict or is experiencing problems with a homeless youth may request family reconciliation services from the county department. Such services may be provided to alleviate personal or family situations that present a serious and imminent threat to the health, safety, or welfare of the youth or family and to maintain intact families wherever possible. Services shall be provided at the discretion of the county department, within the county department's available resources.

(3) Family reconciliation services that may be established shall be designed to develop skills and support within families to resolve problems related to homeless youth or family conflicts and may include, but are not limited to, referral services for suicide prevention, family preservation services, psychiatric or other medical care, or

psychological, welfare, legal, educational, mediation, or other social services such as temporary shelter or independent living, as appropriate to the needs of the youth and the family. County departments that elect to provide family educational reconciliation services shall work in cooperation with school district boards of education providing educational services to homeless children in order to jointly develop educational programs for homeless youth consistent with section 22-33-103.5, C.R.S.

26-5.7-104. Taking youth into custody - transporting to residence or child care facility or homeless youth shelter. (1) A law enforcement officer may take a youth into temporary custody without an order of the court under the following circumstances:

(a) If a law enforcement agency has been contacted by the youth's parent and informed that the youth is absent from parental custody without consent; or

(b) If an officer has reasonable cause to believe, considering the youth's age, the youth's location, and the time of day, that the youth is in circumstances that constitute a danger to the youth's safety.

(2) Law enforcement custody pursuant to this section shall not extend beyond the amount of time reasonably necessary to transport the youth to a destination authorized pursuant to subsection (4) of this section.

(3) Nothing in this section shall affect the authority of a law enforcement officer to take a youth into custody and follow the procedures established pursuant to article 2 or 3 of title 19, C.R.S.

(4) A law enforcement officer taking a youth into custody pursuant to this section shall inform the youth of the reason for such custody and shall comply with either of the following:

(a) The officer shall transport the youth to the home of the youth's parent. The officer releasing the youth into the custody of the youth's parent shall inform the parent of the reason for taking the youth into custody and shall inform the youth and the parent of the nature and location of any family reconciliation services available in their community.

(b) The officer shall take the youth to a licensed child care facility or to a licensed homeless youth shelter if:

(I) The youth evinces fear or distress at the prospect of being returned to the home of the youth's parent;

(II) It is not practical to transport the youth to the home of the youth's parent; or

(III) There is no parent available to accept custody of the youth.

26-5.7-105. Child care facilities - homeless youth shelters - authority - duties. (1) Licensed child care facilities, licensed homeless youth shelters, and licensed host family homes may provide both crisis intervention services and alternative

residential services to homeless youth.

(2) Any youth admitted to a licensed child care facility, licensed homeless youth shelter, or licensed host family home pursuant to this article and who is not returned to the home of the youth's parent or is not placed in a voluntary alternative residential placement pursuant to section 26-5.7-107 shall reside at a facility, shelter, or licensed host family home described in subsection (1) of this section for a period not to exceed twenty-one days from the time of intake except as otherwise provided in this article. A licensed child care facility, licensed homeless youth shelter, or a licensed host family home shall make a concerted effort to achieve a reconciliation of the family. If a reconciliation and voluntary return of the youth have not been achieved within forty-eight hours, excluding Saturdays, Sundays, and legal holidays, from the time of intake and the director of the facility or shelter, or other person in charge, does not consider it likely that reconciliation will be achieved within the twenty-one-day period, then the director of the facility or shelter, or other person in charge, shall provide the youth and the youth's parent with a statement identifying:

(a) The availability of counseling services;

(b) The availability of longer term residential arrangements; and

(c) The possibility of referral to the county department.

(3) The state department shall develop a written statement of the rights and counseling services set forth in subsection (2) of this section and shall distribute the statement to each law enforcement agency, licensed child care facility, licensed homeless youth shelter, and licensed host family home. Each law enforcement officer taking a youth into custody pursuant to this article shall provide the youth and the youth's parent with a copy of the statement. Each licensed child care facility, licensed homeless youth shelter, and licensed host family home shall provide each resident youth and the youth's parent with a copy of the statement.

(4) When a youth under fifteen years of age is admitted to a licensed child care facility, licensed homeless youth shelter, or licensed host family home, the director of the facility, shelter, or other person in charge shall notify the county department of the county of residence of the parents of the youth within seventy-two hours of the youth's admission.

(5) If the director of the facility, shelter, or other person in charge determines that a referral for additional services needs to be made, the director or other person in charge shall make the referral to the county of residence of the parents of the youth.

(6) A licensed family foster home approved as a licensed host family home shall not accept a homeless youth for placement under this section if there are any foster children currently placed in the home.

(7) If a youth who is at least eleven years of age but less than fifteen years of age has been served up to twenty-one days and returns again to the licensed child care facility, licensed homeless youth shelter, or licensed host family home after leaving the facility,

shelter, or host home, the director of the licensed child care facility or licensed homeless youth shelter or other person in charge shall make a referral for services to the county of residence of the parents of the youth.

26-5.7-106. Notification. (1) Any person who provides shelter to a youth without the consent of the youth's parent and after said person knows that the youth is away from the home of the youth's parent without permission shall notify the youth's parent or a law enforcement officer that the youth is being sheltered within twenty-four hours after shelter has been provided and after acquiring knowledge that the youth is away from the home of the youth's parent without permission.

(2) Upon admission of a youth to a licensed child care facility or licensed homeless youth shelter pursuant to this article, the facility or shelter shall:

(a) Immediately notify the youth's parent of the youth's whereabouts, physical and emotional condition, and the circumstances surrounding the youth's placement;

(b) Notify the youth's parent that it is the paramount concern of the facility or shelter to achieve a reconciliation between the parent and the youth, to reunify the family, and to inform the parent about the alternatives that are available;

(c) Arrange transportation for the youth to the residence of the youth's parent when the youth and the parent agree that the youth shall return to the home of the youth's parent. The parent shall reimburse the party who paid for the transportation costs to the extent of the parent's ability.

(d) Arrange transportation for the youth to an alternative residential placement facility when the youth and the youth's parent agree to such placement. The parent shall reimburse the appropriate person for transportation costs to the extent of the parent's ability.

26-5.7-107. Voluntary alternative residence - parental agreement. (1) Any available family reconciliation services shall be provided to a youth and the youth's family when the youth voluntarily resides elsewhere than with the youth's parent. A youth and the youth's parent may enter into an agreement for a voluntary alternative residence out of the home. Any agreement for voluntary alternative residence shall be in writing signed by both the youth and the youth's parent and may include, but is not limited to, residence with a relative or other responsible adult, in a licensed child care facility, or in a licensed homeless youth shelter. Voluntary alternative residence may continue as long as there is agreement between the youth and the youth's parent.

(2) Agreements for voluntary alternative residence pursuant to subsection (1) of this section may include arrangements for payment to the party providing the residence for the youth or other responsibilities.

(3) A person assuming responsibility under the agreement for the provision of a residence for the youth shall have the authority to:

(a) Enroll the youth in the school district in which the voluntary alternative residence is located; and

(b) Authorize and obtain preventive medical and dental care and treatment for the youth.

26-5.7-108. Voluntary alternative residence - lack of parental agreement. (1) If the youth and the youth's parent cannot agree on an initial voluntary alternative residence within twenty-one days after admission to the alternative out-of-home residence, a referral to the county department may be made.

(2) The licensed child care facility, licensed homeless youth shelter, or licensed host family home to which the youth has been admitted may arrange for the establishment of a supervised independent living arrangement or may arrange a voluntary residential agreement between the youth and a relative or other responsible adult, a licensed child care facility, a licensed homeless youth shelter, or a licensed host family home if the youth has been admitted to a licensed child care facility, licensed homeless youth shelter, or licensed host family home and:

(a) Twenty-one days have passed since admission;

(b) The youth's parent cannot be found after diligent effort by the facility or shelter to locate such parent, the youth's parent has failed to respond to a notice sent by the facility or shelter, or the youth's parent has renounced responsibility for the youth; and

(c) The youth has no suitable place to live other than the home of the youth's parent.

(3) A supervised independent living arrangement can only be established pursuant to subsection (2) of this section if:

(a) The youth has not been deemed to be dependent on controlled substances or alcohol and is in need of treatment;

(b) The youth is not currently demonstrating behavior that poses a danger to the youth or others;

(c) The youth is not engaging in persistent high-risk behavior that renders the youth inappropriate for an independent living arrangement through a placement alternative commission plan pursuant to section 19-1-116, C.R.S., or foster care placement through the county department; and

(d) The youth has an ability and capacity to manage his or her own affairs, demonstrates emotional independence, and has the opportunity and ability to achieve financial independence through legitimate activities and life skills, including the following:

(I) Educational accomplishments or a plan for achieving educational goals;

(II) A vocational plan or goal; and

(III) An opportunity or ability to achieve adequate housing and living arrangements apart from the youth's parent, guardian, or custodian.

(4) (a) For the purposes of this article, a voluntary residential agreement shall not require the county department to assume custody of the youth or to exercise any parental power or control over the youth or require medical assistance under articles 4, 5, and 6 of title 25.5, C.R.S.

(b) A person assuming responsibility for the youth shall have the authority to:

(I) Enroll the youth in the school district in which the youth resides, pursuant to the voluntary residential agreement; and

(II) Authorize and obtain preventive medical and dental care and treatment for the youth.

26-5.7-109. No use of general fund moneys. (Repealed)

ARTICLE 5.9

Homeless Youth Services Act

26-5.9-101 to 26-5.9-105. (Repealed)

ARTICLE 6

Child Care Centers

PART 1

CHILD CARE LICENSING

26-6-101. Short title. This part 1 shall be known and may be cited as the "Child Care Licensing Act".

26-6-101.4. Legislative declaration concerning the protections afforded by regulation. (1) The general assembly finds and declares that increasing numbers of children in Colorado are spending a significant portion of their day in care settings

outside their own homes. In addition, some children are placed in facilities for residential care for their protection and well-being. The general assembly finds that regulation and licensing of child care facilities contribute to a safe and healthy environment for children. The provision of such environment affords benefits to children, their families, their communities, and the larger society. The general assembly acknowledges that there is a need to balance accessibility and quality of care when regulating child care facilities. It is the intent of the general assembly that those who regulate and those who are regulated work together to meet the needs of the children, their families, and the child care industry.

(2) In balancing the needs of children and their families with the needs of the child care industry, the general assembly also recognizes the financial demands with which the department of human services is faced in its attempt to ensure a safe and sanitary environment for those children of the state of Colorado who are in child care facilities. In an effort to reduce the risk to children outside their homes while recognizing the financial constraints placed upon the department, it is the intent of the general assembly that the limited resources available be focused primarily on those child care facilities that have demonstrated that children in their care may be at higher risk pursuant to section 26-6-107.

26-6-101.5. Legislative declaration concerning employer-sponsored on-site child care centers. (Repealed)

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

(1) "Affiliate of a licensee" means:

(a) Any person or entity that owns more than five percent of the ownership interest in the business operated by the licensee or the applicant for a license; or

(b) Any person who is directly responsible for the care and welfare of children served; or

(c) Any executive, officer, member of the governing board, or employee of a licensee; or

(d) A relative of a licensee, which relative provides care to children at the licensee's facility or is otherwise involved in the management or operations of the licensee's facility.

(1.1) "Application" means a declaration of intent to obtain or continue a license or certificate for a child care facility or a child placement agency.

(1.2) "Certificate" means a legal document granting permission to operate a family foster home.

(1.3) "Certification" means the process by which the county department of social

services or a child placement agency approves the operation of a foster care home.

(1.5) "Child care center" means a facility, by whatever name known, that is maintained for the whole or part of a day for the care of five or more children who are eighteen years of age or younger and who are not related to the owner, operator, or manager thereof, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day care centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children and those facilities that give twenty-four-hour care for children and includes those facilities for children under the age of six years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school; except that the term shall not apply to any kindergarten maintained in connection with a public, private, or parochial elementary school system of at least six grades or operated as a component of a school district's preschool program operated pursuant to article 28 of title 22, C.R.S. The term shall not include any facility licensed as a family child care home, a foster care home, or a specialized group facility that is licensed to provide care for three or more children pursuant to subsection (10) of this section, but that is providing care for three or fewer children who are determined to have a developmental disability by a community centered board or who are diagnosed with a serious emotional disturbance.

(1.7) "Child care provider", as used in section 26-6-119, means a licensee, or an affiliate of a licensee, when the licensee holds a license to operate a family child care home pursuant to this part 1.

(2) "Child placement agency" means any corporation, partnership, association, firm, agency, institution, or person unrelated to the child being placed, who places, who facilitates placement for a fee, or who arranges for placement, for care of any child under the age of eighteen years with any family, person, or institution. A child placement agency may place, facilitate placement, or arrange for the placement of a child for the purpose of adoption, treatment, or foster care. The natural parents or guardian of any child who places said child for care with any facility licensed as a "family child care home" or "child care center" as defined by this section shall not be deemed a child placement agency.

(2.2) (a) "Children's resident camp" means a facility operating for three or more consecutive twenty-four-hour days during one or more seasons of the year for the care of five or more children. The facility shall have as its purpose a group living experience offering education and recreational activities in an outdoor environment. The recreational experiences may occur at the permanent camp premises or on trips off the premises.

(b) A children's resident camp shall serve children who have completed kindergarten or are six years of age or older through children younger than nineteen years of age; except that a person nineteen years of age or twenty years of age may attend a

children's resident camp if, within six months prior to attending the children's resident camp, he or she has attended or has graduated from high school.

(2.4) "Cradle care home" means a facility that is certified by a child placement agency for the care of a child, or children in the case of multiple-birth siblings, who is twelve months of age or younger, in a place of residence for the purpose of providing twenty-four-hour family care for six months or less in anticipation of a voluntary relinquishment of the child or children pursuant to article 5 of title 19, C.R.S., or while a county prepares an expedited permanency plan for an infant in its custody.

(2.5) (a) "Day treatment center" means a facility that:

(I) Provides less than twenty-four-hour care for groups of five or more children who are:

(A) Five years of age or older, but less than eighteen years of age; or

(B) Less than twenty-one years of age and who are placed in the program by court order prior to their eighteenth birthday; and

(II) Provides a structured program of various types of psycho-social and behavioral treatment to prevent or reduce the need for placement of the child out of the home or community.

(b) "Day treatment center" shall not include special education programs operated by a public or private school system or programs that are licensed by other rules of the department for less than twenty-four-hour care of children, such as a child care center.

(2.7) Repealed.

(3) "Department" or "state department" means the state department of human services.

(3.5) Repealed.

(3.7) "Exempt family child care home provider" means a family child care home provider who is exempt from certain provisions of this part 1 pursuant to section 26-6-103 (1) (g).

(4) "Family child care home" means a facility for child care in a place of residence of a family or person for the purpose of providing less than twenty-four-hour care for children under the age of eighteen years who are not related to the head of such home. "Family child care home" may include infant-toddler child care homes, large child care homes, experienced provider child care homes, and such other types of family child care homes designated by rules of the state board pursuant to section 26-6-106 (2) (p), as the state board deems necessary and appropriate.

(4.5) "Foster care home" means a facility that is certified by the county department or a child placement agency for child care in a place of residence of a family or person for the purpose of providing twenty-four-hour family care for a child under the age of eighteen years who is not related to the head of such home, except in the case of relative care. The term includes any foster care home receiving a child for regular twenty-four-hour care and any home receiving a child from any state-operated institution for child care

or from any child placement agency, as defined in subsection (2) of this section. "Foster care home" also includes those homes licensed by the department of human services that receive neither moneys from the counties nor children placed by the counties.

(4.7) "Guardian" means a person who is entrusted by law with the care of a child under eighteen years of age.

(5) "Guest child care facility" means a facility operated by a ski area, as that term is defined in section 33-44-103 (6), C.R.S., where children are cared for:

(a) While parents or persons in charge of such child are patronizing the ski area;

(b) Fewer than ten total hours per day;

(c) Fewer than ten consecutive days per year; and

(d) Fewer than forty-five days in a calendar year, with thirty or fewer of such forty-five days occurring in either the winter or summer months.

(5.1) "Homeless youth shelter" means a facility that, in addition to other services it may provide, provides services and mass temporary shelter for a period of three days or more to youths who are at least eleven years of age, or older, and who otherwise are homeless youth as that term is defined in section 26-5.7-102 (2).

(5.2) "ICON" means the computerized database of court records known as the integrated Colorado on-line network used by the state judicial department.

(5.3) "Kindergarten" means any facility providing an educational program for children only for the year preceding their entrance to the first grade, whether such facility is called a kindergarten, nursery school, preschool, or any other name.

(5.4) "License" means a legal document issued pursuant to this part 1 granting permission to operate a child care facility or child placement agency. A license may be in the form of a provisional, probationary, permanent, or time-limited license.

(5.5) "Licensing" means, except as otherwise provided in subsection (4.5) of this section, the process by which the department approves a facility or agency for the purpose of conducting business as a child care facility or child placement agency.

(5.6) "Medical foster care" means a program of foster care that provides home-based care for medically fragile children and youth who would otherwise be confined to a hospital or institutional setting and includes, but is not limited to, the following:

(a) Infants impacted by prenatal drug and alcohol abuse;

(b) Children with developmental disabilities which require ongoing medical intervention;

(c) Children and youth diagnosed with acquired immune deficiency syndrome or human immunodeficiency virus;

(d) Children with a failure to thrive or other nutritional disorders; and

(e) Children dependent on technology such as respirators, tracheotomy tubes, or ventilators in order to survive.

(5.7) (a) "Negative licensing action" means a final agency action resulting in the denial of an application, the imposition of fines, or the suspension or revocation of a

license issued pursuant to this part 1 or the demotion of such a license to a probationary license.

(b) For the purposes of this subsection (5.7), "final agency action" means the determination made by the department, after opportunity for hearing, to deny, suspend, revoke, or demote to probationary status a license issued pursuant to this part 1or an agreement between the department and the licensee concerning the demotion of such a license to a probationary license.

(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 licensed as child care centers as defined in subsection (1.5) of this section.

(5.9) "Out-of-home placement provider consortium" means a group of service providers that are formally organized and managed to achieve the goals of the county, group of counties, or mental health agency contracting for additional services other than treatment-related or child maintenance services.

(6) "Person" means any corporation, partnership, association, firm, agency, institution, or individual.

(6.5) "Place of residence" means the place or abode where a person actually lives and provides child care.

(6.7) "Public services short-term child care facility" means a facility that is operated by or for a county department of social services or a court and that provides care for a child:

(a) While the child's parent or the person in charge of the child is conducting business with the county department of social services or participating in court proceedings;

(b) Fewer than ten total hours per day;

(c) Fewer than fifteen consecutive days per year; and

(d) Fewer than forty-five days in a calendar year.

(7) "Related" means any of the following relationships by blood, marriage, or adoption: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle,

aunt, niece, nephew, or cousin.

(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.

(8) "Residential child care facility" means a facility licensed by the state department pursuant to this part 1 to provide twenty-four-hour group care and treatment for five or more children operated under private, public, or nonprofit sponsorship. "Residential child care facility" includes community-based residential child care facilities, shelter facilities, and therapeutic residential child care facilities as defined in rule by the state board, and psychiatric residential treatment facilities as defined in section 25.5-4-103 (19.5), C.R.S. A residential child care facility may be eligible for designation by the executive director of the state department pursuant to article 65 of title 27, C.R.S.

(8.5) "Routine medications", as used in section 26-6-119, means any prescribed oral, topical, or inhaled medication, or unit dose epinephrine, that is administered pursuant to section 26-6-119.

(8.7) "Salaried foster parent" means a person who is employed by a child placement agency for the purposes of the demonstration pilot program authorized pursuant to section 26-6-104 (1) (d) (IV), and who is employed for the sole purpose of providing foster care and who serves in no other capacity for the child placement agency.

(9) "Secure residential treatment center" means a facility operated under private ownership that is licensed by the department pursuant to this part 1 to provide twenty-four-hour group care and treatment in a secure setting for five or more children or persons up to the age of twenty-one years over whom the juvenile court retains jurisdiction pursuant to section 19-2-104 (6), C.R.S., who are committed by a court pursuant to an adjudication of delinquency or pursuant to a determination of guilt of a delinquent act or having been convicted as an adult and sentenced for an act that would be a crime if committed in Colorado, or in the committing jurisdiction, to be placed in a secure facility.

(10) (a) "Specialized group facility" means a facility sponsored and supervised by a county department or a licensed child placement agency for the purpose of providing twenty-four-hour care for three or more children, but fewer than twelve children, whose special needs can best be met through the medium of a small group and who are:

(I) At least three years of age or older but less than eighteen years of age; or

(II) Less than twenty-one years of age and who are placed by court order prior to their eighteenth birthday.

(b) "Specialized group facility" includes specialized group homes and specialized group centers.

(10.3) "Substitute child care provider" means a person who provides temporary care for a child or children in a family child care home or homes in the absence of the licensed provider for more than fourteen days or one hundred twelve hours in any

calendar year.

(10.5) "Supervisory employee" means for purposes of section 26-6-103.5:

(a) A person directly responsible for managing a guest child care facility and the employees of the facility; or

(b) A person directly responsible for managing a public services short-term child care facility and the employees of the facility.

(11) "Therapeutic foster care" means a program of foster care that incorporates treatment for the special physical, psychological, or emotional needs of a child placed with specially trained foster parents, but does not include medical foster care.

(12) "Treatment foster care" means a clinically effective alternative to residential treatment facilities that combines the treatment technologies typically associated with more restrictive settings with a nurturing and individualized family environment.

(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.

26-6-102.5. Coordinating services for employers. (Repealed)

26-6-103. Application of part - study - definitions. (1) This part 1 shall not apply to:

(a) Special schools or classes operated primarily for religious instruction or for a single skill-building purpose;

(b) A child care facility which is approved, certified, or licensed by any other state agency, or by a federal government department or agency, which has standards for operation of the facility and inspects or monitors the facility;

(c) Facilities operated in connection with a church, shopping center, or business where children are cared for during short periods of time while parents, persons in charge of such children, or employees of the church, shopping center, or business whose children are being cared for at such location are attending church services at such location or shopping, patronizing, or working on the premises of any such business;

(d) Occasional care of children that has no apparent pattern and occurs with or without compensation;

(e) The care of a child by a person in his or her private residence when the parent, guardian, or other person having legal custody of such child gives his consent to such care and when the person giving such care is not regularly engaged in the business of giving such care;

(f) Juvenile courts;

(g) A family child care home receiving one child for less than twenty-four-hour care or receiving two or more children who are related to each other as brother or sister from the same family household for less than twenty-four-hour care or such additional number of children as may be specified by rules promulgated by the state board of human services. The department shall conduct a study on whether rules should be modified to allow an additional number of children to be cared for in a family home that is exempt from licensing and shall present options and recommendations to the state board on or before October 1, 1996. The department shall consult with individuals and organizations who express to the department an interest in participating in the development of such recommendations, and the department shall notify such individuals and organizations of the date and location of the board hearing. The department shall examine the relationship between the licensing regulations governing larger family care homes and child care centers and shall present options and recommendations to the state board on or before October 1, 1996. In making such recommendations, the department shall consult with individuals and organizations who express to the department an interest in participating in the development of such recommendations, and the department shall notify such individuals and organizations of the date and location of the board hearing. Notwithstanding any provision of this paragraph (g) to the contrary, an exempt family child care home provider shall comply with the provisions of section 26-6-120 if he or she provides care for a child whose care is funded in whole or in part with moneys received on the child's behalf pursuant to the Colorado child care assistance program created in part 8 of article 2 of this title.

(h) Nursing homes which have children as residents.

(2) For purposes of this section, "short periods of time" means fewer than three hours in any twenty-four-hour period.

(3) A facility that has received a negative licensing action as defined in section 26-6-102 (5.7) is prohibited from operating pursuant to subsection (1) of this section.

(4) Repealed.

26-6-103.3. Application of part - substitute child care providers in family child care homes - rules. Substitute child care providers shall be subject only to the requirements of this section and shall be otherwise excluded from the requirements of this part 1. The state board shall promulgate rules for certification of substitute child care providers. At a minimum, the certification process shall require the substitute child care provider to demonstrate that he or she has appropriate training or certifications, including child safety and cardiopulmonary resuscitation training or certifications, to care for a child in the absence of the licensed child care provider in a family child care home. The rules of the state board shall require that each substitute child care provider, pursuant to section 26-6-107 (1) (a) (I) (C), pay for and submit to a fingerprint-based criminal history

records check and a review of the records and reports of child abuse or neglect maintained by the state department to determine whether the substitute child care provider has been found to be responsible in a confirmed report of child abuse or neglect. The department shall not certify a substitute child care provider who is convicted of any of the crimes specified in section 26-6-104 (7) or who is found to be responsible in a confirmed report of child abuse or neglect. The state board shall establish by rule the circumstances under which a licensed family child care home shall be required to use a certified substitute child care provider in the family child care home during the licensed provider's absence and a procedure by which a licensed family child care home may verify that a person is certified to be a substitute child care provider pursuant to this section.

26-6-103.5. Application of part - guest child care facilities - public services short-term child care facilities - definition. (1) Guest child care facilities and public services short-term child care facilities shall be subject only to the requirements of this section and shall otherwise be excluded from the requirements of this part 1. Each guest child care facility and each public services short-term child care facility shall post a notice in bold print and in plain view on the premises of the child care facility. The notice shall specify the telephone number and address of the appropriate division within the state department for investigating child care facility complaints and shall state that any complaint about the guest child care facility's or the public services short-term child care facility's compliance with these requirements should be directed to such division.

(2) No person or entity shall operate a guest child care facility or a public services short-term child care facility unless the following requirements are met:

(a) The guest child care facility or public services short-term child care facility is inspected not less frequently than one time per year by the department of public health and environment, and it conforms to the sanitary standards prescribed by such department under the provisions of section 25-1.5-101 (1) (h), C.R.S.;

(b) The guest child care facility or public services short-term child care facility is inspected not less frequently than one time per year by the local fire department, and it conforms to the fire prevention and protection requirements of the local fire department in the locality of the facility, or in lieu thereof, the division of labor;

(c) The guest child care facility or public services short-term child care facility retains, on the premises at all times, the records of the inspections required by paragraphs (a) and (b) of this subsection (2) for the current calendar year and the immediately preceding calendar year;

(d) The guest child care facility or public services short-term child care facility retains, on the premises at all times, a record of children cared for over the course of the current calendar year and the immediately preceding calendar year;

(e) At least one supervisory employee, as that term is defined in section 26-6-102

(10.5), is on duty at the guest child care facility or public services short-term child care facility at all times when the facility is operating;

(f) (I) The guest child care facility or public services short-term child care facility requires all supervisory employees of the guest child care facility or public services short-term child care facility and applicants for supervisory employee positions at the guest child care facility or public services short-term child care facility to obtain a fingerprint-based criminal history check utilizing the Colorado bureau of investigation and, for supervisory employees hired on or after August 10, 2011, the federal bureau of investigation and requests the state department to ascertain whether the person being investigated has been convicted of any of the criminal offenses specified in section 26-6-104 (7) (a) (I) or whether the person has been determined to have a pattern of misdemeanor convictions as described in section 26-6-104 (7) (a) (I) (E) and the guest child care facility or public services short-term child care facility prohibits the hiring of any such person as a supervisory employee or terminates the employment of any such person as a supervisory employee upon confirmation of such a criminal history;

(II) (Deleted by amendment, L. 2011, (HB 11-1145), ch. 163, p. 560, § 1, effective August 10, 2011.)

(III) The guest child care facility or public services short-term child care facility requests the state department to access records and reports of child abuse or neglect to determine whether the supervisory employee or applicant for a supervisory employee position has been found to be responsible in a confirmed report of child abuse or neglect and the guest child care facility or public services short-term child care facility prohibits the hiring of any such person as a supervisory employee or terminates the employment of any such person as a supervisory employee. Information shall be made available pursuant to section 19-1-307 (2) (r), C.R.S., and rules promulgated by the state board pursuant to section 19-3-313.5 (4), C.R.S.

(IV) (A) The guest child care facility or public services short-term child care facility requests the state department to obtain a comparison search on the ICON system at the state judicial department with the name and date of birth information and any other available source of criminal history information that the state department determines is appropriate, whether or not the criminal history background check confirms a criminal history, in order to determine the crime or crimes, if any, for which the supervisory employee or applicant for a supervisory employee position was arrested or convicted and the disposition thereof; and

(B) The guest child care facility or public services short-term child care facility requests the state department to obtain such information concerning the supervisory employee or applicant for a supervisory employee position from any other recognized database, if any, that is accessible on a statewide basis as set forth by rules promulgated by the state board;

(g) (I) The guest child care facility or public services short-term child care facility

requires all other employees of the guest child care facility or public services short-term child care facility to obtain a fingerprint-based criminal history check utilizing the Colorado bureau of investigation and, for employees hired on or after August 10, 2011, the federal bureau of investigation and requests the state department to ascertain whether the person being investigated has been convicted of any of the criminal offenses specified in section 26-6-104 (7) (a) (I) or whether the person has been determined to have a pattern of misdemeanor convictions as described in section 26-6-104 (7) (a) (I) (E) and the guest child care facility or public services short-term child care facility terminates the employment of any such person as an employee upon confirmation of such a criminal history;

(II) (Deleted by amendment, L. 2011, (HB 11-1145), ch. 163, p. 560, § 1, effective August 10, 2011.)

(III) The guest child care facility or public services short-term child care facility requests the state department to access records and reports of child abuse or neglect to determine whether the employee has been found to be responsible in a confirmed report of child abuse or neglect and the guest child care facility or public services short-term child care facility terminates the employment of any such person. Information shall be made available pursuant to section 19-1-307 (2) (r), C.R.S., and rules promulgated by the state board pursuant to section 19-3-313.5 (4), C.R.S.

(IV) (A) The guest child care facility or public services short-term child care facility requests the state department to obtain a comparison search on the ICON system at the state judicial department with the name and date of birth information and any other available source of criminal history information that the state department determines is appropriate, whether or not the criminal history background check confirms a criminal history, in order to determine the crime or crimes, if any, for which the employee was arrested or convicted and the disposition thereof; and

(B) The guest child care facility or public services short-term child care facility requests the state department to obtain such information concerning the employee from any other recognized database, if any, that is accessible on a statewide basis as set forth by rules promulgated by the state board; and

(h) The guest child care facility or public services short-term child care facility maintains the following employee-to-child ratios at all times when the facility is operating:

(I) One child care facility employee for every five children ages six weeks to eighteen months;

(II) One child care facility employee for every five children ages twelve months to thirty-six months;

(III) One child care facility employee for every seven children ages twenty-four months to thirty-six months;

(IV) One child care facility employee for every eight children ages two and one-

half years to three years;

(V) One child care facility employee for every ten children ages three years to four years;

(VI) One child care facility employee for every twelve children ages four years to five years;

(VII) One child care facility employee for every fifteen children ages five years of age and older; and

(VIII) One child care facility employee for every ten children in a mixed age group, ages two and one-half years to six years.

(2.5) In addition to the requirements specified in subsection (2) of this section, a public services short-term child care facility shall ensure that at least one employee is on duty at the facility at all times when the facility is operating who holds a current department-approved first aid and safety certificate that includes certification in cardiopulmonary resuscitation training for all ages of children.

(3) (a) If the guest child care facility or public services short-term child care facility refuses to hire a supervisory employee or terminates the employment of a supervisory employee as a result of information disclosed in an investigation of the supervisory employee or applicant therefor pursuant to paragraph (f) of subsection (2) of this section, the guest child care facility or public services short-term child care facility shall not be subject to civil liability for such refusal to hire.

(b) If the guest child care facility or public services short-term child care facility terminates the employment of an employee as a result of the information disclosed in an investigation of the employee pursuant to paragraph (g) of subsection (2) of this section, the guest child care facility or public services short-term child care facility shall not be subject to civil liability for such termination of employment.

(4) A guest child care facility employee or supervisory employee applicant who has obtained a fingerprint-based criminal history check pursuant to paragraph (f) or (g) of subsection (2) of this section, or pursuant to subsection (5) of this section, shall not be required to obtain a new fingerprint-based criminal history check if he or she returns to a guest child care facility to work in subsequent seasons. The state department shall maintain the results of the initial background check and receive subsequent notification of activity on the record for the purpose of redetermining, if necessary, whether the employee or supervisory employee applicant has been convicted of any of the criminal offenses specified in section 26-6-104 (7) (a) (I), or whether the employee or supervisory employee applicant has a pattern of misdemeanor convictions as described in section 26-6-108 (8) (b), and the guest child care facility shall contact the state department for information concerning subsequent convictions, if any, prior to rehiring such employee.

(5) The requirements of paragraphs (f) and (g) of subsection (2) of this section shall not apply to those employees of guest child care facilities concerning whom criminal history background checks were conducted on or after July 1, 2001, and before July 1,

2002, for purposes of state child care licensure requirements.

(6) For purposes of this section, a "guest child care facility" does not include a ski school. For purposes of this section, "ski school" means a school located at the ski area in which the guest child care facility is located for purposes of teaching children how to ski or snowboard.

(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 part 1 for a guest child care facility or a public services short-term child care facility.

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 records check utilizing 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 records check utilizing 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 that the state department determines is appropriate to determine 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.

(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.

26-6-104. Licenses - out-of-state notices and consent - demonstration pilot program. (1) (a) Except as otherwise provided in this part 1, no person shall operate any agency or facility defined in this part 1 without first being licensed to operate or maintain such agency or facility by the state department and paying the fee prescribed therefor. Except as otherwise provided in subparagraph (II) of paragraph (b) of this subsection (1) and paragraph (c) of this subsection (1), any such license issued by the state department shall be permanent unless otherwise revoked or suspended pursuant to section 26-6-108.

(b) (I) A person operating a foster care home shall not be required to obtain a license from the state department to operate the foster care home if such person holds a certificate to operate such home from any county department or a child placement agency licensed under the provisions of this part 1. All such certificates shall be considered licenses for the purpose of this part 1, including but not limited to the investigation and criminal history background checks required under section 26-6-107. Each certificate shall be in such form as prescribed and provided by the state department, shall certify that such person and any other adults residing in the home who are acting as care givers are suitable persons to operate a foster care home or provide care for a child, and shall contain such information as the state department requires. A child placement agency issuing or renewing any such certificate shall transmit a copy or report thereof to the state department.

(II) On and after July 1, 2002, and contingent upon the time lines for implementation of the computer "trails" enhancements, the state board shall promulgate rules requiring the annual recertification of foster care homes and setting forth the procedural requirements associated with recertification. Such rules shall include requirements that the certifying entity shall perform on-site visits to each foster care home applying for certification or recertification and shall require inspections of the entire premises of the foster care home, including sleeping areas, as well as other assessments of the foster care home. No foster care home shall be certified at any one time by more than one child placement agency or county department.

(III) A foster care home, when certified by a child placement agency or county department, may receive for care a child from sources other than the certifying child placement agency or county department upon the written consent and approval of the child placement agency or county department as to each such child.

(IV) A facility may be certified as a foster care home and licensed as a family child care home so long as the licensure and certification are provided by two separate licensing entities. The state board shall promulgate rules governing the communication requirements between two entities that license and certify the same facility.

(c) (I) On and after July 1, 2002, and contingent upon the time lines for implementation of the computer "trails" enhancements, child placement agencies that certify foster care homes shall be licensed annually until the implementation of any risk-based schedule for the renewal of child placement agency licenses pursuant to subparagraph (II) of this paragraph (c). The state board shall promulgate rules specifying the procedural requirements associated with the renewal of such child placement agency licenses. Such rules shall include requirements that the state department conduct assessments of the child placement agency.

(II) (A) On and after January 1, 2004, and upon the functionality of the computer "trails" enhancements, the state department may implement a schedule for relicensing of child placement agencies that certify foster care homes that is based on risk factors such

that child placement agencies with low risk factors shall renew their licenses less frequently than child placement agencies with higher risk factors.

(B) Prior to January 1, 2004, and contingent upon the time lines for implementation of the computer "trails" enhancements, the state department shall create classifications of child placement agency licenses that certify foster care homes that are based on risk factors as those factors are established by rule of the state board.

(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, 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. The provisions of this subparagraph (III) shall not apply to salaried foster parents.

(IV) Repealed.

(2) No person shall receive or accept a child under eighteen years of age for placement, or place any child either temporarily or permanently in a home, other than with persons related to the child, without first obtaining a license as a child placement agency from the department, and paying the fee prescribed therefor.

(2.5) (Deleted by amendment, L. 96, p. 254, § 5, effective July 1, 1996.)

(3) A provisional license or certificate for a period of six months may be issued once to an applicant for an original license or certificate, permitting the applicant to

operate a family child care home, foster care home, or child care center if the applicant is temporarily unable to conform to all standards required under this part 1, upon proof by the applicant that attempts are being made to conform to such standards or to comply with any other requirements. The applicant has the right to appeal any standard that the applicant believes works an undue hardship or has been applied too stringently by the representatives of the department. Upon filing an appeal, the department shall proceed in the manner prescribed for licensee appeals in section 26-6-106 (3).

(4) No license for a child care center, residential child care facility, or secure residential treatment center shall be issued by the department until the facilities to be operated or maintained by the applicant or licensee are approved by the department of public health and environment as conforming to the sanitary standards prescribed by said department under the provisions of section 25-1.5-101 (1) (h), C.R.S., and unless such facilities conform to fire prevention and protection requirements of local fire departments in the locality of the facility or, in lieu thereof, of the division of labor.

(5) No person shall send or bring into this state any child for the purposes of foster care or adoption without sending notice of the pending placement and receiving the consent of the department or its designated agent to the placement. The notice shall contain:

(a) The name and the date and place of birth of the child;

(b) The identity and address or addresses of the parents or legal guardian;

(c) The identity and address of the person sending or bringing the child;

(d) The name and address of the person to or with which the sending person proposes to send, bring, or place the child;

(e) A full statement of the reasons for the proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(6) The state board of human services shall establish rules and regulations for the approval of foster care homes and child care centers that provide twenty-four-hour care of children between eighteen and twenty-one years of age for whom the county department is financially responsible and when placed in foster care by the county department.

(6.5) On and after July 1, 2005, and subject to designation as a qualified accrediting entity as required by the "Intercountry Adoption Act of 2000", 42 U.S.C. sec. 14901 et seq., the state department may license and accredit a child placement agency for purposes of providing adoption services for convention adoptions pursuant to the "Intercountry Adoption Act of 2000", 42 U.S.C. sec. 14901 et seq. The state board of human services may adopt rules consistent with federal law governing the procedures for adverse actions regarding accreditation, which procedures may vary from the procedures set forth in the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

(7) (a) (I) The state department, a county department, or a child placement agency licensed under the provisions of this part 1 shall not issue a license or certificate to operate a family child care home, a foster care home, a child care center, a residential

child care facility, a secure residential treatment center, or a child placement agency, and any license or certificate issued prior to August 7, 2006, shall be revoked or suspended, if the applicant for the license or certificate, an affiliate of the applicant, a person employed by the applicant, or a person who resides with the applicant at the facility has been convicted of:

(A) Child abuse, as specified in section 18-6-401, C.R.S.;

(B) A crime of violence, as defined in section 18-1.3-406, C.R.S.;

(C) Any felony offenses involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(D) Any felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(D.5) Any felony involving physical assault, battery, or a drug-related offense within the five years preceding the date of application for a license or certificate;

(E) A pattern of misdemeanor convictions, as defined by rule of the state board, within the ten years immediately preceding the date of submission of the application;

(F) Any offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in sub-subparagraphs (A) to (E) of this subparagraph (I).

(II) For purposes of this paragraph (a), "convicted" means a conviction by a jury or by a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere.

(b) The convictions identified in paragraph (a) of this subsection (7) shall be determined according to the records of the Colorado bureau of investigation, the ICON system at the state judicial department, or any other source, as set forth in section 26-6-107 (1) (a) (I.5). A certified copy of the judgment of a court of competent jurisdiction of such conviction, deferred judgment and sentence agreement, deferred prosecution agreement, or deferred adjudication agreement shall be prima facie evidence of such conviction or agreement. No license or certificate to operate a family child care home, a foster care home, a child care center, a residential child care facility, a secure residential child care facility, or a child placement agency shall be issued if the state department has a certified court order from another state indicating that the person applying for such a license or certificate has been convicted of child abuse or any unlawful sexual offense against a child under a law of any other state or the United States or the state department has a certified court order from another state that the person applying for the license or certificate has entered into a deferred judgment or deferred prosecution agreement in another state as to child abuse or any sexual offense against a child.

(7.5) No later than January 1, 2004, the state board shall promulgate rules that require all current and prospective employees of a county department who in their

position have direct contact with any child in the process of being placed, or who has been placed, in foster care to submit a set of fingerprints for purposes of obtaining a fingerprint-based criminal history record check, unless the person has already submitted a set of fingerprints. The check shall be conducted in the same manner as provided in subsection (7) of this section and in section 26-6-107 (1) (a). The person's employment shall be conditional upon a satisfactory criminal background check and subject to the same grounds for denial or dismissal as set forth in subsection (7) of this section and in section 26-6-107 (1) (a). The costs for the fingerprint-based criminal history record check shall be borne by the applicant.

(8) The state department, a county department, or a child placement agency licensed under the provisions of this part 1 shall not issue a license or certificate to operate any agency or facility defined in this part 1 if the person applying for such license or certificate or an affiliate of the applicant, a person employed by the applicant, or a person who resides with the applicant at the facility:

(a) Has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter, pursuant to part 3 or part 4 of article 14 of title 15, C.R.S., or section 27-65-109 (4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the applicant is incapable of operating a family child care home, foster care home, child care center, or child placement agency, the record of such determination and entry of such order being conclusive evidence thereof.

(b) (Deleted by amendment, L. 2006, p. 725, § 3, effective August 7, 2006.)

(9) The state department is strongly encouraged to examine and report to the general assembly on the benefits of licensing any private, nonprofit child placement agency that is dedicated to serving the special needs of foster care children through services delivered by specialized foster care parents in conjunction with and supported by staff of the child placement agency. Such child placement agencies examined shall be able to:

(a) Offer the following services:

(I) Provision of educated, skilled, and experienced foster care parents;

(II) Social work support for the foster care child and foster care family;

(III) Twenty-four-hour, on-call availability;

(IV) Monthly foster care parent support group meetings;

(V) On-going educational and networking opportunities for any foster care family;

(VI) Individualized treatment plans developed through team collaboration;

(VII) Professional and family networking opportunities; and

(VIII) Respite support and reimbursement;

(b) Provide a form of specialized foster care including, but not limited to, the following types of care:

(I) (Deleted by amendment, L. 2003, p. 1874, § 3, effective May 22, 2003.)

(II) Medical foster care;
(III) Respite foster care;
(IV) (Deleted by amendment, L. 2003, p. 1874, § 3, effective May 22, 2003.)
(V) Therapeutic foster care;
(VI) Developmentally disabled foster care; and
(VII) Treatment foster care.

26-6-104.5. Compliance with local government zoning regulations - notice to local governments - provisional licensure. (1) The department shall require any child care facility seeking licensure pursuant to section 26-6-104 to comply with any applicable zoning regulations of the municipality, city and county, or county where the facility is situated. Failure to comply with applicable zoning regulations shall constitute grounds for the denial of a license to a facility.

(2) The department shall assure that timely written notice is provided to the municipality, city and county, or county where a child care facility is situated, including the address of the facility and the population and number of persons to be served by the facility, when any of the following occurs:

(a) A person applies for a license to operate a child care facility pursuant to section 26-6-104;

(b) A license is granted to operate a child care facility pursuant to section 26-6-104; or

(c) A change is made in the license of a residential child care facility, specialized group facility, homeless youth shelter, or secure residential treatment center.

(d) (Deleted by amendment, L. 2006, p. 727, § 4, effective August 7, 2006.)

(3) Notwithstanding any other provision of law, in the event of a zoning or other delay or dispute between a child care facility and the municipality, city and county, or county where the facility is situated, the department may grant a provisional license to the facility for up to six months pending resolution of the delay or dispute.

(4) The provisions of this section shall not apply to any foster care home certified pursuant to this part 1 or to any specialized group facility that is licensed to provide care for three or more children pursuant to this part 1 but that is providing care for three or fewer children who are determined to have a developmental disability by a community centered board or who have a serious emotional disturbance.

26-6-105. Fees - when original applications, reapplications, and renewals for licensure are required - creation of child care licensing cash fund. (1) (a) The state department is hereby authorized to establish, pursuant to rules promulgated by the state board, permanent, time-limited, and provisional license fees and fees for continuation or

renewal, whichever is applicable, of a license for the following types of child care arrangements:

(I) Family child care homes, including any special type of family child care home designated by rules of the state board pursuant to section 26-6-106 (2) (p), but excluding homes certified by county departments or child placement agencies;

(II) Child care centers;

(III) Secure residential treatment centers;

(IV) Residential child care facilities;

(V) Child placement agencies;

(VI) Repealed.

(VII) Homeless youth shelters;

(VIII) Day treatment centers;

(IX) Specialized group facilities; and

(X) Children's resident camps.

(b) The state department may also establish fees pursuant to rules promulgated by the state board of human services for the following situations:

(I) Issuance of a duplicate license;

(II) Change of license due to an increase in licensing capacity or a change in the age of children served;

(III) Obtaining the criminal record of an applicant and any person living with or employed by the applicant, which may include costs associated with the taking of fingerprints;

(IV) Checking the records and reports of child abuse or neglect maintained by the state department for an owner, employee, or resident of a facility or agency or an applicant for a license to operate a facility or agency;

(V) Filing of appeals;

(VI) Duplication of licensing records for the public;

(VII) Duplication of licensing records in electronic format for the public;

(VIII) Accrediting a child placement agency for purposes of providing adoption services for convention adoptions pursuant to the "Intercountry Adoption Act of 2000", 42 U.S.C. sec. 14901 et seq.;

(IX) Insufficient funds payment and collection of overdue fees and fines; and

(X) Collection of fees for scanning of adoption records pursuant to section 19-5-307, C.R.S.

(c) The fees established pursuant to this subsection (1) shall not exceed the direct and indirect costs incurred by the department. The division involved in licensing child care facilities shall develop and implement an objective and systematic approach for setting, monitoring, and revising child care licensing fees by developing and using an ongoing method to track all direct and indirect costs associated with child care inspection licensing, developing a methodology to assess the relationship between licensing costs

and fees, and annually reassessing costs and fees and reporting the results to the state board. In developing a fee schedule, the department should consider the licensed capacity of facilities and the time needed to license facilities.

(2) (a) The fees specified in subsection (1) of this section shall be paid when application is made for any license or when renewal of a child placement agency license is sought and shall not be subject to refund. Applications for licenses shall be required in the situations that are set forth in paragraph (b) of this subsection (2) and shall be made on forms prescribed by the state department. Each completed application shall set forth such information as required by the state department. All licenses shall continue in force until revoked, surrendered, or expired.

(b) (I) An original application and fee are required:

(A) When an individual, partnership, corporation, or association plans to open a child care center, children's resident camp, secure residential treatment center, residential child care facility, homeless youth shelter, day treatment center, specialized group facility, or child placement agency;

(B) When the child care center, children's resident camp, secure residential treatment center, residential child care facility, homeless youth shelter, day treatment center, or specialized group facility plans to move the center or facility to a different building at a different location;

(C) When the management or governing body of a child care center, children's resident camp, secure residential treatment center, residential child care facility, homeless youth shelter, day treatment center, specialized group facility, or child placement agency is acquired by a different individual, association, partnership, or corporation;

(C.5) When a change occurs in the operating entity of a child care center, children's resident camp, secure residential treatment center, residential child care facility, homeless youth shelter, day treatment center, specialized group facility, or child placement agency resulting in a new federal employee identification number; except that, if the reason for the issuance of a new federal employee identification number is solely due to a change in the corporate structure of the operating entity and either the management or governing body of the entity remains the same as originally licensed and the entity is operating in the same facility or facilities as originally licensed, the state department shall treat the entity's status as a renewal and assess the applicable renewal fee. Only newly hired employees shall be required to undergo criminal background checks as required in section 26-6-107.

(D) When a family or person plans to open a family child care home, including any special type of family child care home designated by rules of the state board pursuant to section 26-6-106 (2) (p), or foster care home;

(E) When a family or person who operates a family child care home, including any special type of family child care home designated by rules of the state board pursuant to section 26-6-106 (2) (p), or foster care home moves to a new residence.

(II) A reapplication and fee shall be required and received by the state department in the manner specified in rules promulgated by the state board. An individual, partnership, corporation, or association seeking to renew a child placement agency license shall submit a reapplication and fee to the state department as specified in rules promulgated by the state board.

(3) Nothing in this section shall prevent any city or city and county from imposing additional fees to those specified under this section.

(4) All fees collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the child care licensing cash fund, which is hereby created. The general assembly shall make annual appropriations from the child care licensing cash fund for expenditures incurred by the department in the performance of its duties under this part 1. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

26-6-105.5. Application forms - criminal sanctions for perjury. (1) (a) (I) All applications for the licensure of a child care facility or the certification of a foster care home pursuant to this part 1 shall include the notice to the applicant that is set forth in paragraph (b) of this subsection (1).

(II) Every application used in the state of Colorado for employment with a child care provider or facility shall include the notice to the applicant that is set forth in paragraph (b) of this subsection (1).

(b) Each application described in paragraph (a) of this subsection (1) shall contain the following notice to the applicant:

> Any applicant who knowingly or willfully makes a false statement of any material fact or thing in this application is guilty of perjury in the second degree as defined in section 18-8-503, Colorado Revised Statutes, and, upon conviction thereof, shall be punished accordingly.

(2) Any person applying for the licensure of a child care facility or the certification of a foster care home pursuant to this part 1 or any person applying to work at such a facility as an employee who knowingly or willfully makes a false statement of any material fact or thing in the application is guilty of perjury in the second degree as defined in section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly.

(3) Every application for certification or licensure as a foster care home shall

provide notice to the applicant that the applicant may be subject to immediate revocation of certification or licensure or other negative licensing action as set forth in this section, section 26-6-107.7, and as described by rule of the state board.

26-6-105.7. Applications - materials waivers - appeals - rules. (1) A child care center that is subject to the licensing requirements of this part 1 is also subject to the provisions of this section.

(2) (a) The department shall make available to licensed child care centers and include with every application form for licensure information concerning the manner in which a child care center may apply for a waiver to use certain materials in its program and curriculum. The waiver request shall be included in a center's application for licensure or, in the case of a licensed child care center, may be submitted at any time.

(b) A child care center seeking a waiver for the use of certain materials shall adopt a policy that:

(I) Ensures that instructors in the child care center are trained in the use of the materials in a way that provides reasonable safety provisions for use by children; and

(II) Requires parental notification of the use of the materials in the child care center and the potential safety risks associated with the materials. The policy shall require the child care center to obtain signed parental consent forms acknowledging awareness of the risks in using the materials in the child care center.

(3) If a licensed child care center receives notice of a violation pursuant to this part 1, information concerning the waiver and appeal process described in this section shall be included in the notification to the child care center.

(4) The state board shall promulgate rules for the implementation of this section, including:

(a) The requirements for the granting of a waiver request, which requirements shall include that the department make a decision on the waiver request and notify the child care center of its decision no later than sixty calendar days after receipt of the request;

(b) The requirements for the denial of a waiver request, which requirements shall include that the department make a decision on the waiver request and notify the child care center of its decision no later than sixty calendar days after receipt of the request;

(c) The process by which a child care center may appeal a denial of a waiver request, which process shall include, but need not be limited to:

(I) That upon the receipt of a denial of a waiver request, a child care center has up to forty-five calendar days to appeal the denial decision to the department;

(II) That the department shall act upon the appeal within forty-five calendar days;

(III) That the department shall provide notice of its decision on the appeal within ten calendar days after its decision to the appealing child care center; and

(IV) That the appealing child care center has the right to meet in person with department personnel concerning the appeal, but that the entire appeals process shall last no more than one hundred calendar days after the date of the notice of denial of the waiver request.

(5) Whenever practicable, the department shall use the same inspector for:

(a) Multiple visits to a single child care center seeking a waiver pursuant to this section; or

(b) Multiple visits to two or more individually licensed child care centers that are wholly owned, operated, and controlled by a common ownership group.

(6) The department shall not post a denial of a waiver made pursuant to this section on its web site until the appeal is final.

26-6-106. Standards for facilities and agencies - rules. (1) (a) The department shall prescribe and publish standards for licensing. Such standards shall be applicable to the various types of facilities and agencies for child care regulated and licensed by this part 1; except that the department shall prescribe and publish separate standards for the licensing of child placement agencies operating for the purpose of adoptive placement and adoption-related services. The department shall seek the advice and assistance of persons representative of the various types of child care facilities and agencies in establishing such standards. Such standards shall be established by rules promulgated by the state board of human services and shall be issued and published only in conformity with the provisions and procedures specified in article 4 of title 24, C.R.S., and shall become effective only as provided in said article.

(b) (Deleted by amendment, L. 96, p. 258, § 7, effective July 1, 1996.)

(2) Standards prescribed by such rules shall be restricted to:

(a) The operation and conduct of the facility or agency and the responsibility it assumes for child care;

(b) The character, suitability, and qualifications of the applicant for a license and of other persons directly responsible for the care and welfare of children served, including whether an affiliate of the licensee has ever been the subject of a negative licensing action;

(c) The general financial ability and competence of the applicant for a license to provide necessary care for children and to maintain prescribed standards;

(d) The number of individuals or staff required to insure adequate supervision and care of children served;

(e) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire protection and prevention and health standards in conformance with state laws and municipal ordinances, to provide for the physical comfort, care, well-being, and safety of children served;

(f) Keeping of records for food, clothing, equipment, and individual supplies;

(g) Provisions to safeguard the legal rights of children served;

(h) Maintenance of records pertaining to the admission, progress, health, and discharge of children;

(i) Filing of reports with the department;

(j) Discipline of children;

(k) Standards for the short-term confinement of a child in defined emergency situations. An emergency situation means any situation where the child is determined to be a danger to himself or others and to be beyond control, all other reasonable means to calm the child have failed, and the child's welfare or the welfare of those around the child demand that the child be confined for a period not to exceed two hours. Standards for such short-term confinement shall include:

(I) Definition of emergency purposes for the short-term confinement in accordance with this paragraph (k);

(II) Duration and frequency of the confinement;

(III) Facility staff requirements;

(IV) Criteria for the short-term placement of a child in the short-term confinement room;

(V) Documentation and review of the confinement;

(VI) Review and biannual inspection by the department of the short-term confinement facility;

(VII) Physical requirements for the short-term confinement room;

(VIII) Certification or approval from the department prior to the establishment of the short-term confinement room;

(IX) A neutral fact finder to determine if the child's situation merits short-term confinement;

(X) At a minimum, a fifteen minute checking and review by staff of a child placed in short-term confinement;

(XI) Review by staff of any confinement subsequent to each period of such confinement;

(XII) Daily review of the use of the short-term confinement rooms; and

(XIII) Revocation or suspension of licensure for failure to comply with the standards set forth in this paragraph (k).

(l) Standards for security in secure residential treatment centers and residential child care facilities provided through the physical environment and staffing. Such standards shall include, but not be limited to, the following:

(I) Locked doors;

(II) Fencing;

(III) The staff requirements to ensure security;

(IV) Inspections;

(V) Physical requirements for program space and for secure sleeping of the residents in the secure residential treatment center or residential child care facility;

(VI) Other security considerations that are necessary to protect the residents of the secure residential treatment center or residential child care facility or the public.

(m) Standards for the appropriateness, safety, and adequacy of transportation services of children to and from child care centers;

(n) Provisions that ensure that verification in accordance with part 9 of article 4 of title 25, C.R.S., is undertaken by family child care homes, foster care homes, and child care centers ensuring that each child has received appropriate immunizations against contagious diseases as follows:

(I) Children up to twenty-four months of age shall be required to be immunized in accordance with the "Infant Immunization Act", part 17 of article 4 of title 25, C.R.S.;

(II) Children over twenty-four months of age shall be required to be immunized in accordance with part 9 of article 4 of title 25, C.R.S.;

(o) Standards for adoption agencies that may include but need not be limited to:

(I) Specific criteria and minimum credentials, qualifications, training, and education of staff necessary for each of the types of adoption for which an applicant may seek to be licensed, including but not limited to:

(A) Traditional adoptions with adopting parents who are unknown;

(B) Family adoptions, including stepparent and grandparent adoptions;

(C) Interstate adoptions;

(D) International adoptions;

(E) Identified or designated adoptions; and

(F) Special needs adoptions;

(II) The continuing education requirements necessary to maintain the adoption agency's license, taking into account the type and specialty of such agency's license;

(III) The operation and conduct of the agency and the responsibility it assumes in adoption cases;

(IV) The character, suitability, and qualifications of the applicant for a license and for all direct service staff employed or contracted with by the agency;

(V) The general financial ability and competence of the applicant for license, either original or renewal, to provide necessary services for the adoption of children and to maintain prescribed standards;

(VI) Proper maintenance of records; and

(VII) Provisions to safeguard the legal rights of children served;

(p) Rules governing different types of family child care homes, as that term is defined in section 26-6-102 (4), as well as any other types of family child care homes that may by necessity be established by rule of the state board;

(q) (I) Standards for the training of foster care parents, which shall include, at a minimum:

(A) Twenty-seven hours of initial training, consisting of at least twelve hours of training prior to the placement of a child and completion of the remaining training within three months after such placement;

(B) Twenty hours per year of continuing training for foster care parents;

(C) In addition to the hours described in sub-subparagraph (B) of this subparagraph (I), twelve hours per year for foster care parents providing therapeutic foster care; and

(D) Training concerning individualized education programs as defined in section 22-20-103 (15), C.R.S. The departments of human services and education shall ensure coordination between local county departments of human or social services and local school districts or administrative units to make such training available upon the request of a foster parent.

(II) The training described in subparagraph (I) of this paragraph (q) may include, but shall not be limited to, in-home training.

(III) The department shall consult with county departments and child placement agencies in prescribing such standards in order to insure a more uniform application throughout the state.

(IV) The hours of training prior to the placement of a child that is described in sub-subparagraph (A) of subparagraph (I) of this paragraph (q) may be completed within four months after such placement if such placement was an emergency placement, as such term shall be defined by rule of the state board.

(r) Initial and ongoing training of providers of foster care services in facilities licensed and certified pursuant to this part 1, including orientation and prelicensing training for child placement agency staff;

(s) Standards for the training of providers of cradle care home services that shall be substantially similar to the training required of adoptive parents prior to adopting an infant, including ongoing training hours appropriate to the services provided.

(3) Any applicant or person licensed to operate a child care facility or agency under the provisions of this part 1 has the right to appeal any standard that, in his or her opinion, works an undue hardship or when, in his or her opinion, a standard has been too stringently applied by representatives of the department. The department shall designate a panel of persons representing various state and local governmental agencies with an interest in and concern for children to hear such appeal and to make recommendations to the department. The membership of the appeals review panel shall include, but need not be limited to, a representative from child care providers, a representative from a local early childhood council or local child care resource and referral agency, a state-level early childhood representative with early care and education expertise, and a parent representative. All members to the appeals review panel shall be appointed by the executive director or his or her designee and shall serve terms of no more than three years. Representatives to the appeals review panel may serve successive terms.

(4) The state board may promulgate rules to regulate the operation of out-of-home placement provider consortia. The regulation shall not include licensure of out-of-home placement provider consortia.

(5) The state board shall promulgate rules to define the requirements for licensure for a licensed host family home serving homeless youth pursuant to the "Homeless Youth Act", article 5.7 of this title.

(6) (a) A county director of social services, or his or her designee, may approve, at his or her discretion, a waiver of non-safety licensing standards for kinship foster care. A waiver may only be approved if:

(I) It concerns non-safety licensing standards, as set forth by rule of the state board pursuant to paragraph (d) of this subsection (6);

(II) The safety and well-being of the child or children receiving care is not compromised; and

(III) The waiver request is in writing.

(b) In addition to an approved waiver of non-safety licensing standards, a county director of social services, or his or her designee, may limit or restrict a license issued to a kinship foster care entity or require that entity to enter into a compliance agreement to ensure the safety and well-being of the child or children in that entity's care.

(c) A kinship foster care entity may not appeal a denial of a waiver requested pursuant to paragraph (a) of this subsection (6).

(d) The state board shall promulgate rules concerning the waiver of non-safety licensing standards for kinship foster care. The rules shall include, but need not be limited to, a listing of non-safety licensing standards that may not be waived and circumstances in which waivers do not apply. The state board shall also define by rule the meaning of "kinship foster care" for the purposes of this subsection (6).

26-6-106.1. Administration or monitoring of medications to persons - residential child care facilities. The executive director has the power to direct the administration or monitoring of medications to persons in facilities pursuant to section 25-1.5-301 (2) (e), C.R.S.

26-6-106.5. Foster care - rules applying generally - rule-making. (1) No later than January 1, 2004, the state board shall promulgate rules that apply to foster care generally, regardless of whether the foster care is provided by a foster care home certified by a county department or by a child placement agency. The state board shall develop the rules in consultation with the state department, county departments, child placement agencies, and others with expertise in the development of rules regarding foster care.

(2) At a minimum, the rules described in subsection (1) of this section shall

include the following:

(a) Contingent upon the implementation of the computer "trails" enhancements, the procedures for notifying all county departments and child placement agencies that place children in foster care when the state department has identified a confirmed report of child abuse or neglect, as defined in section 19-1-103 (27), C.R.S., that involves a foster care home, as well as the suspension of any further placements in the foster care home until the investigation is concluded; and

(b) The immediate notification of a child's guardian ad litem upon the child's placement in a foster care home, and the provision of the guardian ad litem's contact information to the foster parents.

26-6-107. Investigations and inspections - local authority - reports - rules. (1) (a) (I) (A) The state department shall investigate and pass on each original application for a license, each application for a permanent or time-limited license following the issuance of a probationary or provisional license, and on and after July 1, 2002, each application for renewal, to operate a facility or an agency prior to granting such license or renewal. As part of such investigation, the state department shall require each adult who is eighteen years of age and older, including but not limited to the applicant, any owner, employee, newly hired employee, licensee, and any adult who is eighteen years of age and older who resides in the licensed facility to obtain a fingerprint-based criminal history records check by reviewing any record that shall be used to assist the state department in ascertaining whether the person being investigated has been convicted of any of the criminal offenses specified in section 26-6-104 (7) or any other felony. The state board shall promulgate rules that define and identify what the criminal history records check shall entail.

(B) Rules promulgated by the state board pursuant to this subparagraph (I) shall allow an exemption from the criminal history records investigation and the check of the records and reports of child abuse or neglect maintained by the state department for those out-of-state employees working in Colorado at a children's resident camp or school-age child care center in a temporary capacity for a camp or center that is in operation for fewer than ninety days. Each person so exempted from fingerprinting and the check of the records and reports of child abuse or neglect maintained by the state department shall sign a statement that affirmatively states that he or she has not been convicted of any charge of child abuse, unlawful sexual offense, or any felony. Prospective employers of such exempted persons shall conduct reference checks of the prospective employees in order to verify previous work history and shall conduct personal interviews with each such prospective employee.

(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.7) of this subparagraph (I), to include a fingerprint-based criminal history records check utilizing the records of the Colorado bureau of investigation and, as of August 10, 2011, for any new owner, new applicant, newly hired employee, new licensee, or individual who begins residing in the licensed facility on or after August 11, 2011, the federal bureau of investigation. As part of the 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. Except as provided for in sub-subparagraph (C.7) of this subparagraph (I), 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) (Deleted by amendment, L. 2011, (HB 11-1145), ch. 163, p. 562, § 3, effective August 10, 2011.)

(C.7) Where two or more individually licensed facilities are wholly owned, operated, and controlled by a common ownership group or school district, a fingerprint-based criminal history records check completed for one of the licensed facilities of the common ownership group or school district pursuant to this section for any individual for whom such a check is required under this part 1 may satisfy the records check requirement for any other licensed facility under the same common ownership group or school district. A new fingerprint-based criminal history records check shall not be required of such an individual if the common ownership group or school district maintains a central records management system for employees of all its licensed facilities; takes action as required pursuant to section 26-6-104 when informed of the results of a fingerprint-based criminal history records check that requires action pursuant to this part 1; and informs the department whenever an additional licensed facility comes under or is no longer under its ownership or control.

(D) The state board shall promulgate rules to implement this subparagraph (I).

(I.5) Rules promulgated by the state board pursuant to subparagraph (I) of this paragraph (a) shall also include:

(A) A comparison search on the ICON system at the state judicial department with the name and date of birth information and any other available source of criminal history information that the state department determines is appropriate for each circumstance in which the CBI fingerprint check either does not confirm a criminal history or confirms a criminal history, in order to determine the crime or crimes for which the person was arrested or convicted and the disposition thereof; and

(B) Any other recognized database, if any, that is accessible on a state-wide basis

as set forth by rules promulgated by the state board.

(II) If the operator of a facility or agency refuses to hire an applicant as a result of information disclosed in the investigation of the applicant pursuant to subparagraph (I) of this paragraph (a), the employer shall not be subject to civil liability for such refusal to hire. If a former employer of the applicant releases information requested by the prospective employer pertaining to the applicant's former performance, the former employer shall not be subject to civil liability for the information given.

(a.5) An applicant for certification as a foster care home shall provide the child placement agency or the county department from whom the certification is sought with a list of all the prior child placement agencies and county departments to which the applicant had previously applied, and a release of information from such child placement agencies and county departments to which the applicant had previously applied, to obtain information about the application and any certification given by such child placement agencies and county departments. A child placement agency or county department from whom the certification is sought shall conduct a reference check of the applicant and any adult resident of the foster care home who is acting as a caregiver by contacting all of the child placement agencies and county departments identified by the applicant before issuing the certification for that foster care home. Child placement agencies and county departments shall be held harmless for information released, in good faith, to other child placement agencies or county departments.

(a.7) For all family foster care or kinship care applicants, regardless of reimbursement, the county department or child placement agency shall require each adult who is eighteen years of age or older and who resides in the home to obtain a fingerprint-based criminal history records check through the Colorado bureau of investigation and the federal bureau of investigation. In addition to the fingerprint-based criminal history records check, the county department or child placement agency shall contact the appropriate entity in each state in which the applicant or any adult residing in the home has resided within the preceding five years to determine whether the adult has been found to be responsible in a confirmed report of child abuse or neglect. The screening request in Colorado shall be made pursuant to section 19-1-307 (2) (k.5), C.R.S., rules promulgated by the state board pursuant to section 19-3-313.5, C.R.S., and 42 U.S.C. 671 (a) (20). An investigation pursuant to this paragraph (a.7) shall be conducted for any new resident adult whenever the adult is added to the family foster care home or kinship care home. Information obtained from any state records of abuse or neglect shall not be used for any purpose other than conducting the investigation for placement or certification.

(b) (I) When the state department, county department, or child placement agency is able to certify that the applicant or licensee is competent and will operate adequate facilities to care for children under the requirements of this part 1 and that standards are being met and will be complied with, it shall issue the license for which applied. The state department shall inspect or cause to be inspected the facilities to be operated by an

applicant for an original license before the license is granted and shall thereafter inspect or cause to be inspected the facilities of all licensees that, during the period of licensure, have been found to be the subject of complaints or to be out of compliance with the standards set forth in section 26-6-106 and the rules of the state department or that otherwise appear to be placing children at risk. The state department may make such other inspections as it deems necessary to ensure that the requirements of this article are being met and that the health, safety, and welfare of the children being placed are protected. If, as a result of an inspection of a certified foster care home, the state department determines that any child residing in such foster care home is subject to an immediate and direct threat to his or her safety and welfare as defined by rules promulgated by the state board or that a substantial violation of a fundamental standard of care warrants immediate action, the state department may require a county department to immediately remove such child from the foster care home.

(II) The state board shall adopt rules concerning the on-site public availability of the most recent inspection report results of child care center facilities and family child care home facilities, when requested. The state board shall also adopt rules concerning a requirement that all facilities licensed under this part 1 post their licenses and information regarding the procedures for filing a complaint under this part 1 directly with the state department, which rules shall require that each such facility display its license and complaint procedures in a prominent and conspicuous location at all times during operational hours of the facility; except that such rules shall not require foster care homes to post their licenses and such rules shall not require foster care homes and child placement agencies to post information regarding the procedures for filing a complaint under this part 1 directly with the state department. The state board shall adopt rules requiring foster care homes to make their licenses available to their patrons for inspection, upon request, and requiring foster care homes and child placement agencies to make the information concerning the filing of complaints available to their patrons for inspection, upon request.

(III) If, as a result of an inspection of a licensed child care center facility or family child care home facility, the state department determines that there were no serious violations of any of the standards prescribed and published by the state department or any of the provisions of this part 1, within twenty days after completing the inspection the state department shall send a written notice to such facility indicating such fact. Within ten days after receipt of such written notice, the licensee shall provide a copy of the written notice to the parents and legal guardians of the children cared for at the child care center facility or family child care home facility.

(1.5) Repealed.

(2) (a) (I) Except as otherwise provided in subparagraph (II) of this paragraph (a), the state department may authorize or contract with any county department, the county department of health, or any other publicly or privately operated organization that has a

declared interest in children and experience working with children or on behalf of children to investigate and inspect the facilities applying for an original or renewal license or applying for a permanent license following the issuance of a probationary or provisional license under this part 1 and may accept reports on such investigations and inspections from such agencies or organizations as a basis for such licensing. When contracting for investigations and inspections, the state department shall assure that the contractor is qualified by training and experience and has no conflict of interest with respect to the facilities to be inspected.

(II) The state department shall not authorize or contract with any county department, the county department of health, or any other publicly or privately operated organization that has a declared interest in children and experience working with children or on behalf of children for investigations and inspections described in subparagraph (I) of this paragraph (a) of any facilities that provide twenty-four-hour care and are licensed pursuant to this part 1.

(b) A city, county, or city and county may impose and enforce higher standards and requirements for facilities licensed under this part 1 than the standards and requirements specified under this part 1.

(3) Every facility licensed under this part 1 shall keep and maintain such records as the department may prescribe pertaining to the admission, progress, health, and discharge of children under the care of the facility, and shall report relative thereto to the department whenever called for, upon forms prescribed by the department. All records regarding children and all facts learned about children and their relatives shall be kept confidential both by the facility and the department.

(4) Within available appropriations, the state department shall monitor, on at least a quarterly basis, the county department certification of foster care homes.

26-6-107.5. Response to complaints - addition of child care facility inspectors. (1) When the state department receives a serious complaint about a child care facility licensed pursuant to this part 1 alleging the immediate risk of health or safety of the children cared for in such facility, the state department shall respond to and conduct an on-site investigation concerning such complaint within forty-eight hours of its receipt.

(2) (a) (I) The general assembly hereby finds that an audit completed by the state auditor's office in 1995 reported that the state department had not properly and timely carried out all of its child care facility licensing functions due to insufficient staff. The general assembly further finds that, in an effort to use the state department's limited child care resources more effectively and efficiently, it passed legislation in 1996 implementing a risk-based approach to inspecting and monitoring child care facilities in place of the mandatory biennial reviews of every facility. The general assembly finds that it was determined in a follow-up audit conducted by the state auditor's office in 1998, that the

state department was still at least one month late in conducting inspections of approximately twenty-two percent of the child care facilities in Colorado. In addition, of those facilities assigned a high risk factor and thereby requiring inspections more frequently than every twelve months, twenty-six percent were at least three months past due. In evaluating the implementation of the risk-based approach to inspection and monitoring of child care facilities, the general assembly finds that the implementation of this approach has actually increased the state department's workload by approximately sixteen percent.

(II) The general assembly further finds that a national study conducted by the center for career development in early care and education at Wheelock College concluded that Colorado's child care facility licensing staff had caseloads of approximately two hundred fifty child care centers per full-time equivalent employee and five hundred family child care homes per full-time equivalent employee. The general assembly finds that the caseloads of Colorado child care employees within the division greatly exceed the number of cases recommended by the national association for the education of young children, which organization has recommended that child care regulators' caseloads should not exceed seventy-five centers and large family homes per full-time equivalent employee.

(III) The general assembly further finds that the insufficient number of child care facility inspectors puts children at risk particularly when serious complaints of an immediate nature concerning a child care facility are lodged with the state department and the department is unable to respond promptly and conduct an on-site investigation of the complaint.

(IV) The general assembly hereby determines that the health and safety of the children of the state of Colorado in child care facilities is of utmost concern and importance to the state. The general assembly further finds that the timely and proper inspection of child care facilities and prompt responses to serious complaints about a child care facility are priorities and that, in order to facilitate such timely inspections and responses to complaints, the state department should be provided with the ability to contract with the necessary personnel needed to conduct the required inspections and investigations on a thorough and timely basis. Accordingly, the general assembly determines that it is in the best interests of the citizens of the state of Colorado that the number of persons contracted for and charged with the duty of inspecting, monitoring, and responding to complaints in child care facilities in the state of Colorado be increased.

(b) For the purposes of conducting thorough and timely inspections of child care facilities licensed pursuant to this part 1 and for the purposes of providing sufficient inspectors to conduct prompt responses and investigations as directed in subsection (1) of this section when the state department receives a serious complaint against a child care facility licensed pursuant to this part 1, in fiscal year 2000-01, the number of inspectors shall be increased by eighteen contract inspectors from the number of inspectors in fiscal

year 1999-2000.

26-6-107.7. Revocation of certification of foster care home - emergency procedures - due process. Notwithstanding any other provision of law to the contrary, a county department may act immediately to revoke the certification of a county-certified foster care home when the county department has reason to believe that a child residing in such foster care home is subject to an immediate and direct threat to his or her safety and welfare or when a substantial violation of a fundamental standard of care warrants immediate action. If the county department acts pursuant to this section, a due process hearing shall be held within five days after such action and conducted as such hearing would normally be conducted pursuant to article 4 of title 24, C.R.S.

26-6-108. Denial of license - suspension - revocation - probation - refusal to renew license - fines. (1) When an application for a license has been denied by the department, the department shall notify the applicant in writing of the denial by mailing a notice to him or her at the address shown on the application. Any applicant believing himself or herself aggrieved by the denial may pursue the remedy for review as provided in subsection (3) of this section if he or she, within thirty days after receiving the notice, petitions the department to set a date and place for hearing, affording him or her an opportunity to be heard in person or by counsel. All hearings on the denial of licenses shall be conducted in conformity with the provisions and procedures specified in article 4 of title 24, C.R.S., as in the case of the suspension and revocation of licenses.

(2) The department may deny an application, or 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:

(a) Be convicted of any felony, other than those offenses specified in section 26-6-104 (7), or child abuse, as specified in section 18-6-401, C.R.S., the record of conviction being conclusive evidence thereof, notwithstanding section 24-5-101, C.R.S., or have entered into a deferred judgment agreement or a deferred prosecution agreement to any felony, other than those offenses specified in section 26-6-104 (7), child abuse, as specified in section 18-6-401, C.R.S., or should the department have a certified court order from another state indicating that the applicant, licensee, person employed by the licensee, or any person residing with the licensee has been convicted of a felony, other than those offenses specified in section 26-6-104 (7), under a law of any other state or the United States or has entered into a deferred judgment agreement or a deferred prosecution agreement in another state as to a felony, other than those offenses specified in section

26-6-104 (7); or

(a.5) Be convicted of third degree assault, as described in section 18-3-204, C.R.S., any misdemeanor, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S., the violation of a protection order, as described in section 18-6-803.5, C.R.S., any misdemeanor offense of child abuse as defined in section 18-6-401, C.R.S., or any misdemeanor offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in this paragraph (a.5). For purposes of this paragraph (a.5), "convicted" shall have the same meaning as set forth in section 26-6-104 (7) (a) (II); or

(b) Be determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter, pursuant to part 3 or part 4 of article 14 of title 15, C.R.S., or section 27-65-109 (4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the licensee is incapable of operating a family child care home, foster care home, or child care center, the record of such determination and entry of such order being conclusive evidence thereof; or

(c) Use any controlled substance, as defined in section 18-18-102 (5), C.R.S., including retail marijuana, or consume any alcoholic beverage during the operating hours of the facility or be under the influence of a controlled substance or alcoholic beverage during the operating hours of the facility; or

(c.5) Be convicted of unlawful use of a controlled substance as specified in section 18-18-404, C.R.S., unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance as specified in section 18-18-403.5, 18-18-405, or 18-18-405.5, C.R.S., or unlawful offenses relating to marijuana or marijuana concentrate as specified in section 18-18-406, C.R.S.; or

(d) Consistently fail to maintain standards prescribed and published by the department; or

(e) Furnish or make any misleading or any false statement or report to the department; or

(f) Refuse to submit to the department any reports or refuse to make available to the department any records required by it in making investigation of the facility for licensing purposes; or

(g) Fail or refuse to submit to an investigation or inspection by the department or to admit authorized representatives of the department at any reasonable time for the purpose of investigation or inspection; or

(h) Fail to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care pursuant to standards prescribed by the department of public health and environment and the department of human services or by ordinances or regulations applicable to the location of such facility; or

(i) Willfully or deliberately violate any of the provisions of this part 1; or

(j) Fail to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provision for personal care, medical services, clothing, and other essentials in the proper care of children; or

(k) Be charged with the commission of an act of child abuse or an unlawful sexual offense, as specified in section 18-3-411 (1), C.R.S., if:

(I) Such individual has admitted committing the act or offense and the admission is documented or uncontroverted; or

(II) The administrative law judge finds that such charge is supported by substantial evidence; or

(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.

(2.2) The state department may deny an application to renew a license based on the grounds set forth in subsection (2) of this section. The denial is effective upon the expiration of the existing license. The existing license shall not continue in effect even though the applicant for renewal files a request for hearing or appeal.

(2.3) The state department may deny an application for a child care facility license pursuant to this part 1 if such applicant is a relative affiliate of a licensee, as described in section 26-6-102 (1) (d), of a child care facility licensed pursuant to this part 1, which licensee is the subject of a previous negative licensing action or is the subject of a pending investigation by the state department that may result in a negative licensing action.

(2.4) The state department may deny an application for a child placement agency license pursuant to this part 1 if such applicant is a relative affiliate of a licensee, as described in section 26-6-102 (1) (d), of a child placement agency licensed pursuant to this part 1, which licensee is the subject of a previous negative licensing action or is the subject of a pending investigation by the state department that may result in a negative licensing action.

(2.5) (a) (I) The state department shall deny an application for a license under the

circumstances described in section 26-6-104 (7). The state department shall revoke or suspend a license previously issued if:

(A) The licensee, person employed by the licensee, or person residing with the licensee is thereafter convicted or if it is later discovered that the licensee, person employed by the licensee, or person residing with the licensee had previously been convicted of any of the criminal offenses set forth in section 26-6-104 (7); or

(B) The department has a certified court order from another state indicating that the licensee, person employed by the licensee, or person residing with the licensee is thereafter convicted of, or if it is later discovered that the licensee, person employed by the licensee, or person residing with the licensee had previously been convicted of a criminal offense under a law of any other state or of the United States that is similar to any of the criminal offenses set forth in section 26-6-104 (7); or

(C) The licensee, an affiliate of the licensee, a person employed by the licensee, or a person who resides with the licensee at the facility has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter, pursuant to part 3 or part 4 of article 14 of title 15, C.R.S., or section 27-65-109 (4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the licensee is incapable of operating a family child care home, foster care home, or child care center, the record of such determination and entry of such order being conclusive evidence thereof.

(II) For purposes of this paragraph (a), "convicted" means a conviction by a jury or by a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere.

(b) A certified copy of the judgment of a court of competent jurisdiction of such conviction or deferred judgment and sentence agreement, deferred prosecution agreement, deferred adjudication agreement, or a certified court order from another state indicating such an agreement from another state shall be prima facie evidence of such conviction or agreement.

(2.6) The state department shall deny an application for an entity licensed under this article and shall revoke the license of an entity licensed under this article if the entity cultivates marijuana pursuant to the authority in section 16 of article XVIII of the state constitution.

(2.7) The department may assess fines, pursuant to the provisions of section 26-6-114, against a licensee or a person employed by the licensee who willfully and deliberately or consistently violates the standards prescribed and published by the department or the provisions of this part 1.

(2.9) The convictions identified in this section shall be determined according to the records of the Colorado bureau of investigation, the ICON system at the state judicial department, or any other source, as set forth in section 26-6-107 (1) (a) (I.5).

(3) The department shall suspend or revoke a license only in conformity with the provisions and procedures specified in article 4 of title 24, C.R.S., and after a hearing thereon as provided in said article 4; except that all hearings under this part 1 shall be conducted by an administrative law judge of the department who shall render his or her recommendation to the executive director of the department of human services who shall render the final decision of the department, and no licensee shall be entitled to a right to cure any of the charges described in paragraph (a), (b), (c), or (k) (I) of subsection (2) of this section. No such hearing shall prevent or delay any injunctive proceedings instituted under the provisions of section 26-6-111.

(4) The provisions of paragraph (c) of subsection (2) of this section shall not apply to foster care homes, unless such use or consumption impairs the licensee's ability to properly care for children.

(5) Only upon the request of a county department, a child placement agency licensed pursuant to this part 1 that places or arranges for placement of a child in foster care may certify the home of a relative of the child placed therein as a foster care home.

26-6-108.5. Notice of negative licensing action - filing of complaints. (1) (a) When a child care center facility or family child care home facility licensed pursuant to this part 1 has been notified by the department of a negative licensing action or the imposition of a fine pursuant to section 26-6-108 (2) and (2.7), it shall, within ten days after receipt of the notice, provide the department with the names and mailing addresses of the parents or legal guardians of each child cared for at the child care center facility or family child care home facility. The department shall maintain the confidentiality of the names and mailing addresses provided to it pursuant to this subsection (1).

(b) Within twenty days after receipt of the names and addresses of parents and legal guardians pursuant to paragraph (a) of this subsection (1), the department shall send a written notice to each such parent or legal guardian identifying the negative licensing action or the fine imposed and providing a description of the basis for the action as it relates to the impact on the health, safety, and welfare of the children in the care of the facility. Such notice shall be sent to the parents and legal guardians by first-class mail.

(c) The state board shall promulgate rules concerning the assessment of a fine against a licensee that is equal to the direct and indirect costs associated with the mailing of the notice described in paragraph (b) of this subsection (1) against the facility.

(d) Nothing in this subsection (1) shall be construed to preclude the department or a county department of social services from notifying parents of serious violations of any of the standards prescribed and published by the department or any of the provisions of this part 1 that could impact the health, safety, or welfare of a child cared for at the facility or home.

(2) The state board shall promulgate rules requiring child care center facilities and family child care home facilities to provide written notice to the parents and legal guardians of the children cared for in such facilities of the procedures by which to file a complaint against the facility or an employee of the facility with the division of child care in the department. Such rules shall specify what information the notice shall contain, but shall require that the notice include the current mailing address and telephone number of the division of child care in the department.

(3) The department shall track and record complaints made to the department that are brought against family child care homes and shall identify which complaints were brought against licensed family child care homes, as defined in section 26-6-102 (4), unlicensed family child care homes, or legally exempt family child care homes, as defined in 26-6-103 (1) (g).

26-6-109. Advisory committee - sunset review - institutes. (1) (a) There is hereby created an advisory committee on licensing of child care facilities to advise and consult with the department in the administration and enforcement of this part 1. The committee shall consist of fifteen members to be appointed by the governor for terms of three years; except that, of the members first appointed, four shall be appointed for three years, four for two years, and three for one year. Thereafter, members shall be appointed for terms of three years except in the case of a vacancy that shall be filled for the remainder of the unexpired term. A member may be appointed to succeed himself or herself and may continue to serve on the committee beyond the end of his or her term until the governor appoints a successor. Members who have been appointed to fill the remainder of an unexpired term may be appointed to fill the succeeding full term.

(b) The members of the advisory committee shall serve without compensation but shall be entitled to their reasonable traveling expenses incurred in the performance of their duties, which shall be paid as a part of the expenses of administering this part 1.

(c) The committee shall consist of nine members who shall represent the various types of facilities licensed under the provisions of this part 1, four members representing various state and local governmental agencies with an interest in and concern for children, and two members at large who are parents, each having at least one child attending a facility licensed or certified under this part 1 at the time of such members' appointment.

(d) A majority of the members of the committee shall constitute a quorum, the presence of which at any meeting thereof duly called by the department shall have full and complete power to act upon and resolve in the name of the committee any matter or question referred to it by the department. The committee, as soon after appointment as practicable, shall elect from among its members a chairman, a vice-chairman, and a secretary who shall hold office until their successors are elected. The chairman shall preside at all meetings of the committee, and the secretary shall make a record of the

proceedings thereof that shall be preserved in the office of the department. All members of the committee shall be entitled to vote on any matter or question that properly comes before it.

(e) Repealed.

(2) The department is authorized to hold institutes and programs for licensees under this part 1 in order to assist in the improvement of standards and practices of facilities operated and maintained by licensees and in the more efficient and practical administration and enforcement of this part 1. In conducting such institutes and programs, the department may request the assistance of health, education, and fire safety officials.

26-6-110. Acceptance of federal grants. The department is authorized to accept, on behalf of the state, any grants of federal funds made available for any purposes consistent with the provisions of this part 1. The executive director of the department, with the approval of the governor, has the power to direct the disposition of any such grants so accepted in conformity with the terms and conditions under which given.

26-6-111. Injunctive proceedings. The department, in the name of the people of the state of Colorado, through the attorney general of the state, may apply for an injunction in any court of competent jurisdiction to enjoin any person from operating any facility without a license that is required to be licensed under this part 1. An injunction may also be requested by the appropriate county department through the county attorney or retained counsel. If it is established that the defendant has been or is so operating such facility, the court shall enter a decree enjoining said defendant from further operating such facility unless and until he obtains a license therefor. In case of violation of any injunction issued under the provisions of this section, the court may summarily try and punish the offender for contempt of court. Such injunctive proceedings shall be in addition to and not in lieu of the penalty provided in section 26-6-112.

26-6-112. Penalty. Any person violating any provision of this part 1 or intentionally making any false statement or report to the department or to any agency delegated by the department to make an investigation or inspection under the provisions of this part 1 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than three hundred dollars nor more than five hundred dollars.

26-6-113. Periodic review of licensing regulations and procedures. (1) The

general assembly finds that changes in demographics and economic trends in Colorado have increased the need for high quality and affordable child care. The general assembly also recognizes that the provision of child care in this state and in the nation is a rapidly growing industry subject to many changes. The general assembly further finds that there is a need for continuing comprehensive review of the rules and regulations and the licensing procedures governing child care centers, family child care homes, and foster care homes that includes the adequate and full participation of parents, consumers, child care providers, and interested persons. The general assembly finds that such a review with the goal of identifying problems in the fragmentation and lack of uniformity of standards in the licensing process would benefit the state and result in improvements in the regulation of this industry that is so vital to the health and well-being of the state's children and citizens.

(2) Beginning with fiscal year 1995-1996, an initial comprehensive rule and regulation review shall be conducted in conjunction with the performance audit required by section 26-6-107 (1.5), and, at least every fifth fiscal year thereafter, a comprehensive review of the licensing rules and regulations for child care centers, family child care homes, and foster care homes and the procedures relating to and governing child care centers, family child care homes, and foster care homes shall be conducted by the department, including procedures for the review of backgrounds of employees and owners. In conducting such periodic review, the department shall consult with parents and consumers of child care, child care providers, the department of public health and environment, experts in the child care field, and other interested parties throughout the state. The periodic review shall include an examination of the rules and regulations applicable to child care centers, family child care homes, and foster care homes, the process of licensing such facilities, uniformity of standards or lack thereof in the licensing process, statewide standardization of investigations and enforcement of licensing by the department, duplication and conflicts in regulations, requirements, or procedures between the department and the department of public health and environment, and recommendations for streamlining and unifying the licensing process. Said review shall also include an examination of regulations and procedures regarding the general physical and mental health of employees and owners. At the conclusion of each review, the department shall report its findings and conclusions and its recommendations for administrative changes and for legislation to the state board, the advisory committee on licensing of child care facilities, and the executive director of the department of public health and environment.

26-6-114. Civil penalties - fines - child care cash fund - created. (1) In addition to any other penalty otherwise provided by law, any person violating any provision of this part 1 or intentionally making any false statement or report to the department or to any

agency delegated by the department to make an investigation or inspection under the provisions of this part 1 may be assessed a civil penalty of not more than one hundred dollars a day to a maximum of ten thousand dollars.

(2) The amount of the civil penalties to be assessed pursuant to subsection (1) of this section shall be set in rules and regulations promulgated by the department.

(3) Each day in which a person is in violation of any provision of this part 1 may constitute a separate offense.

(4) The department may assess a civil penalty in conformity with the provisions and procedures specified in article 4 of title 24, C.R.S.; except that all hearings conducted pursuant to this section shall be before an administrative law judge of the department, who shall render his or her recommendation to the executive director of the department who shall render the final decision of the department.

(5) The fines collected pursuant to this section, section 26-6-108 (2) and (2.7), and section 26-6-108.5 (1) (c) shall be transmitted to the state treasurer, who shall credit the same to the child care cash fund, which fund is hereby created in the state treasury. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. Moneys in the child care cash fund are hereby continuously appropriated to the department to fund activities related to the improvement of the quality of child care in the state of Colorado.

26-6-115. Criminal background checks - pilot program. (Repealed)

26-6-116. Child care resource and referral system - created. (1) The state department shall design and develop a child care resource and referral system, referred to in this section as the "system", to assist in promoting availability, accessibility, and quality of child care services in Colorado. The executive director, or his or her designee, shall have the authority, within available appropriations, to designate a public or private entity that shall be responsible for the administration of the system, and may enter into a contract with the administering entity for such purpose. The executive director shall designate or redesignate such administering entity on a biennial basis.

(2) The state department shall report to the members of the health and human services committees of the senate and the house of representatives of the general assembly, or any successor committees, concerning the child care resource and referral system by December 1, 2001, and by each December 1 thereafter. The report shall specify, at a minimum, the entity that the state department has currently designated to administer the system and the qualifications of that entity to serve in such capacity, the

types of services that are being provided pursuant to the system, the numbers and types of persons receiving such services, and the cost associated with the system.

26-6-117. Accreditation standards for county departments and child placement agencies - study. (1) No later than July 1, 2002, the state department shall study:

(a) Standards for assessing the quality and performance of foster care in foster care homes certified by county departments or by child placement agencies based upon national standards for foster care services;

(b) Standards for the accreditation of county departments and child placement agencies for purposes of foster care services based upon accreditation standards of a nationally recognized accrediting body of child welfare and social services organizations.

(2) In conducting such study on accreditation standards, the state department shall compare the merits of writing its own standards with the merits of contracting with a national accrediting body. The study shall include, but is not limited to, analyzing the following:

(a) The fiscal impact on the state, counties, and providers, including the cost of:

(I) Writing standards;

(II) Contracting with a national accrediting body, including all fees and travel expenses;

(III) Training;

(IV) Implementation;

(V) Potential corrective action;

(VI) Staff time of county departments and child placement agencies to meet the accreditation standards;

(VII) Collecting and evaluating data relating to accreditation standards;

(b) The time frame for implementation of accreditation standards;

(c) Sanctions for failing to meet the accreditation standards.

(3) Repealed.

26-6-118. Child placement agencies - information sharing - investigations by state department - recovery of moneys - rule-making. (1) If a county department has substantiated evidence that a child placement agency with which the county has contracted to provide foster care services has violated the provisions of this part 1 or any rule of the state board, it shall communicate such information to the state department. A county department shall also identify whether it is requesting the state department to investigate a complaint against a child placement agency for possible negative licensing action against the child placement agency.

(2) Upon receipt of a request for investigation of a child placement agency from a county department, the state department shall commence an investigation and, upon conclusion, report its findings to the requesting county department. The state department shall include in its report to the county department the child placement agency's response, if any, to the findings.

(3) The state department shall provide to county departments and affected child placement agencies direct access to information concerning the results of any investigation or negative licensing action taken against the affected child placement agency licensed to provide foster care services in Colorado.

(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.

26-6-119. Family child care homes - administration of routine medications - parental direction - rules. (1) The delegation of nursing tasks by a registered nurse pursuant to section 12-38-132, C.R.S., shall not be required for the administration of routine medications by a child care provider to children cared for in family child care homes licensed pursuant to this part 1, subject to the following conditions:

(a) The parent of the child cared for in the licensed family child care home has daily physical contact with the child care provider that actually administers the routine medication;

(b) The child care provider has successfully completed a medication administration instructional program that is approved by the state department;

(c) Routine medications are administered in compliance with rules promulgated by the state board pursuant to subsection (2) of this section;

(d) If the routine medication involves the administration of unit dose epinephrine, the administration is accompanied by a written protocol by the prescribing health care professional that identifies the factors for determining the need for the administration of the medication, and is limited to emergency situations; and

(e) If the routine medication involves the administration of a nebulized inhaled

medication, the administration is accompanied by a written protocol by the prescribing health care professional that identifies the factors for determining the need for the administration of the medication.

(2) The state board shall promulgate rules concerning the medically acceptable procedures and standards to be followed by child care providers administering routine medications to children cared for in family child care homes.

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 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 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 Colorado child care assistance 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 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 a qualified provider or qualified adult pursuant to this section shall include a fingerprint-based criminal history records check utilizing the records of the Colorado bureau of investigation and, for qualified providers or qualified adults applying for child care assistance program moneys on or after August 10, 2011, the federal bureau of investigation. As part of the FCC, the state department shall access the records and reports of child abuse or neglect maintained by the state department 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 a qualified provider who fails to submit to the FCC or fails to submit fingerprints for a qualified adult.

(b) 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. A new qualified adult 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) 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 a qualified provider if the qualified provider or a qualified adult has been convicted of:

(a) Child abuse, as described in section 18-6-401, C.R.S.;

(b) A crime of violence, as defined in section 18-1.3-406, C.R.S.;

(c) Any felony offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(d) Any felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(e) Any felony involving physical assault, battery, or a drug-related offense within the five years preceding the date of the FCC; or

(f) Any offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in paragraphs (a) to (e) of this subsection (2).

(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 a qualified provider if the qualified provider or a qualified adult:

(a) Has a pattern of misdemeanor convictions occurring within the ten years preceding submission of the application. A pattern of misdemeanor convictions shall be defined by rule of the state board; or

(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 27-65-109 (4) or 27-65-127, 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 a child care home. The record of such determination and entry of such order shall be conclusive evidence thereof. 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) 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 the Colorado child care assistance program.

(5) The state board shall promulgate rules to establish the amount of the fee to collect from 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.

26-6-121. Preschools - unique student identifying numbers - rules. (1) On or before September 1, 2008, the executive director, in cooperation with the commissioner of education, shall convene a working group, as described in section 22-2-134, C.R.S., to review the issues pertaining to the assignment of a uniquely identifying student number to children who receive state-subsidized or federally subsidized early childhood education services, including but not limited to services provided through the child care development block grant and head start.

(2) The working group shall adopt protocols by which the department of education, the department of human services, school districts, charter schools, the early childhood councils, as described in section 26-6.5-103.3, and the early childhood care and education councils, as defined in section 26-6.5-101.5 (6), shall cooperate in assigning the uniquely identifying student numbers. The working group shall also consider methods by which to encourage and facilitate the assignment of uniquely identifying student numbers to students who are receiving early childhood education services that are not subsidized by state or federal funding.

(3) Following adoption of the protocols, the state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., as necessary for the assignment of uniquely identifying student numbers to students receiving early childhood education services. The state board shall collaborate with the state board of education in promulgating any necessary rules to ensure that they do not conflict with any rules promulgated by the state board of education pursuant to section 22-2-134, C.R.S.

PART 2

CHILD PLACEMENT AGENCIES

26-6-201 to 26-6-206. (Repealed)

PART 3

EARLY CHILDHOOD AND SCHOOL READINESS COMMISSION

26-6-301 to 26-6-307. (Repealed)

PART 4

DEDICATED FAMILY HOMES PILOT PROGRAM

26-6-401 to 26-6-406. (Repealed)

PART 5

TASK FORCE ON FOSTER CARE AND PERMANENCE

26-6-501 to 26-6-506. (Repealed)

PART 6

DEPARTMENT OF DEFENSE QUALITY CHILD CARE
STANDARDS PILOT PROGRAM

26-6-601. Short title. This part 6 shall be known and may be cited as the "Department of Defense Quality Child Care Standards Pilot Program".

26-6-602. Legislative declaration. (1) The general assembly hereby finds and determines that:

(a) Providing quality child care is vital to the health and well-being of the children of Colorado;

(b) The human capacity to develop and change is greatest from birth to five years of age when the brain is most malleable and able to change in response to education and stimulation;

(c) The investment made in early childhood care benefits children, parents, and the community in the long term. Statistics consistently show that investment in early

childhood education and programs prevents some children from entering the criminal justice system, which, in turn, diminishes jail or prison costs. Children who were enrolled in prekindergarten programs are also more likely to have better employment and higher wages over their lifetimes.

(d) As a result, there is a great demand for expensive remedial programs to address learning and behavior problems in later years when change is far more difficult to achieve; and

(e) Implementing strategies so that children become successful early learners helps reduce the need for expensive later remediation programs.

(2) The general assembly further finds and declares that:

(a) The provision of child care enables parents to work, thus generating extra dollars for local and state economies;

(b) Military facilities currently do not have enough spaces to care for all the children who need child care and early learning environments, yet providing early learning programs to children of the military is especially important during times of stress related to deployment of their parents; and

(c) Federal dollars shall be available to military families to subsidize off-base child care, provided the child care facility meets high quality standards.

(3) The general assembly therefore concludes that it is in the best interest of our state's military families and children to create a pilot program that allows military families to use their federal child care stipends to obtain off-base child care in facilities that meet the high quality standards established by the federal department of defense.

26-6-603. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "Program" means the department of defense quality child care standards pilot program created pursuant to section 26-6-604.

(2) "State department" means the department of human services created and existing pursuant to section 24-1-120, C.R.S.

26-6-604. Department of defense quality child care standards pilot program - creation - program scope - reporting requirements - rules. (1) There is hereby created in the state department the department of defense quality child care standards pilot program. The objective of the program is to allow military personnel to use their federal child care benefits and any other stipends to access off-base child care facilities that meet the quality standards established by the federal department of defense. The state department shall administer the program in accordance with the provisions of this part 6.

(2) Pilot sites may apply to the state department to be considered for inclusion in

the program. The state department, with input from the local public health agency, local county resource and referral agencies, and early childhood councils of impacted counties, shall designate pilot site facilities to serve military families. Designation of pilot sites shall be dependent upon funding from the federal department of defense as child care stipends to military families and funding of the pilot site licensing unit through fees collected pursuant to subsection (7) of this section. The designated child care facilities shall provide child care to military families, provided the facility meets the quality child care standards adopted by rule of the state department.

(3) The pilot site facilities shall have, at a minimum, the following program components:

(a) Full compliance with rules promulgated pursuant to this part 6, including department of defense child care standards;

(b) Special needs services;

(c) Staff development and training;

(d) Family support services; and

(e) A state department-approved quality rating and improvement system.

(4) The state department shall identify, develop, and implement an early childhood training plan based upon the needs of each pilot site facility. The training shall include the principal elements of the rules promulgated pursuant to this part 6, the department of defense quality child care standards, and the elements of the quality rating and improvement system.

(5) On or before December 30, 2013, the state department shall develop a quality rating and improvement system that is inclusive, accessible, available to all child care providers, embedded in licensing, and reflective of evidence-based practices for successful outcomes for all children and families, to be used in the program to evaluate the implementation of the department of defense standards.

(6) On or before June 30, 2012, the state department and the local public health agency shall promulgate rules for the implementation of this part 6. The rules shall include, at a minimum:

(a) Pilot site compliance with department of defense quality child care standards;

(b) A requirement for compliance with existing state and federal regulations; and

(c) A procedure to establish a fee for and charge pilot site facilities for any additional inspections and services required to implement the enhanced department of defense quality child care standards.

(7) The state department and the local public health agency are hereby granted the authority to charge pilot site facilities for any additional inspections and services required by the department of defense quality child care standards.

(8) No later than March 1, 2015, the state department shall report on the outcomes of the program, including an evaluation of the higher standards and the quality rating and improvement system for licensure, monitoring, and provider support to the state, veterans,

and military affairs committees of the senate and house of representatives and the health and human services committees of the senate and house of representatives, or any successor committees. The state department shall determine if the model for the program represents the best practices to be implemented statewide.

26-6-605. Department of defense quality child care standards pilot program - funding. It is the intent of the general assembly that the pilot program shall be funded by gifts, grants, and donations; federal moneys; and any fees collected pursuant to section 26-6-604 (7). Payment for child care services for a child of a member of the military shall be made by the family and shall include any child care benefit or stipend received by the child care facility from the federal department of defense. The state department and the local public health agency may access other already appropriated state funds to enhance the quality of care and education of children in the implementation of the quality rating and improvement system. Moneys from fees collected pursuant to section 26-6-604 (7) may be used to administer a pilot site licensing unit. The state department and the local public health agency shall not be obligated to implement the provisions of section 26-6-604 until such time as sufficient funds are available.

26-6-606. Repeal of part. This part 6 is repealed, effective June 30, 2015.

ARTICLE 6.2

Early Childhood Leadership Commission

26-6.2-101. Legislative declaration. (1) The general assembly hereby finds that:

(a) Public investments for pregnant women and young children from birth to eight years of age fall behind investments for older Colorado children and lag behind national trends;

(b) For the state's early childhood system to operate effectively, the efforts of the public and private agencies that compose the system must be efficiently coordinated, aligned to state and federal standards, and made accountable across state systems; and

(c) While there are several planning efforts related to early childhood services and collaborative bodies within state and local governments, there is no single venue to allow high-level decision making among policy makers, to collectively study recommendations, and to make joint policy and funding recommendations.

(2) The general assembly further finds that:

(a) A commission to assist in coordinating services and supports for pregnant women and young children from birth to eight years of age will improve the delivery of those services and improve the educational, health, emotional and mental health, child welfare, and employment outcomes for these children and their families; and

(b) A commission to assist in coordinating the delivery of services and supports for pregnant women and young children will also significantly improve Colorado's workforce and economic development by:

(I) Helping to ensure a healthy, well-educated workforce far into the future;

(II) Supporting those persons who currently provide early childhood services and supports and creating additional employment opportunities;

(III) Supporting parents of young children who need dependable, high-quality child care and supportive services in order to be fully engaged and productive in their jobs; and

(IV) Supporting the market in early childhood services and products as a vibrant element of the state's economy.

(3) The general assembly finds, therefore, that it is essential to create a high-level, interagency, public-private leadership commission to identify opportunities for, and address barriers to, the coordination of federal and state early childhood policies and procedures that affect the health and well-being of Colorado's children.

26-6.2-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Commission" means the early childhood leadership commission created in section 26-6.2-103.

(2) "State department" means the state department of human services created in section 26-1-105.

26-6.2-103. Early childhood leadership commission - created - mission. (1) There is created in the state department the early childhood leadership commission. The purpose of the commission is to ensure and advance a comprehensive service delivery system for pregnant women and children from birth to eight years of age using data to improve decision-making, alignment, and coordination among federally funded and state-funded services and programs for pregnant women and young children and their families. At a minimum, the comprehensive service delivery system for pregnant women and children must include services in the areas of prenatal health, child health, child mental health, early learning, and family support and parent education.

(2) The commission shall consist of up to twenty members as follows:

(a) The executive directors of each of the following agencies or their designees:

(I) The state department of human services;

(II) The department of public health and environment;

(III) The department of health care policy and financing; and

(IV) The department of higher education;

(b) The commissioner of education or his or her designee;

(c) The head start state collaboration director for Colorado; and

(d) No more than fourteen persons appointed by the governor, which persons collectively have the following expertise, affiliations, or backgrounds:

(I) Representatives of local government groups;

(II) Representatives of school districts;

(III) Providers of early childhood supports and services;

(IV) Persons whose families receive early childhood supports or services;

(V) Representatives of statewide foundations and nonprofit organizations involved in early childhood issues;

(VI) Members of the business community; and

(VII) Representatives of the local public health community.

(3) (a) In appointing persons to the commission, the governor shall ensure that the appointed persons reflect the gender balance and ethnic diversity in the state and provide representation from throughout the state and that the commission includes representation of persons with disabilities.

(b) The persons appointed to the commission pursuant to paragraph (d) of subsection (2) of this section shall:

(I) Serve at the pleasure of the governor; and

(II) Serve without compensation but may receive reimbursement for reasonable expenses incurred in fulfilling their duties on the commission, subject to the availability of moneys pursuant to section 26-6.2-105.

(c) If a vacancy occurs in the positions appointed pursuant to paragraph (d) of subsection (2) of this section, the governor shall appoint a person to fill the vacancy.

(4) The governor shall appoint three persons from among the members of the commission, one representing business interests, one representing private, nonprofit entities, and one representing public entities, to serve as co-chairs of the commission. The commission shall meet regularly at the direction of the co-chairs and as often as necessary to fulfill its duties. The co-chairs may appoint working groups and subcommittees to assist the commission in its work or to address specific issues. The working groups and subcommittees, at the discretion of the co-chairs, may consist of any combination of members of the commission and other persons from the community.

(5) The commission, in collaboration with the executive director of the state department, may appoint an executive director to assist the commission in fulfilling its duties pursuant to this article. The executive director may appoint such additional persons as may be necessary to assist the commission. The executive director and any other

persons appointed pursuant to this subsection (5) shall be compensated from moneys credited to the early childhood leadership commission fund created in section 26-6.2-105.

(6) The governor's office, the state department, and the other agencies represented on the commission may, at the request of the commission and within existing appropriations, provide necessary support to the commission, including but not limited to administrative support, data, and other analytical information. In addition, the commission may accept in-kind contributions from public and private entities to the extent necessary to cover the expenses of the commission.

26-6.2-104. Early childhood leadership commission - duties. (1) In addition to any other duties specified in law, the commission has the following duties:

(a) To identify opportunities for, and barriers to, the alignment of standards, rules, policies, and procedures across programs and agencies that support young children and to recommend to the appropriate committees of reference of the general assembly pursuant to part 2 of article 7 of title 2, C.R.S., and to government and nonprofit agencies and policy boards changes to enhance the alignment and provision of services and supports for young children;

(b) To advise and make recommendations to the state department and to other relevant early childhood entities concerning implementation of the early childhood Colorado framework;

(c) To assist public and private agencies in coordinating efforts on behalf of pregnant women and children, including securing funding and additional investments for services and programs for children and their families;

(d) To consider and recommend waivers from state regulations on behalf of early childhood councils as provided in section 26-6.5-104 (1);

(e) To monitor the ongoing development, promotion, and implementation of:

(I) A quality, cohesive professional development and career advancement system;

(II) High-quality, comprehensive early learning standards; and

(III) The sharing and use of common data for planning and accountability among early childhood programs;

(f) To develop strategies and monitor efforts concerning increasing children's school readiness;

(g) To develop strategies and monitor efforts concerning increasing participation in and access to child care and early education programs; and

(h) To develop strategies and monitor efforts concerning promoting family and community engagement in children's education and development.

(2) In fulfilling its duties, the commission shall collaborate, at a minimum, with:

(a) Members of the early childhood councils established pursuant to section 26-6.5-103; and

(b) Any other boards, commissions, and councils existing within the executive branch agencies that address services and supports for young children.

26-6.2-105. Early childhood leadership commission fund - created. (1) There is created in the state treasury the early childhood leadership commission fund, referred to in this section as the "fund". The fund shall consist of such federal moneys as the governor may allocate to the fund. The fund shall not include appropriations of moneys from the state general fund. The moneys in the fund are available to the commission for administrative costs and the expenses incurred by the commission in fulfilling its duties pursuant to this article.

(2) Any moneys in the fund not expended for the expenses of the commission 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. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

26-6.2-106. Repeal of article. This article is repealed, effective September 1, 2018. Prior to its repeal, the commission shall be reviewed as provided in section 2-3-1203 (3), C.R.S.

ARTICLE 6.4

Colorado Nurse Home Visitor Program

26-6.4-101. Short title. This article shall be known and may be cited as the "Colorado Nurse Home Visitor Program Act".

26-6.4-102. Legislative declaration. (1) The general assembly hereby finds that, in order to adequately care for their newborns and young children, new mothers may often benefit from receiving professional assistance and information. Without such assistance and information, a young mother may develop habits or practices that are detrimental to her health and well-being and the health and well-being of her child. The general assembly further finds that inadequate prenatal care and inadequate care in infancy and early childhood often inhibit a child's ability to learn and develop throughout his or her

childhood and may have lasting, adverse effects on the child's ability to function as an adult. The general assembly recognizes that implementation of a nurse home visitor program that provides educational, health, and other resources for new young mothers during pregnancy and the first years of their infants' lives has been proven to significantly reduce the amount of drug, including nicotine, and alcohol use and abuse by mothers, the occurrence of criminal activity committed by mothers and their children under fifteen years of age, and the number of reported incidents of child abuse and neglect. Such a program has also been proven to reduce the number of subsequent births, increase the length of time between subsequent births, and reduce the mother's need for other forms of public assistance. It is the intent of the general assembly that such a program be established for the state of Colorado, beginning with a limited number of participants and expanding by the year 2010 to be available to all low-income, first-time mothers in the state who consent to receiving services.

(2) The general assembly further finds that, to implement such a program efficiently and effectively and to promote the successful implementation of partnerships between state public entities and the private sector, responsibility for the program should be divided between the state department, which shall be responsible for financial administration of the program, and a health sciences facility at the university of Colorado, which shall be responsible for programmatic and clinical support, evaluation, and monitoring for the program, and such other responsibilities as described in this article. It is the intent of the general assembly that the state department and the health sciences facility work collaboratively to share information in order to promote efficient and effective program implementation; however, neither entity is responsible for the other entity's statutorily prescribed duties.

26-6.4-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Entity" means any nonprofit, not-for-profit, or for-profit corporation, religious or charitable organization, institution of higher education, visiting nurse association, existing visiting nurse program, county, district, or municipal public health agency, county department of social services, political subdivision of the state, or other governmental agency or any combination thereof.

(2) "Health sciences facility" means the Anschutz medical campus or a successor facility located at the university of Colorado health sciences center that is selected by the president of the university of Colorado pursuant to section 26-6.4-105 to assist the state board in administering the program.

(3) "Low-income" means an annual income that does not exceed two hundred percent of the federal poverty line.

(4) "Master settlement agreement" means the master settlement agreement, the

smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.,* Case No. 97 CV 3432, in the district court for the city and county of Denver.

(5) "Nurse" means a person licensed as a professional nurse pursuant to article 38 of title 12, C.R.S., or accredited by another state or voluntary agency that the state board of nursing has identified by rule pursuant to section 12-38-108 (1) (a), C.R.S., as one whose accreditation may be accepted in lieu of board approval.

(6) "Program" means the nurse home visitor program established in this article.

(7) "State board" means the state board of human services created in section 26-1-107.

(8) "State department" means the state department of human services created in section 26-1-105.

26-6.4-104. Nurse home visitor program - created - rules. (1) (a) There is established the nurse home visitor program to provide regular, in-home, visiting nurse services to low-income, first-time mothers, with their consent, during their pregnancies and through their children's second birthday. The program shall provide trained visiting nurses to help educate mothers on the importance of nutrition and avoiding alcohol and drugs, including nicotine, and to assist and educate mothers in providing general care for their children and in improving health outcomes for their children. In addition, visiting nurses may help mothers in locating assistance with educational achievement and employment. Any assistance provided through the program shall be provided only with the consent of the low-income, first-time mother, and she may refuse further services at any time.

(b) The nurse home visitor program created in article 31 of title 25, C.R.S., as it existed prior to July 1, 2013, is transferred to the state department of human services. All rules, orders, and awards of the state board of health concerning the nurse home visitor program adopted prior to July 1, 2013, continue to be effective until revised, amended, repealed, or nullified pursuant to law. All grants in existence as of July 1, 2013, are valid through June 30, 2014, and may be extended or renewed beyond said date.

(2) The program shall be administered in communities throughout the state by entities selected on a competitive basis by the health sciences facility and approved by the state board. Any entity that seeks to administer the program shall submit an application to the state department as provided in section 26-6.4-106. The entities selected pursuant to section 26-6.4-107 are expected to provide services to a minimum of one hundred low-

income, first-time mothers in the community in which the entity administers the program; except that the state board may grant a waiver of this requirement if the population base of the community does not have the capacity to enroll one hundred eligible families. The state board shall consult with the health sciences facility prior to granting the waiver to ensure that the entity can implement the program within the smaller community and maintain compliance with the program requirements. A mother is eligible to receive services through the program if she is pregnant with her first child, or her first child is less than one month old, and her gross annual income does not exceed two hundred percent of the federal poverty line.

(3) The state board shall promulgate, pursuant to the provisions of article 4 of title 24, C.R.S., rules to implement the program. The state board shall base the rules establishing program training requirements, program protocols, program management information systems, and program evaluation requirements on research-based model programs that have been implemented in one or more other states for a period of at least five years and have shown significant reductions in:

(a) The occurrence among families receiving services through the model program of infant behavioral impairments due to use of alcohol and other drugs, including nicotine;

(b) The number of reported incidents of child abuse and neglect among families receiving services through the model program;

(c) The number of subsequent pregnancies by mothers receiving services through the model program;

(d) The receipt of public assistance by mothers receiving services through the model program;

(e) Criminal activity engaged in by mothers receiving services through the model program and their children.

(4) Notwithstanding the provisions of subsection (3) of this section, the board shall adopt rules pursuant to which a nurse home visitation program that is in operation in the state as of July 1, 1999, may qualify for participation in the program if it can demonstrate that it has been in operation in the state for a minimum of five years and that it has achieved a reduction in the occurrences specified in subsection (3) of this section. Any program so approved is exempt from the rules adopted regarding program training requirements, program protocols, program management information systems, and program evaluation requirements so long as the program continues to demonstrate a reduction in the occurrences specified in subsection (3) of this section.

(5) The state department may propose to the state board rules concerning program applications under section 26-6.4-106. Any such proposal shall be made in consultation with the health sciences facility.

26-6.4-105. Health sciences facility - duties. (1) The president of the university of Colorado shall identify a facility at the university of Colorado health sciences center with the knowledge and expertise necessary to:

(a) Assist the state board by selecting and presenting entities from among the applications submitted pursuant to section 26-6.4-106;

(b) Provide programmatic and clinical support, evaluation, and monitoring for the program, including nurse practice support and training, clinical and programmatic technical assistance, compliance monitoring and support, program development and implementation support, and performance improvement monitoring and support, in communities throughout the state;

(c) Cooperate with the state department in connection with the state department's financial administration of the program; and

(d) Work with the state auditor's office as required in section 2-3-113 (4), C.R.S.

(1.5) The health sciences facility is not responsible for the duties assigned to the state department with respect to the program under section 26-6.4-107 (2) (a.5).

(2) The health sciences facility shall perform the duties set forth in subsection (1) of this section to ensure that the program is implemented and operated according to the program training requirements, protocols, management information systems, and evaluation requirements established by rule of the state board. The health sciences facility shall evaluate overall program implementation, operation, and effectiveness, and include that evaluation, along with any recommendations concerning the program's selected entities or changes in the program's implementation, operation, and effectiveness, including program training requirements, protocols, management information systems, or evaluation requirements, in the annual report submitted to the state department pursuant to section 26-6.4-108.

(3) The state department shall compensate the health sciences facility for the health sciences facility's actual costs incurred in performing its duties under this article, as determined by the health sciences facility. Such duties and actual costs shall be included in the scope of work in the agreement between the state department and the health sciences facility for implementation of those duties and shall include the costs incurred by any contractor or subcontractor of the health sciences facility for those duties. Such compensation shall be paid out of the amount allocated for the health sciences facility's costs, in accordance with the maximum allocation of three percent of the amount annually allocated for the program under section 26-6.4-107 (2).

26-6.4-106. Program applications - requirements. (1) An entity that seeks to administer the program in a community shall submit an application to the state department in accordance with rules adopted by the state board, in consultation with the state department and the health sciences facility. At a minimum, the application must specify

the basic elements and procedures that the entity shall use in administering the program. Basic program elements must include the following:

(a) The specific training each nurse employed by the entity must receive to provide home nursing services through the program, which training must meet or exceed the visiting nurse training requirements established by rule of the state board;

(b) The protocols the entity must follow in administering the program, which protocols at a minimum must comply with the program protocols established by rule of the state board;

(c) The management information system the entity must use in administering the program, which at a minimum must comply with the management information system requirements established by rule of the state board;

(d) The reporting and evaluation system the entity must use in measuring the effectiveness of the program in assisting low-income, first-time mothers, which at a minimum must meet the reporting and evaluation requirements specified by rule of the state board;

(e) An annual report to both the health sciences facility and the community in which the entity administers the program that reports on the effectiveness of the program within the community and is written in a manner that is understandable for both the health sciences facility and members of the community.

(2) Any program application submitted pursuant to this section must demonstrate strong, bipartisan public support for and a long-time commitment to operation of the program in the community.

(3) The state department shall initially review the applications received pursuant to this section and submit to the health sciences facility for review those applications that include the basic program elements as required by the rules adopted by the state board. Following its review, the health sciences facility shall submit to the state board a list of the applying entities that the health sciences facility recommends to administer the program in communities throughout the state.

26-6.4-107. Selection of entities to administer the program - grants - nurse home visitor program fund - created. (1) On receipt of the list of entities recommended by the health sciences facility, the state board shall select the entities that will administer the program in communities throughout the state. In selecting entities, the state board shall give special consideration to entities that are proposing to administer the program as a collaborative effort among multiple entities.

(2) (a) The entities selected to operate the program shall receive grants in amounts specified by the state board. The grants may include operating costs and additional amounts for training and development of any infrastructure, including but not limited to development of the information management system necessary to administer the program.

The state board shall determine the number of entities selected and the number of communities in which the program is implemented based on the moneys available in the nurse home visitor program fund created in paragraph (b) of this subsection (2).

(a.5) Except as otherwise provided in section 26-6.4-108, the state department is responsible for financial administration of this article, which includes compensating the health sciences facility pursuant to section 26-6.4-105 (3); paying grants to entities selected to administer the program; monitoring financial, contractual, and regulatory compliance; providing medicaid financing oversight; managing accounting and budgeting; and, in cooperation with the health sciences facility, managing grant applications as set forth in section 26-6.4-106. The state department shall also cooperate with the health sciences facility's administration of programmatic and clinical support, evaluation, and monitoring of the program. The state department is not responsible for any duties assigned to the health sciences facility with respect to the program, as described in section 26-6.4-105.

(b) Grants awarded pursuant to paragraph (a) of this subsection (2) are payable from the nurse home visitor program fund, which fund is hereby created in the state treasury. The nurse home visitor program fund, referred to in this section as the "fund", is administered by the state department and consists of moneys transferred thereto by the state treasurer from moneys received pursuant to the master settlement agreement in the amount described in paragraph (d) of this subsection (2). In addition, the state treasurer shall credit to the fund any public or private gifts, grants, or donations received by the state department to implement the program, including any moneys received from the United States federal government for the program. The fund is subject to annual appropriation by the general assembly to the state department for grants to entities for operation of the program. The state department may retain a total of up to five percent of the amount annually appropriated from the fund for the program, in order to compensate the health sciences facility pursuant to section 26-6.4-105 (3), as set forth in the scope of work in the agreement between the state department and the health sciences facility, and to compensate the state department for the actual costs the state department incurs in implementing the provisions of paragraph (a.5) of this subsection (2), as determined by the state department; except that the portion of the costs to compensate the state department for implementing the provisions of paragraph (a.5) of this subsection (2) shall not exceed two percent of the amount annually appropriated from the fund for the program, and the portion of such costs to compensate the health sciences facility under section 26-6.4-105 (3), as set forth in the scope of work in the contract between the state department and the health sciences facility, shall not exceed three percent of the amount annually appropriated from the fund for the program. In addition, if the total amount annually appropriated from the fund for the program exceeds nineteen million dollars, the state department and the health sciences facility shall assess whether a smaller percentage of the appropriated funds exceeding nineteen million dollars is adequate to cover their

actual costs and shall jointly submit to the general assembly a report articulating their conclusions on this subject. The actual costs of the state department include state department personnel and operating costs and any necessary transfers to the department of health care policy and financing for administrative costs incurred for the medicaid program associated with the program. The actual costs of the health sciences facility include the facility's own actual program costs and those of its contractors and subcontractors. Any costs for time studies required to obtain medicaid reimbursement for the program may be paid from program funds and are not subject to the five percent limit in this section. Notwithstanding section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The lesser of all unexpended and unencumbered moneys in the fund at the end of any fiscal year or an amount of such moneys equal to five percent of the amount appropriated from the fund for the fiscal year remain in the fund and shall not be transferred to the general fund or any other fund. Any additional unexpended and unencumbered moneys in the fund at the end of any fiscal year shall be transferred to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

(c) It is the intent of the general assembly that general fund moneys not be appropriated for implementation of the program.

(d) (I) Pursuant to section 24-75-1104.5 (1) (a), C.R.S., and except as otherwise provided in section 24-75-1104.5 (5), C.R.S., beginning with the 2006-07 fiscal year and for each fiscal year thereafter so long as the state receives moneys pursuant to the master settlement agreement, the state treasurer shall transfer to the fund the amounts specified in subparagraph (II) of this paragraph (d) from the master settlement agreement moneys received by the state, other than attorney fees and costs, during the preceding fiscal year, not to exceed nineteen million dollars in any fiscal year. The transfer shall be from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

(II) (A) For the 2004-05 fiscal year, the general assembly shall appropriate to the fund nine percent of the total amount of moneys received by the state.

(A.5) For the 2005-06 fiscal year, the general assembly shall appropriate to the fund ten percent of the total amount of moneys received by the state.

(A.7) For the 2006-07 fiscal year, the state treasurer shall transfer from the moneys received by the state pursuant to the master settlement agreement to the fund eleven percent of the total amount of moneys received by the state.

(B) Beginning with the 2007-08 fiscal year and for each fiscal year thereafter through the 2010-11 fiscal year, the state treasurer shall increase the percentage transferred to the fund pursuant to sub-subparagraph (A.7) of this subparagraph (II) by one percent; except that the percentage transferred to the fund for the 2009-10 fiscal year shall be the same as the percentage transferred to the fund for the 2008-09 fiscal year.

(C) For the 2011-12 and 2012-13 fiscal years, the state treasurer shall transfer to

the fund the greater of fourteen percent of the total amount of settlement moneys received by the state or twelve million seven hundred thirty-seven thousand three hundred fifty dollars.

(D) For the 2013-14 fiscal year, the state treasurer shall transfer to the fund seventeen percent of the total amount of moneys received by the state less one million dollars.

(E) For the 2014-15 fiscal year, the state treasurer shall transfer to the fund eighteen percent of the total amount of moneys received by the state less one million dollars.

(F) For the 2015-16 fiscal year, the state treasurer shall transfer to the fund nineteen percent of the total amount of moneys received by the state less one million dollars.

(G) For the 2016-17 fiscal year and for each fiscal year thereafter, the state treasurer shall transfer to the fund nineteen percent of the total amount of moneys received by the state.

(III) In addition to all other moneys transferred to the fund pursuant to this paragraph (d), the state treasurer shall transfer moneys from the general fund to the fund as specified in section 24-75-1104.5 (5) (a) (I) (B), C.R.S.

26-6.4-108. Annual program review - audit. (1) The health sciences facility shall annually prepare and submit to the state department a report including an evaluation of the implementation of the program, the results achieved by the program based on the annual reports submitted by the administering entities pursuant to section 26-6.4-106 (1) (e), the extent to which the program serves medicaid-eligible persons and provides services that may be provided in part through medicaid funding, and any recommendations concerning changes to the program, including any changes that may be appropriate to enable the program to receive and maximize medicaid funding. The state department shall include the report in the annual report on the program prepared pursuant to section 25-1-108.5 (3), C.R.S. Each program contractor and subcontractor and each entity that administers the program shall work with the health sciences facility and the state department to prepare the reports required under this section and sections 2-3-113 (2) and 25-1-108.5 (3), C.R.S. Any entity that is administering the program is subject to a reduction in or cessation of funding if the state board, based on recommendations from the health sciences facility, determines that the entity is not operating the program in accordance with the program requirements established by rule of the state board or is operating the program in such a manner that the program does not demonstrate positive results.

(2) The state auditor's office, pursuant to section 2-3-113, C.R.S., shall audit each entity administering the program to determine whether the entity is administering the

program in compliance with the program requirements and in an effective manner. The audit shall be conducted and reported in accordance with the provisions of section 2-3-113, C.R.S.

ARTICLE 6.5

Early Childhood and School Readiness

PART 1

EARLY CHILDHOOD COUNCILS

26-6.5-101. Legislative declaration. (1) The general assembly hereby finds and declares that there is a critical need to increase services for young children and their families, including those families with members who are entering the workforce due to Colorado's reform of the welfare system, making the transition off of welfare, or needing child care assistance to avoid the welfare system. The statewide need includes increasing and sustaining the quality, accessibility, capacity, and affordability of services for children and their parents to help parents raise their children to be successful at school, at work, and in the community.

(2) Research demonstrates that there are positive outcomes for young children and their families who receive quality, integrated child care and related services in their early, preschool years, delivered through a comprehensive early childhood system that includes quality care and education, family support, health, and mental health programs.

(3) Providers of half-day preschool and full-day child care services have to overcome barriers and inflexible requirements of the various sources of funding in order to design and implement programs that are more responsive to the needs of working families.

(4) Consideration of various state and federal funding sources would allow for an integrated delivery system of quality programs for young children and their families in Colorado's communities.

(5) An integrated delivery system would further enhance the ability of the state department to identify the best practices relative to increasing and sustaining quality and to meeting the diverse needs of families seeking child care and other early childhood services.

(6) Distinctly local needs and conditions require that the state design and integrate a system that has the flexibility to adapt to those local needs.

(7) It is therefore in the state's best interest to establish a comprehensive system of

early childhood councils to increase and sustain the availability, accessibility, capacity, and quality of early childhood services throughout the state, as provided in this part 1.

26-6.5-101.5. Definitions. As used in this part 1, unless the context otherwise requires:

(1) Repealed.

(2) "Council" means an early childhood council identified or established locally in communities throughout the state pursuant to section 26-6.5-103 for the purpose of developing and ultimately implementing a comprehensive system of early childhood services to ensure the school readiness of children five years of age or younger in the community. A council may be an early childhood care and education council so long as no more than one council exists in a given service area.

(3) "County department" means the county or district department of social services.

(4) "CSAP" means the Colorado student assessment program implemented pursuant to section 22-7-409, C.R.S.

(5) "Early care and education provider" or "early care and education facility" means a school district, provider, or facility that:

(a) Is licensed pursuant to part 1 of article 6 of this title or that participates in the Colorado preschool program pursuant to article 28 of title 22, C.R.S.; and

(b) Participates in local community councils.

(6) "Early childhood care and education council" means a council that represents public and private stakeholders identified or established locally in communities throughout the state pursuant to section 26-6.5-106. An early childhood care and education council shall provide school-readiness quality improvement funding to early care and education providers pursuant to section 26-6.5-106 (3) to enhance the school readiness of children five years of age or younger.

(7) "Eligible elementary school" means a public elementary school that:

(a) (I) For the school year immediately preceding submission of the council's application for funding pursuant to section 26-6.5-106, is required to implement a priority improvement or turnaround plan as described in section 22-11-405 or 22-11-406, C.R.S., respectively, or is subject to restructuring pursuant to section 22-11-210, C.R.S.; and

(II) (Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1546, § 57, effective May 21, 2009.)

(b) As of the date on which the council applies for funding through the program, is receiving moneys pursuant to Title I of the federal "Elementary and Secondary Education Act of 1965", 20 U.S.C. sec. 6301 et seq.

(8) "Pilot site agency" means a community consolidated child care services pilot site agency as it existed prior to May 31, 2007.

(9) "State board" means the state board of human services authorized to act in accordance with the provisions of section 26-1-107.

(10) "State department" means the state department of human services.

26-6.5-102. Pilot program established. (Repealed)

26-6.5-103. Early childhood councils - established - rules. (1) There is hereby established a statewide integrated system of early childhood councils to improve and sustain the availability, accessibility, capacity, and quality of early childhood services for children and families throughout the state. The councils shall have consistent function and structure statewide and shall be governed by the state department of human services with input, cooperation, and support services from the departments of education and public health and environment.

(2) The statewide system of early childhood councils shall consist of the seventeen pilot site agencies and other existing early childhood councils, renamed through this part 1 as "early childhood councils", and new councils designated and convened pursuant to this part 1, subject to available appropriations from the general fund.

(3) For new councils or for existing councils or partnerships that decide to reconfigure under this part 1, the board or boards of county commissioners shall designate a convening entity, which may include but is not limited to a local resource and referral agency, a county department of human services or social services, a local school district, a department of public health, or a Colorado preschool program council. The convening entity may convene a council either as part of a single county or as part of a multi-county regional network.

(4) The state department shall determine by rule the criteria necessary for establishing a single council for an area.

(5) Nothing in this part 1 shall be construed as requiring an existing council to reconfigure or reconvene.

(6) Nothing in this part 1 shall be construed as requiring a county to establish an early childhood council or to be a part of a multi-county council.

26-6.5-103.3. Early childhood councils - applications - rules. (1) A newly established or newly identified council shall submit to the state department an application to become part of the statewide system of early childhood councils. The state department shall develop and distribute the application form and criteria and an explanation of the process for joining the statewide system of early childhood councils. The state department shall provide support for the preparation of applications.

(2) A new council shall designate on its application the following information:

(a) The intended service area;

(b) The counties to be involved in the council;

(c) Participating mandatory stakeholders;

(d) The entity that shall serve as the original fiscal agent for the council; and

(e) The signatures of the chair or chairs of the board or boards of county commissioners for the counties involved in the council, the legal signatory for the counties, and the president of a school district board of education involved in the council.

(3) A pilot site agency or other existing early childhood council seeking to be newly identified as a council shall designate on its application a restatement of the following information:

(a) The designated service area;

(b) Current members;

(c) Any additional stakeholders required to meet the membership requirements of section 26-6.5-103.5;

(d) The designated fiscal agent; and

(e) Signatures of the current organization leadership, the fiscal agent, the chair or chairs of the board or boards of county commissioners of the counties involved in the council, and the president of a school district board of education involved in the council.

(4) Each council shall develop a strategic plan based upon an assessment of the early childhood needs in the designated service area that includes:

(a) A council infrastructure, including a plan for hiring a council director;

(b) A technical assistance plan and an annual budget for developing a local early childhood system and infrastructure to improve and coordinate early childhood services; and

(c) A plan for evaluating program performance and council process and effectiveness as it relates to the council's strategic plan.

(5) The state department shall promulgate rules to define the standards for acceptance of applications made pursuant to this section. Acceptance of an application shall be automatic if the application is complete, the signatures are in order, and it meets the standards set forth by the state department pursuant to this subsection (5).

26-6.5-103.5. Early childhood councils - membership. (1) To the extent practicable, each council shall be representative of the various public and private stakeholders in the local community who are committed to supporting the well-being of children five years of age or younger.

(2) For the purposes of this part 1, each council, whether newly established in a community or newly identified to serve as a council, shall work toward consolidating and coordinating funding, including the school-readiness quality improvement funding

described in section 26-6.5-106. Together, the councils throughout the state shall serve to create a seamless system of early childhood services representing collaboration among the various public and private stakeholders for the effective delivery of early childhood services to children five years of age or younger in a manner that is responsive to local needs and conditions.

(3) (a) Each new council shall consist of members to be approved initially by the convening entity as designated pursuant to section 26-6.5-103. Each individual council shall determine subsequent appointments and rules for rotation of terms.

(b) Early childhood council membership shall include representatives from the public and private stakeholders from early care and education, family support, health, and mental health programs who reflect local needs and cultural diversity. The membership of each early childhood council shall also represent the geographic diversity within the county or counties involved in the council. Each council shall include a minimum of ten members with representation from each of the following stakeholder groups within the council's service area:

(I) Local government, including but not limited to county commissioners, city council members, local school district board members, and local county departments of human services;

(II) Early care and education, including but not limited to licensed and legally exempt child care providers, head start grantees, and district preschool programs operating pursuant to article 28 of title 22, C.R.S.;

(III) Health care, including but not limited to local public health agencies; health care providers; supplemental food programs for women, infants, and children as provided for in 42 U.S.C. sec. 1786; early periodic screening and diagnosis and treatment programs as required by federal law; and part B and part C of the federal "Individuals With Disabilities Education Improvement Act of 2004", 42 U.S.C. sec. 1400 et seq., as amended;

(IV) Parents of children five years of age or younger;

(V) Mental health care, including but not limited to community mental health centers and local mental health care providers;

(VI) Resource and referral agencies, including but not limited to child care resource and referral agencies;

(VII) Family support and parent education, including but not limited to home visitation programs, family resource centers, and income assistance programs.

(c) In addition, each council may include but is not limited to representation from any combination of the following stakeholder groups within the council's service area:

(I) Child care associations;

(II) Medical and dental professionals;

(III) School district parent organizations;

(IV) Head start policy councils;

(V) A chamber or chambers of commerce;

(VI) Local businesses;

(VII) Faith-based and nonprofit organizations;

(VIII) Higher education institutions; and

(IX) Libraries.

(4) Each member of a council shall sign a memorandum of understanding on behalf of the organization he or she represents to participate in and collaborate on the work of the council.

26-6.5-103.7. Early childhood councils - duties. (1) Each early childhood council shall have, at a minimum, the following duties and functions:

(a) To apply for early childhood funding pursuant to section 26-6.5-104;

(b) To increase and sustain the quality, accessibility, capacity, and affordability of early childhood services for children five years of age or younger and their parents. To this end, each council shall develop and execute strategic plans to respond to local needs and conditions.

(c) To establish a local system of accountability to measure local progress based on the needs and goals set for program performance;

(d) To report annually the results of the accountability measurements defined in paragraph (c) of this subsection (1);

(e) To select a fiscal agent to disburse funds and serve as the employer of the council director, once hired. The fiscal agent may or may not be a county.

(f) To develop and implement a strategic plan as described in section 26-6.5-103.3 (4), including a comprehensive evaluation and report; and

(g) To actively attempt to inform and include small or under-represented early childhood service providers in early childhood council activities and functions.

26-6.5-104. Early childhood councils - waivers - rules - funding - application. (1) A local council may request a waiver of any rule that would prevent a council from implementing council projects. The local council shall submit the request to the early childhood leadership commission created in article 6.2 of this title. The early childhood leadership commission shall consult with the affected state agency in reviewing the request. The state department or other affected state agency shall grant waivers upon recommendation by the commission.

(2) (a) The state department shall promulgate rules to develop and distribute to councils the application form and application process to be used by each council seeking to receive council infrastructure, quality improvement, technical assistance, and evaluation funding from the early childhood cash fund created in section 26-6.5-109 and

other funding sources appropriated for early childhood services.

(b) Applications for early childhood funding from the early childhood cash fund established in section 26-6.5-109 and other funding sources appropriated for early childhood services shall be reviewed upon receipt by the state department.

(c) The state department is authorized to enter into a sole-source contract with any council to increase and sustain the quality, accessibility, capacity, and affordability of early childhood services for young children and their parents.

26-6.5-104.5. Quality evaluation and improvement of early childhood care and education programs - use of Colorado works moneys. Counties are urged to partner with for-profit or not-for-profit organizations that evaluate the quality of early childhood care and education programs in the early childhood councils and assign ratings thereto in an effort to assess the success of such programs and to improve the ultimate delivery of early childhood care and education. Counties so partnering are further encouraged to match private investments in such early childhood care and education programs with county block grant moneys for Colorado works pursuant to part 7 of article 2 of this title and federal child care development funds in an effort to improve the overall quality of those programs. Counties so partnering are further encouraged to expend local funds to promote the objectives of this part 1 and improve the delivery of early childhood services, including the continuation of those funding sources developed to support pilot site agency activities.

26-6.5-105. Early childhood council advisory team - creation - duties. (Repealed)

26-6.5-106. School-readiness quality improvement program.

(1) (Deleted by amendment, L. 2005, p. 892, § 2, effective June 2, 2005.)

(2) Repealed.

(3) **School-readiness quality improvement program created.** On and after January 1, 2003, and continuing thereafter subject to sufficient and available federal funding, there is hereby created the school-readiness quality improvement program, referred to in this section as the "program", pursuant to which the state department of human services shall award three years of school-readiness quality improvement funding to eligible early childhood care and education councils identified or established throughout the state pursuant to subsection (3.5) of this section. School-readiness quality improvement funding shall be awarded to improve the school-readiness of children five years of age and younger who are enrolled in early care and education facilities. School-

readiness quality improvement funding shall be awarded to eligible early childhood care and education councils based upon allocations made at the discretion of the state department and subject to available federal funding. Nothing in this section or in any rules promulgated pursuant to this section shall be interpreted to create a legal entitlement in any early childhood care and education council to school-readiness quality improvement funding pursuant to the program. Moneys awarded through the program shall be used to improve the school readiness of children, five years of age and younger, cared for at such facilities, who ultimately attend eligible elementary schools.

(3.5) **Early childhood care and education councils.** (a) (I) Communities throughout the state that do not have a pilot site agency may identify an existing entity or establish a new entity to serve as the early childhood care and education council to work toward the development and implementation of a comprehensive early childhood system to ensure the school readiness of young children in the community. A community may identify an existing entity, such as a consolidated child care pilot site agency or an interagency coordinating council or a district preschool program advisory council, to serve as its early childhood care and education council, or it may establish a new council. To the extent it is practical, early childhood care and education councils shall be representative of the various public and private stakeholders in the community, as specified in this subsection (3.5), who are committed to supporting the preparedness of young children for school. Such stakeholders shall include:

(A) School districts;

(B) The county department;

(C) Private for-profit and nonprofit licensed child care providers representing child care centers, family child care homes, and preschools;

(D) Local resource and referral agency or agencies;

(E) County, district, or municipal public health agencies; and

(F) Local mental health community or communities.

(II) In addition, each early childhood care and education council may include, but is not limited to, representation from any combination of the following:

(A) The board of county commissioners;

(B) The local head start grantee;

(C) The Colorado preschool program established in article 28 of title 22, C.R.S.;

(D) Child care associations;

(E) Other local governmental entities;

(F) Parents or other consumers of early childhood care and education services; and

(G) Faith-based organizations.

(b) For purposes of this section, the early childhood care and education council, whether newly established in a community or newly identified to serve as such, shall work toward consolidating and coordinating funding, including school-readiness quality improvement funding, to create a seamless early childhood system of collaboration

among the various public and private stakeholders for the effective delivery of early childhood care and education to young children in the community.

(4) **Application for funding.** (a) (I) An early childhood care and education council seeking school-readiness quality improvement funding from the state department pursuant to this section shall apply directly to the state department in the manner specified by rule of the state board of human services. An early childhood care and education council applying for school-readiness quality improvement funding pursuant to this section shall meet the following minimum criteria:

(A) The community represented by the early childhood care and education council shall include one or more eligible elementary schools;

(B) The early childhood care and education council shall develop and submit a school-readiness plan to improve the school readiness of children in the community as described in subsection (6) of this section; and

(C) The early childhood care and education council shall demonstrate the commitment of the early care and education facilities identified in the school-readiness plan to cooperate with and participate in the school-readiness quality rating system described in subsection (5) of this section.

(II) An early childhood care and education council seeking school-readiness quality improvement funding pursuant to this section shall, in addition to the requirements set forth in subparagraph (I) of this paragraph (a), meet any additional eligibility requirements specified by rule of the state board.

(b) Early childhood care and education councils that receive school-readiness quality improvement funding pursuant to this section shall distribute such moneys to early care and education facilities identified in the school-readiness plan described in subsection (6) of this section.

(5) **School-readiness quality rating system.** The early childhood and school-readiness legislative commission created in section 26-6.5-203 shall adopt a voluntary school-readiness quality rating system. The rating system shall measure the level of preparedness of and quality of services provided by an early care and education provider to prepare children to enter elementary school. The school-readiness quality rating system shall:

(a) Measure such elements of quality of an early care and education facility as:

(I) The quality of the learning environment;

(II) The quality of adult-child interactions;

(III) Adult-to-child ratios;

(IV) Provider training and education, including recognized credentials through the state department's voluntary credentialing system developed pursuant to section 26-6.5-107; and

(V) Parent-involvement activities at the early care and education facility;

(b) Be variable to inform parents, counties, and other purchasers of early

childhood care and education about the level of quality at an early care and education facility in a simple and easy-to-understand manner;

(c) Be supported by statistically valid research as a reliable measure of quality of an early care and education facility;

(d) Include a quality improvement plan that informs quality-rated early care and education providers of their strengths and weaknesses and that provides such providers with strategies to improve the quality of their services; and

(e) Have demonstrated effectiveness at improving the level of quality of early care and education providers in geographically diverse Colorado communities.

(6) **School-readiness plans.** Each early childhood care and education council seeking to apply for school-readiness quality improvement funding pursuant to this section shall prepare and submit to the state department a three-year school-readiness plan that outlines strategies to improve the school readiness of children who reside in neighborhoods with eligible elementary schools. The school-readiness plan, at a minimum, shall include:

(a) The number and location of eligible elementary schools in the community;

(b) The number and location of early care and education providers that will voluntarily participate in the school-readiness quality improvement program;

(c) A commitment that the early care and education providers identified in the school-readiness plan will cooperate with and participate in the school-readiness quality rating system described in subsection (5) of this section; and

(d) Community strategies to target school-readiness quality improvement funding to improve the level of quality at participating early care and education providers.

(7) **Rules.** (a) The state board of human services shall promulgate rules for the implementation of this section, including but not limited to rules that:

(I) Specify the procedure by which an early childhood care and education council may apply for school-readiness quality improvement funding pursuant to the program;

(II) Specify the manner in which school-readiness quality improvement funding is distributed to early childhood care and education councils, ensuring an equitable distribution between rural and urban communities; and

(III) Identify any additional eligibility requirements for early childhood care and education councils seeking school-readiness quality improvement funding, as described in subparagraph (II) of paragraph (a) of subsection (4) of this section.

(b) At a minimum, the rules promulgated pursuant to this subsection (7) shall identify a specific and measurable level of improvement in the school-readiness quality rating that an early care and education provider must achieve over the course of the funding distribution period after receiving an initial funding distribution through the program in order for the provider to continue receiving school-readiness quality improvement funding, as well as the eligibility criteria for continued participation in the program.

(8) **Funding.** (a) The school-readiness quality improvement program shall be funded using federal child care development fund moneys annually appropriated for the program. Such moneys shall be allocated by the state department to the eligible early childhood care and education councils for implementation of the rating system and for distribution to early care and education providers, as provided in this section.

(b) (I) If moneys are required to match the federal child care development funds, such matching moneys may be from, but need not be limited to, general fund moneys appropriated by the general assembly, local moneys, or private matching moneys. Any state department staff that may be necessary to support the school-readiness quality improvement program shall be funded by federal child care development funds appropriated for the program and not from general funds. The FTE authorization for any staff necessary to support the school-readiness quality improvement program shall be eliminated should federal funds no longer be available for the program.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), the general assembly shall not be obligated to appropriate general fund moneys if private matching moneys are not available or later become unavailable.

(c) The state department shall be authorized to enter into a sole-source contract with an organization to provide the following:

(I) Ratings of child care;

(II) Technical assistance for child care providers;

(III) Community infrastructure and resource development for improving the quality of child care;

(IV) Parent and consumer education on the quality of child care providers in the community.

(9) **Evaluation - report.** (a) Each early childhood care and education council shall submit to the state department a summative thirty-month report on or before January 1, 2009, and on or before January 1 every three years thereafter. The report shall address the quality improvement of the participating early care and education facilities and the overall effectiveness of the school-readiness quality improvement program at preparing low-income children, residing in communities with eligible elementary schools, for school. Such reports, at a minimum, shall address:

(I) The number of early care and education facilities and children who participated in the school-readiness quality improvement program;

(II) The baseline quality ratings of each participating early care and education provider during each year of participation;

(III) An analysis and explanation of the quality improvement strategies undertaken at each early care and education facility; and

(IV) The barriers to quality improvement that were encountered.

(b) On or before April 1, 2009, and on or before April 1 every three years thereafter, the state department, or any private entity with which the state department is

hereby authorized to contract for this purpose, shall submit a consolidated statewide report, based upon the reports prepared and submitted by the early childhood care and education councils, addressing the items set forth in paragraph (a) of this subsection (9) to the early childhood and school-readiness legislative commission and to the members of the education committees of the house of representatives and the senate of the general assembly.

(c) Reporting early childhood care and education councils, as well as the state department or any private entity with which it may contract for reporting purposes, may draw upon the evaluations and studies prepared by a nationally recognized research firm to report on the school-readiness of children in quality-rated early care and education facilities.

(d) Each early childhood care and education council shall work with state and local agencies, such as school districts, to support efforts to track, through high school graduation, the future academic performance of children who receive school-readiness services from early care and education providers who receive funding pursuant to this section.

26-6.5-107. Voluntary child care credentialing system - rules. The state department shall develop and maintain a statewide voluntary child care credentialing system that recognizes the training and educational achievements of persons providing early childhood care and education. The use of the voluntary child care credentialing system shall include but need not be limited to the early childhood councils. The voluntary child care credentialing system shall be a multi-tiered system of graduated credentials that reflects the increased training, education, knowledge, skills, and competencies of persons working in early childhood care and education services in the various councils. The state board shall promulgate such rules as are necessary for the statewide implementation of the voluntary child care credentialing system.

26-6.5-108. Evaluation. (1) No later than March 1, 2010, the state department shall, through a request for proposals process, contract with a qualified individual or entity to prepare an independent evaluation of the system of early childhood councils to determine the effectiveness of the system in serving children and families throughout the state. The evaluation shall be completed no later than October 1, 2010, and shall be repeated every three years thereafter.

(2) The evaluation shall include the following:

(a) An aggregate evaluation of local evaluation plan data as integrated and analyzed by the state department, including an evaluation of the overall program performance and council process and effectiveness;

(b) An evaluation of state program performance, including the efficiency and effectiveness of the state department in meeting the needs of the councils;

(c) An evaluation of the feasibility of combining the funding sources available under this part 1;

(d) An evaluation of the barriers to delivery of quality early childhood services; and

(e) An evaluation of the impact of waivers issued pursuant to section 26-6.5-104.

26-6.5-109. Early childhood cash fund - creation. (1) There is hereby created in the state treasury the early childhood cash fund, referred to in this part 1 as the "fund", that shall consist of such moneys as may be appropriated to the fund by the general assembly and credited to the fund pursuant to subsection (2) of this section. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this part 1.

(2) The state department is authorized to seek and accept gifts, grants, or donations from private and public sources for the purposes of this part 1. All private and public moneys received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the fund. The moneys in the fund shall be subject to annual appropriation by the general assembly to the state department for the direct and indirect costs associated with the implementation of this part 1.

(3) Any moneys in the fund not expended for the purposes of this part 1 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.

(4) The state department may expend up to, but not exceeding, five percent of the moneys annually appropriated from the fund to offset the costs incurred in implementing this part 1.

(5) Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

26-6.5-110. Analysis of child care assistance program policies and procedures - reporting. (1) Beginning in fiscal year 2007-08, the office of the state auditor shall conduct a performance audit of the use of moneys from the child care assistance program created in part 8 of article 2 of this title.

(2) The performance audit by the office of the state auditor conducted pursuant to this section shall include but need not be limited to an assessment of state and county policies and procedures related to child care assistance program moneys, the use of temporary assistance for needy family child care transfers and reserves, provider

payments and reimbursement rates, parental co-payments, and eligibility.

(3) Based on the findings and conclusions identified during the performance audit conducted pursuant to this section, the office of the state auditor shall make recommendations to the state department for improving the efficiency and effectiveness of the child care assistance program. On or before December 30, 2008, the office of the state auditor shall submit the findings, conclusions, and recommendations from the performance audit in the form of a written report to the legislative audit committee, which shall hold a public hearing for the purposes of a review of the report. The report shall also be submitted to the health and human services and education committees of the house of representatives and the senate, or any successor committees.

PART 2

EARLY CHILDHOOD AND SCHOOL READINESS LEGISLATIVE COMMISSION

26-6.5-201. Short title. This part 2 shall be known and may be cited as the "Early Childhood and School Readiness Legislative Commission Act".

26-6.5-202. Legislative declaration. (1) The general assembly finds that:

(a) The most economically efficient time to develop children's skills and social abilities is in the very early years when developmental education across all of the four domains of early learning, family support and education, health care, social-emotional health, and mental health, can have the most effect;

(b) Children, families, and society benefit from quality investments in early childhood development and learning. Comprehensive early childhood development provides children and their families with the resources they need for early nurturing and for early language development and learning experiences and the physical health supports they need to help them arrive at school thriving and ready to learn.

(c) High-quality early childhood care and education during the crucial growth years from birth to five years of age is necessary to enable children to succeed when they start kindergarten and as they continue their education;

(d) Research demonstrates that parental support and involvement, combined with a high-quality preschool education program, increases students' school readiness and achievement in kindergarten and significantly contributes to overcoming the effects of students' varying socio-economic circumstances; and

(e) Research further shows that improving educational performance through improved school readiness costs much less than special education, remediation, and grade

retention.

(2) The general assembly concludes therefore that it is in the best interests of the state to create a legislative commission to meet on a regular basis throughout the year to study issues and recommend legislation concerning early childhood and school readiness, including health care, mental health, parental involvement, family support, child care, and early learning.

26-6.5-203. Early childhood and school readiness legislative commission - creation - membership - duties - funding. (1) (a) There is created a legislative commission for policy improvement related to early childhood and school readiness, including the areas of health, mental health, parental involvement, family support, child care, and early learning, referred to in this article as the "commission".

(b) The commission consists of six members, appointed for terms of three years; except that, of the members first appointed, two members shall be appointed for one-year terms, two members shall be appointed for two-year terms, and two members shall be appointed for three-year terms. The appointing authorities shall jointly determine which commission members serve reduced terms. Each commission member serves at the pleasure of the applicable appointing authority. Vacancies shall be filled by appointment of the original appointing authority for the remainder of the unexpired term. Initial appointments to the commission shall be made on or before July 1, 2013, as follows:

(I) The president of the senate shall appoint two senators to serve on the commission, one of whom serves on the senate education committee, or any successor committee, and one of whom serves on the senate health and human services committee, or any successor committee;

(II) The minority leader of the senate shall appoint one senator to serve on the commission who also serves on the senate education committee, or any successor committee;

(III) The speaker of the house of representatives shall appoint two representatives to serve on the commission, one of whom serves on the education committee of the house of representatives, or any successor committee, and one of whom serves on the public health care and human services committee of the house of representatives, or any successor committee; and

(IV) The minority leader of the house of representatives shall appoint one representative to serve on the commission who also serves on the education committee of the house of representatives, or any successor committee.

(c) The president of the senate shall select the first chair of the commission, and the speaker of the house of representatives shall select the first vice-chair. The chair and vice-chair shall alternate annually thereafter between the two houses. The chair and vice-chair of the commission may establish such organizational and procedural rules as are

necessary for the operation of the commission.

(d) Notwithstanding the provisions of section 2-2-307, C.R.S., the members of the commission shall not receive compensation or reimbursement for expenses incurred in fulfilling the duties of the commission.

(2) (a) The commission shall meet at least four times annually. The commission shall study issues concerning early childhood and school readiness, including but not limited to health care, mental health, parental involvement, family support, child care, and early learning. The commission shall solicit input from members of the public, especially those individuals with expertise related to early childhood and school readiness issues, to aid the commission in its work. The commission shall consult with the early childhood leadership commission, created in section 26-6.2-103, with regard to policies concerning early childhood and school readiness.

(b) The commission may accept in-kind donations in the form of administrative support from one or more nonprofit organizations.

(c) The commission shall report to the legislative council by the date specified in Joint Rule 24 (b)(1)(D). The report may include recommendations for legislation, including but not limited to legislation continuing the commission and an explanation of the additional time and procedures that the commission may require to achieve the commission's study goals. Legislation that the commission recommends shall be treated as legislation recommended by an interim committee for the purposes of the introduction deadlines and bill limitations imposed by the joint rules of the senate and house of representatives.

26-6.5-204. Repeal of part. This part 2 is repealed, effective July 1, 2018.

PART 3

COLORADO QUALITY IN CHILD CARE
INCENTIVE GRANT PROGRAM

26-6.5-301. Short title. This part 3 shall be known and may be cited as the "Colorado Quality in Child Care Incentive Grant Program".

26-6.5-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Council" means an early childhood council established pursuant to section 26-6.5-103.

(2) "County department" means a county or district department of social services.

(3) "Early care and education provider or facility" means a school district, provider, or facility that is licensed pursuant to part 1 of article 6 of this title or that participates in the Colorado preschool program pursuant to article 28 of title 22, C.R.S.

(4) "Grant program" means the Colorado quality in child care incentive grant program created in section 26-6.5-303.

(5) "State board" means the state board of human services established in section 26-1-107.

(6) "State department" means the department of human services, created in section 26-1-105.

26-6.5-303. Colorado quality in child care incentive grant program - creation. Subject to the receipt of sufficient moneys pursuant to section 26-6.5-306, there is hereby created in the state department the Colorado quality in child care incentive grant program. The objective of the grant program is to provide incentives to county departments to increase the quality of early care and education providers and facilities. The grant program will provide a tiered reimbursement and quality improvement system that will allow county departments and early care and education providers and facilities to retain the flexibility to determine how to invest resources while at the same time rewarding certain functions, including but not limited to pursuing quality ratings or accreditation, known to improve quality of care for all children, especially at-risk children.

26-6.5-304. Eligibility for grants - award criteria - rules. (1) A county department may apply to the state department for a grant pursuant to this part 3. To be eligible for a grant, an applicant shall be working in collaboration with a council. The applying county department need not be a member of a council, but for the purposes of applying for and receiving a grant from the grant program, the county department shall present a collaborative model to the state department, including a description of how the county department is working or will work with a local or neighboring council.

(2) On or before December 1, 2010, the state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., establishing policies and procedures for the administration of the grant program, including but not limited to:

(a) Criteria for the selection of grant recipients, including but not limited to blending Colorado child care assistance program slots with established high-quality programs, employing teachers in early education who hold either a bachelor's or associate degree, having an existing quality rating or accreditation, pursuing a quality rating or

accreditation, or investing in the professional development of teachers;

(b) A system of tiered reimbursement for applicants based on the grant criteria established;

(c) Application deadlines, award dates, amounts of grant awards, and acceptable uses of grant awards, including but not limited to assistance for pursuing a quality rating or accreditation; and

(d) Any other rules necessary for the effective implementation of this part 3.

26-6.5-305. Reporting requirements. On or before July 30, 2012, and on or before July 30 each year thereafter, the state department shall prepare and submit to the education and health and human services committees of the house of representatives and the senate, or any successor committees, a report that describes the use of the grant moneys, including but not limited to the number of grants made, the amount of grant moneys distributed, a breakdown of counties that received grant moneys, and a summary of the improvement in quality in child care and early childhood education as a result of the grant program.

26-6.5-306. Colorado quality in child care incentive grant program fund. (1) It is the intent of the general assembly that any costs associated with implementing this part 3 shall be paid for by the receipt of any available federal moneys or other gifts, grants, or donations and that no additional general fund moneys be appropriated for the implementation of the grant program.

(2) Any state agency is authorized to seek and accept any federal moneys or other gifts, grants, or donations for the purposes of this part 3. If received, any gifts, grants, or donations shall be transmitted to the state treasurer who shall credit them to the Colorado quality in child care incentive grant program fund, which fund is hereby created and referred to in this section as the "fund".

(3) The moneys in the fund shall be continuously appropriated to the state department for the direct and indirect costs associated with implementing this part 3. Any moneys in the fund not expended for the purpose of this part 3 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. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund. All unexpended and unencumbered moneys remaining in the fund as of July 1, 2020, shall be transferred to the early childhood cash fund, created in section 26-6.5-109.

26-6.5-307. Repeal of part. (1) (a) On or before July 1, 2011, the executive director of the state department shall notify the revisor of statutes in writing if federal moneys are not received and allocated to the state department or if gifts, grants, and donations are not received by the state department to provide for the award of grants pursuant to this part 3.

(b) If the revisor of statutes does not receive notice pursuant to paragraph (a) of this subsection (1), on July 1, 2012, or on July 1 of any year thereafter, the executive director of the state department shall notify the revisor of statutes in writing if federal moneys or gifts, grants, or donations are not available to continue to provide for the award of grants pursuant to this part 3.

(2) This part 3 is repealed, effective the July 1 following the receipt of the notice by the revisor of statutes pursuant to paragraph (a) or (b) of subsection (1) of this section, but no later than July 1, 2020.

ARTICLE 6.7

Colorado Infant and Toddler Quality
and Availability Grant Program

26-6.7-101. Short title. This article shall be known and may be cited as the "Colorado Infant and Toddler Quality and Availability Grant Program".

26-6.7-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Colorado child care assistance program" or "CCCAP" means the Colorado child care assistance program in the state department.

(2) "County department" means a county or district department of social services.

(3) "Early childhood council" means an early childhood council established pursuant to part 1 of article 6.5 of this title.

(4) "Early childhood program" means a school district, provider, head start program, or facility that provides child care and education to low-income infants and toddlers, has a contract as a provider through the Colorado child care assistance program, and is either licensed pursuant to part 1 of article 6 of this title or participates in the Colorado preschool program pursuant to article 28 of title 22, C.R.S.

(5) "Grant program" means the Colorado infant and toddler quality and availability grant program created in section 26-6.7-103.

(6) "Tiered reimbursement" means a pay structure that reflects an increased rate of

reimbursement for early childhood programs that receive moneys through CCCAP.

26-6.7-103. Colorado infant and toddler quality and availability grant program - creation. Subject to available appropriations, there is hereby created in the state department the Colorado infant and toddler quality and availability grant program. The goal of the grant program is to improve quality in infant and toddler care, provide tiered reimbursement to high-quality early childhood programs, and increase the number of low-income infants and toddlers served through high-quality early childhood programs, as well as promote voluntary parental involvement. A program is considered "high-quality" if it is in the top two ratings of the state's quality rating and improvement system, or is accredited by a state department-approved accrediting body, or is an early head start program meeting federal standards. Early childhood councils and county departments must jointly apply for moneys through the grant program, which will be administered by the state department. Early childhood programs that are within the service area of an early childhood council and within the county jointly applying for the grant may apply to the early childhood council for moneys that would allow them to achieve one of the objectives of the grant program.

26-6.7-104. Eligibility for grants - applications - deadlines. (1) The state department shall develop an application process and issue a request for proposals for the grant program, including notification of available moneys to early childhood councils and county departments, eligibility criteria, proposal requirements, and award criteria.

(2) An applicant to the grant program is eligible for a grant award pursuant to this article if:

(a) The application is made jointly between an early childhood council and a county department. If an early childhood council serves more than one county, it may submit a single application that combines multiple counties in its service area.

(b) The early childhood programs to which the grant moneys will be distributed have contracts with CCCAP;

(c) The application demonstrates a need and provides a plan to improve quality and increase the capacity for early childhood programs in its service area. The goal of the grant program is to increase the number of infants and toddlers served through high-quality early childhood programs. The early childhood programs may be home-based or center-based;

(d) It provides a plan detailing how it will provide tiered reimbursement; and

(e) It meets any other criteria set forth in the application process developed pursuant to this section.

(3) (a) In fiscal year 2013-14, grant applications must be received by the state

department on or before July 31, 2013. The state department shall review applications and determine which applicants will receive grants and the amount of each grant. Grant awards must be made on or before September 1, 2013, through the fund.

(b) For each fiscal year thereafter, subject to available appropriations, grant applications must be received by the state department on or before June 30 of the prior fiscal year. The state department shall review applications and determine which applicants will receive grants and the amount of each grant. Grant awards must be made on or before August 1 through the fund.

(c) If in any fiscal year the full appropriation by the general assembly for the grant program is not dispersed as specified in paragraphs (a) and (b) of this subsection (3), the state department shall review proposals and award grants as the applications are received and not require the applications to be held until the next grant cycle.

26-6.7-105. Reporting requirements. (1) No later than four months after the conclusion of a grant, the early childhood council that received the grant shall provide the state department with an annual report concerning the outcomes of the grant. The report must include, at a minimum:

(a) A summary of data received from early childhood programs that received grant moneys;

(b) The number of infants and toddlers under three years of age served because of the grant program in home-based programs and the number served in center-based programs;

(c) The length of time services were provided;

(d) A detailed description of quality improvements made using grant moneys;

(e) A description of how the grantee's program met the stated outcomes in its application;

(f) A summary of the number of jobs created through the grant program; and

(g) Any other data required by the state department.

(2) On or before December 1, 2014, and each December 1 thereafter, the state department shall provide a written report on the grant program to the public health care and human services committee of the house of representatives and the health and human services committee of the senate, or any successor committees. The report must include a summary of the data received pursuant to subsection (1) of this section, the total amount of grants and grant moneys awarded, and the total increase in the number of infants and toddlers under three years of age served by the grant program.

ARTICLE 6.8

Tony Grampsas Youth Services Program

26-6.8-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the Tony Grampsas youth services board created in section 26-6.8-103.

(2) "Entity" means a local government, a Colorado public or nonsectarian secondary school, a group of public or nonsectarian secondary schools, a school district or group of school districts, a board of cooperative services, an institution of higher education, the Colorado National Guard, a state agency, a state-operated program, or a private nonprofit or not-for-profit community-based organization.

(3) "Executive director" means the executive director of the state department of human services.

(4) "State department" means the state department of human services.

26-6.8-102. Tony Grampsas youth services program - creation - standards - applications. (1) (a) The Tony Grampsas youth services program is transferred to the state department. All program grants in existence as of July 1, 2013, shall continue to be valid through June 30, 2014. Persons appointed to the board shall continue serving until completion of their terms and may be reappointed as provided in section 26-6.8-103.

(b) The Tony Grampsas youth services program is established to provide state funding for community-based programs that target youth and their families for intervention services in an effort to reduce incidents of youth crime and violence. In addition, the Tony Grampsas youth services program shall promote prevention and education programs that are designed to reduce the occurrence and reoccurrence of child abuse and neglect and to reduce the need for state intervention in child abuse and neglect prevention and education.

(2) (a) The board shall choose those entities that will receive grants through the Tony Grampsas youth services program and the amount of each grant. The state department shall administer the grants awarded and monitor the effectiveness of programs that receive grants through the Tony Grampsas youth services program.

(b) For one grant cycle, up to three hundred thousand dollars of the appropriation made for the purpose set forth in this paragraph (b) may be used to award technical assistance grants for community-based prevention and intervention organizations that work with youth. Organizations that apply for moneys pursuant to this paragraph (b) must use the moneys to assist with independent certification as an evidence-based program. Evidence-based programs must demonstrate an ability to meet rigorous requirements for evaluation and effectiveness to reflect an ability to change targeted behaviors and

promote positive youth development outcomes.

(c) Any grant awarded through the Tony Grampsas youth services program shall be paid from moneys appropriated pursuant to paragraph (d) of this subsection (2) or out of the general fund for the program. The board, in accordance with the timelines adopted pursuant to section 26-6.8-103 (3), shall submit a list of the entities chosen to receive grants to the governor for approval. The governor shall either approve or disapprove the entire list of entities by responding to the board within twenty days. If the governor does not respond to the board within twenty days after receipt of the list, the list is approved. The board shall not award a grant through the Tony Grampsas youth services program without the prior approval of the governor.

(d) The youth services program fund is created in the state treasury. The principal of the fund consists of tobacco litigation settlement moneys transferred by the state treasurer to the fund pursuant to section 24-75-1104.5 (1) (i), C.R.S. Subject to annual appropriation by the general assembly, the state department may expend moneys from the fund for the Tony Grampsas youth services program. The lesser of all unexpended and unencumbered moneys in the fund at the end of any fiscal year or an amount of such moneys equal to five percent of the amount appropriated from the fund for the fiscal year remain in the fund and shall not be transferred to the general fund or any other fund. Any additional unexpended and unencumbered moneys in the fund at the end of any fiscal year shall be transferred to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

(3) To participate in the Tony Grampsas youth services program, an entity may apply to the board in accordance with timelines and guidelines adopted by the board pursuant to section 26-6.8-103.

(4) Entities seeking to provide youth mentoring services or to enhance existing youth mentoring programs are encouraged to submit an application to the board for grants directly from the Tony Grampsas youth services program, in addition to any funding the entities may be seeking from the youth mentoring services cash fund pursuant to section 26-6.8-104 (6), to establish or enhance youth mentoring programs. Entities submitting applications for grants directly from the Tony Grampsas youth services program pursuant to this section need not meet the requirements of section 26-6.8-104 (5) (b).

26-6.8-103. Tony Grampsas youth services board - members - duties. (1) (a) There is hereby created the Tony Grampsas youth services board consisting of four members appointed by the governor, three members appointed by the speaker of the house of representatives, and two members appointed by the president of the senate and one member appointed by the minority leader of the senate. For the initial appointments, the governor shall appoint members to the board after the speaker of the house of representatives and the president and the minority leader of the senate have

made appointments. No more than six of the members appointed to the board shall be members of the same political party.

(b) In addition to the appointed board members, the executive director shall serve as a member of the board.

(c) At the first meeting of the board, the members of the board shall choose a chairperson and a vice-chairperson.

(d) (I) In appointing members to the board, the governor, the speaker of the house of representatives, and the president and the minority leader of the senate shall:

(A) Choose persons who have a knowledge and awareness of innovative strategies for youth crime prevention and intervention services and for reducing the occurrence and reoccurrence of child abuse and neglect; and

(B) Appoint one or more persons who possess knowledge and awareness of early childhood care and education. For purposes of this sub-subparagraph (B), "early childhood" means younger than nine years of age.

(II) In appointing members to the board, the speaker of the house of representatives and the president of the senate shall each appoint at least one person who has a knowledge and awareness of student issues, including the causes of student dropout in secondary schools, as well as innovative strategies for reducing the dropout rate among secondary school students.

(III) In appointing members to the board, the governor shall:

(A) Appoint at least one person who is representative of a minority community;

(B) Appoint at least one person who is knowledgeable in the area of child abuse prevention; and

(C) Appoint at least one person who is knowledgeable in the area of community planning for youth violence prevention.

(e) The appointed members of the board shall serve three-year terms; except that, of the members first appointed, one of the members appointed by the governor shall serve a two-year term, two of the members appointed by the governor shall serve one-year terms, one of the members appointed by the speaker of the house of representatives shall serve a two-year term, and one of the members appointed by the president of the senate shall serve a two-year term. The respective appointing person shall choose those members who shall serve initial shortened terms. If a vacancy arises in one of the appointed offices, the authority making the original appointment shall fill the vacancy for the remainder of the term. Members of the board shall serve without compensation but shall be reimbursed out of available appropriations for all actual and necessary expenses incurred in the performance of their duties.

(f) The board is authorized to meet, when necessary, via telecommunications.

(2) (a) The board shall develop and make available program guidelines, including but not limited to:

(I) Guidelines for proposal design;

(II) Local public-to-private funding match requirements; and

(III) Processes for local review and prioritization of program applications.

(b) In addition to the guidelines developed pursuant to paragraph (a) of this subsection (2), the board shall develop criteria for awarding grants under the Tony Grampsas youth services program, including but not limited to the following requirements:

(I) That the program is operated in cooperation with a local government, a local governmental agency, or a local nonprofit or not-for-profit agency;

(II) That the program is community-based, receiving input from organizations in the community such as schools, community mental health centers, local nonprofit or not-for-profit agencies, local law enforcement agencies, businesses, and individuals within the community; and

(III) (A) That the program is directed at providing intervention services to youth and their families in an effort to decrease incidents of crime and violence or that the program is directed at providing services to at-risk students and their families in an effort to reduce the dropout rate in secondary schools pursuant to section 26-6.8-105.

(B) If an entity is seeking a grant from the board for a student dropout prevention and intervention program pursuant to section 26-6.8-105, one of the criteria that the board shall consider is whether the program has been implemented elsewhere, if known, and, if so, the relative success of the program. It is not required, however, that the program be previously implemented for the board to award a grant to the entity.

(C) If an entity is seeking a grant from the board for a program directed at providing intervention services to youth and their families in an effort to decrease incidents of crime and violence, one of the criteria that the board shall consider is whether the program includes restorative justice components. It is not required, however, that the program include restorative justice components for the board to award a grant to the entity.

(c) In addition to the guidelines and criteria developed pursuant to paragraphs (a) and (b) of this subsection (2), the board shall develop result-oriented criteria for measuring the effectiveness of programs that receive grants under the Tony Grampsas youth services program as deemed appropriate to the nature of each program including, but not limited to, requiring grantees to evaluate the impact of the services provided by the program. Any criteria developed pursuant to this paragraph (c) for measuring the effectiveness of student dropout prevention and intervention programs established pursuant to section 26-6.8-105 shall include the implementation of a method by which to track the students served by the program to evaluate the impact of the services provided, which tracking shall continue, if possible, for at least two years or through graduation from a secondary school, whichever occurs first.

(3) In addition to the guidelines and criteria developed pursuant to subsection (2) of this section, the board shall establish timelines for submission and review of

applications for grants through the Tony Grampsas youth services program. The board shall also adopt timelines for submission to the governor of the list of entities chosen to receive grants. If the governor disapproves the list, the board may submit a replacement list within thirty days after such disapproval.

(4) The board shall review all applications received pursuant to section 26-6.8-102 for grants from the Tony Grampsas youth services program and choose those entities that shall receive grants through the Tony Grampsas youth services program and the amount of each grant.

(5) In addition to the duties relating specifically to the Tony Grampsas youth services program specified in this section, the board shall operate the prevention, intervention, and treatment programs specified in this article and such other prevention, intervention, and treatment programs as may be assigned to the board by executive order to be funded solely by federal funds.

26-6.8-104. Colorado Youth Mentoring Services Act. (1) **Short title.** This section shall be known and may be cited as the "Colorado Youth Mentoring Services Act".

(2) **Legislative declaration.** (a) The general assembly hereby finds and declares that mentoring programs such as big brothers, big sisters, and partners have been active in Colorado for many years. The general assembly finds that national research has indicated that structured mentoring programs are effective tools in combating youth substance abuse and youth crime and violence. The general assembly further finds, based upon recent national research results, that at-risk youth who are matched in a minimum of year-long mentoring relationships are less likely to become involved in substance and alcohol abuse, less likely to be truant, less likely to commit violent acts against other persons, and more likely to show improvements in academic performance and positive peer relations.

(b) The general assembly further finds that, despite the positive results that may be achieved through structured youth mentoring programs, as many as thirty-eight counties in the state of Colorado do not have the organizational resources necessary to carry out successful mentoring programs or lack the adult volunteers to establish such programs or both. The general assembly finds that even counties in which there are established youth mentoring programs, such programs are unable to meet the demand for mentors and that such established programs have waiting lists that exceed two thousand youths.

(c) The general assembly therefore declares and determines that the provision of youth mentoring services that would use public and private entities to recruit, train, screen, and supervise adult volunteers to serve as mentors for at-risk youth would be beneficial and in the best interests of the citizens of the state of Colorado.

(3) **Definition.** For purposes of this section, "at-risk youth" means a person who is at least five years of age but who is less than eighteen years of age and who is challenged

by such risk factors as poverty, residence in a substance-abusing household, family conflict, association with peers who commit crimes, residence in a single-parent household, exhibition of indicia of delinquent behavior, or being the victim of child abuse.

(4) **Provision of youth mentoring services.** There is created the Colorado youth mentoring program to provide state funding for the provision of community-based youth mentoring services that target at-risk youths in an effort to reduce substance abuse and to decrease the incidents of youth crime and violence. The funding shall be used to provide new mentoring services in communities that do not have existing mentoring programs as well as to enhance established community-based youth mentoring programs that are already in existence.

(5) **Administration - duties of contracting entities.** (a) To be eligible for moneys from the youth mentoring services cash fund created in subsection (6) of this section for the provision of youth mentoring services, an entity must apply to the board in accordance with the timelines and guidelines adopted by the board pursuant to section 26-6.8-103 and must meet the requirements of paragraph (b) of this subsection (5).

(b) The entities that the board selects to provide community-based youth mentoring services are responsible for:

(I) Actively recruiting qualified and appropriate adult volunteers who are willing to serve as youth mentors for a period of not less than one year and to commit to spending an average of three hours per week with the at-risk youth;

(II) Effectively screening adult volunteers to serve as mentors, including but not limited to conducting criminal background checks of such adult volunteers;

(III) Providing training and ongoing support to adult volunteers to prepare them to serve in one-year mentoring relationships with at-risk youths;

(IV) Carefully matching each adult volunteer with an at-risk youth based on the unique qualifications of the adult volunteer and the specific needs of the youth;

(V) Supervising closely and through case managers the activities of the adult volunteer and the mutual benefits and effectiveness of the mentoring relationship;

(VI) Making available life skill workshops, recreational activities, and community service opportunities to the at-risk youth and adult volunteer;

(VII) Implementing a method of evaluating the effectiveness of the community-based youth mentoring program and tracking the youths served by the program to evaluate the impact of the services provided through the program; and

(VIII) Reporting annually to the board concerning the results of the entity's evaluation of youths served by the community-based youth mentoring program as well as the fiscal contributions made by the entity to the program and such other information that the board may require.

(c) Community-based organizations may obtain private and public funds, grants, gifts, or donations for youth mentoring programs. The executive director may accept and

expend on behalf of the state any funds, grants, gifts, or donations from any private or public source for the purpose of implementing this section; except that the executive director shall not accept a grant or donation if the conditions attached to the grant or donation require the expenditure thereof in a manner contrary to law.

(d) Entities selected to receive grants pursuant to this section for the provision of youth mentoring services shall match any grant received with a contribution that is the equivalent of twenty percent of the grant awarded.

(6) **Youth mentoring services cash fund.** There is hereby created in the state treasury the youth mentoring services cash fund. The moneys in the youth mentoring services cash fund are subject to annual appropriation by the general assembly for the direct and indirect costs of implementing this section. The executive director may accept on behalf of the state any grants, gifts, or donations from any private or public source for the purpose of this section. All private and public funds received through grants, gifts, or donations shall be transmitted to the state treasurer, who shall credit the same to the youth mentoring services cash fund. All investment earnings derived from the deposit and investment of moneys in the fund shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

26-6.8-105. Colorado student dropout prevention and intervention program. (1) **Short title.** This section shall be known and may be cited as the "Colorado Student Dropout Prevention and Intervention Act".

(2) **Legislative declaration.** The general assembly hereby finds that:

(a) During the last decade, over one hundred thousand students in Colorado left school without successfully completing a high school program;

(b) In 1996, three million six hundred thousand young adults in the United States were neither enrolled in school nor had they completed a high school program;

(c) In the 1995-1996 academic year, approximately thirteen thousand students withdrew from Colorado schools prior to receiving a diploma, resulting in a four percent dropout rate;

(d) Of those students who withdrew from Colorado schools prior to receiving a diploma, approximately five thousand nine hundred were minority students;

(e) The dropout rate of minority students in Colorado is significantly greater than that of nonminority students;

(f) Numerous factors, including socioeconomic background, lack of adult support, and the inability to communicate well in English, influence a student's decision to drop out of school;

(g) Research has shown that, compared with high school graduates, relatively more dropouts are unemployed, and those dropouts who do succeed in finding work tend to earn less money than high school graduates; and

(h) High school dropouts are more likely to apply for and receive public assistance than high school graduates.

(3) **Definitions.** For purposes of this section, "at-risk students" means students in secondary schools who are at risk of dropping out of school because of their socioeconomic background, lack of adult support, language barriers, or other identified indicators that cause students to drop out of school.

(4) **Colorado student dropout prevention and intervention program.** There is created the Colorado student dropout prevention and intervention program in the Tony Grampsas youth services program to provide services to at-risk students and their families in an effort to reduce the dropout rate in secondary schools through an appropriate combination of academic and extracurricular activities designed to enhance the overall education and edification of students in secondary schools.

(5) **Administration.** (a) The state department shall administer the student dropout prevention and intervention program. Subject to the designation in paragraph (b) of this subsection (5), the board shall select those entities that will receive grants through the student dropout prevention and intervention program and the amount of each grant. In addition, the state department shall monitor the effectiveness of programs that receive funds through the student dropout prevention and intervention program. To be eligible for grants from the board for the provision of student dropout prevention and intervention programs targeting at-risk students, an entity shall apply to the board in accordance with the timelines and guidelines adopted by the board pursuant to section 26-6.8-103.

(b) Any moneys awarded by the board shall be paid from moneys appropriated out of the general fund for the Tony Grampsas youth services program. Each year no less than ten percent of the total appropriation from the general fund shall be designated and used exclusively for programs specifically designed to prevent students from dropping out of secondary schools; except that, commencing in fiscal year 2004-05 and in each fiscal year thereafter, no less than twenty percent of the total appropriation shall be designated and used exclusively for such purpose.

(6) **Receipt of moneys.** (a) The executive director may accept on behalf of the state any funds, grants, gifts, or donations from any private or public source for the purpose of implementing student dropout prevention and intervention programs pursuant to this section; except that the executive director shall not accept funds, grants, gifts, or donations if the conditions attached thereto require the expenditure thereof in a manner contrary to law.

(b) All private and public moneys received through funds, grants, gifts, or donations pursuant to this subsection (6) shall be transmitted to the state treasurer, who shall credit the same to the student dropout prevention and intervention fund, which fund is hereby created. The moneys in the fund are subject to annual appropriation by the general assembly for the direct and indirect costs associated with the administration of this section. The executive director may expend moneys appropriated to the state

department from the fund to provide a grant for implementing and administering a student dropout prevention and intervention program. All investment earnings derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any moneys not appropriated shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

26-6.8-106. Colorado student before-and-after-school project - creation - funding. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Before-and-after-school program" means a program that meets before regular school hours or after regular school hours or during a period when school is not in session.

(b) "Fund" means the Colorado student before-and-after-school project fund created in subsection (4) of this section.

(c) "Project" means the Colorado before-and-after-school project created in subsection (2) of this section.

(2) **Colorado student before-and-after-school project.** There is created, in the Tony Grampsas youth services program, the Colorado student before-and-after-school project to provide grants to entities to provide high-quality before-and-after-school programs that may include an alcohol or drug abuse prevention and education component. Entities that receive grants pursuant to this section shall apply the grants to creating and implementing before-and-after-school programs that primarily serve youth enrolled in grades six through eight or youth who are twelve to fourteen years of age. The before-and-after-school programs are designed to help youth develop their interests and skills in the areas of sports and fitness, character and leadership, or arts and culture and may provide education regarding the dangers of the use of alcohol and drugs. Before-and-after-school programs that are designed primarily to increase academic achievement or that provide religious instruction are not eligible for funding pursuant to this section.

(3) **Administration.** (a) The state department shall administer the project. The board shall select the entities that will receive grants through the project and the amount of each grant. In addition, the state department shall monitor the effectiveness of before-and-after-school programs that receive moneys through the project. To be eligible for grants through the project, an entity shall apply to the board in accordance with the timelines and guidelines adopted by the board pursuant to section 26-6.8-103. Notwithstanding any provision of this article or any criteria for awarding grants adopted by the board pursuant to section 26-6.8-103 (2) (b) to the contrary, an entity may be eligible to receive a grant pursuant to this section regardless of whether the before-and-after-school program to which the grant would apply serves youth who are eligible for free or reduced-cost lunch pursuant to the "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

(b) The grants awarded through the project shall be paid from moneys appropriated from the fund to the state department. The board and grant recipients are encouraged to apply moneys awarded through the project to leverage additional funding as matching funds from private and federal sources.

(4) **Colorado student before-and-after-school project fund.** There is created in the state treasury the Colorado student before-and-after-school project fund that shall consist of moneys that the general assembly may appropriate to the fund. The moneys in the fund are subject to annual appropriation by the general assembly to the state department for the purpose of providing grants as provided in this section and the direct and indirect costs associated with the implementation of this section. Any moneys in the fund not expended for the purpose of this section 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. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

ARTICLE 7

Subsidization of Adoption

26-7-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the state board of human services, or its designated representative.

(2) "Child with special needs" means a child with a special, unusual, or significant physical or mental disability, or emotional disturbance, or such other condition which acts as a serious barrier to the child's adoption.

(3) "Department" means the department of human services.

26-7-102. Payments authorized. The department of human services may make payments to adoptive parents on behalf of a child placed for adoption by a department or licensed nonprofit child placement agency.

26-7-103. Conditions. (1) Payments in subsidization of adoption may be made only after it has been determined that all of the following conditions are present at the time the child was placed for adoption:

(a) The child is in the custody of a department or a licensed nonprofit child placement agency and is legally available for adoption.

(b) All reasonable efforts to place the child for adoption have been made without success prior to consideration of a subsidy.

(c) The child is one with special needs as determined by prognosis and diagnosis.

(d) The department or licensed nonprofit child placement agency has determined that the adoptive family has the capability of providing for the nonfinancial needs of the child in all areas.

(e) The department or licensed nonprofit child placement agency is financially responsible for the care of the child.

(f) Children in the custody of a licensed nonprofit child placement agency must meet federal requirements for eligibility under Title IV-E of the federal "Social Security Act", as amended.

26-7-104. Administration. (1) Payments in subsidization of adoption may include but are not limited to the maintenance costs, medical and surgical expenses, and other costs incidental to the adoption, care, training, and education of the child. The amount of such payments shall be subject to available appropriations and may not exceed the cost of providing comparable assistance in foster care. Payments in subsidization of adoption may be continued although the adoptive parents leave the state of Colorado with the adopted child.

(2) Qualification for payments in subsidization of adoption shall be determined and approved by the department in accordance with rules and regulations of the board prior to the completion of the legal adoption.

(3) Payments in subsidization of adoption shall terminate when the need for such payments no longer exists. Such payments shall not extend beyond the child's twenty-first birthday.

(4) Notwithstanding the provisions of section 19-5-207.5 (4) (a) (III), C.R.S., any fees ordinarily assessed by the department for adoption investigations and home study reports may be waived if such fee poses a barrier to the adoption.

(5) For an adoptive family who receives an approved Title IV-E adoption assistance subsidy pursuant to the federal "Social Security Act", 42 U.S.C. sec. 673 et seq., or an approved payment in subsidization of adoption pursuant to section 26-7-103, the cost of care, as defined in section 19-1-103 (30), C.R.S., shall not exceed the amount of the adoption assistance payment.

26-7-105. Rules and regulations. The board shall make all necessary rules and regulations for administering the program for payments in subsidization of adoption

established by this article.

26-7-106. Federal funds. The department is authorized to accept, on behalf of the state, any grants of federal funds made available for any purposes consistent with the provisions of this article. The executive director of the department, with the approval of the governor, shall have power to direct the disposition of any such grants so accepted in conformity with the terms and conditions under which given.

26-7-107. Appeals. In any case where an application under this article is denied or a grant of subsidization of adoption is reduced or terminated, the applicant or recipient shall have the right to appeal to the department, with a hearing before a department administrative law judge in accordance with the "State Administrative Procedure Act". A hearing need not be granted when either state or federal law requires or results in a reduction or deletion of services.

26-7-108. Payment of subsidies. Funds for the payment of the subsidies created under this article shall come from moneys appropriated to the department of human services for foster care.

ARTICLE 7.5

Domestic Abuse Programs

26-7.5-101. Legislative declaration. The general assembly hereby finds that a significant number of homicides, aggravated assaults, assaults and batteries, and other types of abuse and coercive control occur within the home; that the reported incidence of domestic abuse represents only a portion of the total number of incidents of domestic abuse; that a large percentage of police officer deaths in the line of duty result from police intervention in domestic abuse situations; and that domestic abuse is a complex problem affecting families from all social and economic backgrounds. It is the purpose of this article to encourage the development of domestic abuse programs by units of local government and nongovernmental agencies.

26-7.5-102. Definitions. As used in this article, unless the context otherwise

requires:

(1) "Domestic abuse" means any act or threatened act of violence, including any forceful detention of an individual, which results or threatens to result in physical injury and which is committed by a person eighteen years of age or older against another person who is a relative or who is living in the same domicile.

(2) "Domestic abuse program" means a culturally and linguistically appropriate community-based or community-oriented program, which may include residential facilities, and which is operated by a unit of local government or a nongovernmental agency and established pursuant to the criteria set forth in section 26-7.5-103, to assist victims of domestic abuse and their dependents.

(3) "Nongovernmental agency" means any person, private nonprofit agency, corporation, or other nongovernmental agency.

(4) "Unit of local government" means a county, city and county, city, town, or municipality.

26-7.5-103. Domestic abuse programs - criteria. (1) A domestic abuse program established pursuant to this article shall provide, but not be limited to:

(a) Counseling for persons who are victims of domestic abuse and their dependents and for persons who cause domestic abuse;

(b) Advocacy programs that assist victims in obtaining services and information;

(c) Educational programs designed for both community at large and specialized groups such as medical personnel and law enforcement officials.

(2) Domestic abuse programs shall utilize the resources of the community in meeting the personal and family needs of participants.

(3) As a part of a domestic abuse program, a domestic abuse facility may be established to provide residential accommodations to victims of domestic abuse and their dependents.

26-7.5-104. Community domestic abuse programs - contracts with state department - rules and regulations. (1) The executive director may enter into contracts or agreements for services with any unit of local government or nongovernmental agency which has established and which operates a community domestic abuse program or with a unit of local government or nongovernmental agency which has subcontracted with a nongovernmental agency for domestic abuse program services.

(2) (a) The state department shall establish, by rule, and enforce standards and regulations for all domestic abuse programs established pursuant to this article and shall require that each such domestic abuse program meets approved minimum standards as established by rule.

(b) The standards and regulations established by the state department shall require, at a minimum, each domestic abuse program to request information from each client served by the program concerning the relationship of the client to the alleged perpetrator of the domestic abuse. The standards and regulations shall require each domestic abuse program to report such information to the state department.

26-7.5-105. Funding of domestic abuse programs. (1) (a) Any nongovernmental agency or unit of local government operating a domestic abuse program pursuant to this article shall, subject to available appropriations, be reimbursed by the state department at a rate to be set by the general assembly in the annual appropriation bill. Not less than seventy-five percent of all contract funding under this article shall be allocated to nongovernmental agencies.

(b) Moneys generated from fees collected pursuant to sections 14-2-106 (1) (a) and 14-15-110, C.R.S., or transferred pursuant to section 13-32-101 (5) (a) (X) or (5) (b) (II), C.R.S., shall be used to reimburse domestic abuse programs that provide services as provided in section 26-7.5-103 to persons or their families, which persons are married, separated, or divorced or parties to a civil union or an invalidated, legally separated, or dissolved civil union.

(2) Staffing and administrative expenses of the state department of human services and other agencies for carrying out the provisions of this article shall be appropriated annually from available funds generated by the contribution cash funds.

(3) The Colorado domestic abuse program fund established pursuant to section 39-22-802, C.R.S., may be funded by any general fund moneys that may be appropriated thereto by the general assembly pursuant to the annual general appropriations act. The executive director shall have the authority to expend such funds appropriated to the Colorado domestic abuse program fund for the purposes described in this article.

26-7.5-106. Repeal of article. (Repealed)

ARTICLE 7.6

Task Force on Family Issues

26-7.6-101 to 26-7.6-105. (Repealed)

ARTICLE 7.8

Homeless Prevention
Activities Program

26-7.8-101. Legislative declaration. The general assembly hereby finds that there are a growing number of persons in this state who lack the resources and the community ties necessary to provide for their own adequate shelter and who are likely to become homeless without community assistance. The general assembly recognizes that women and children are the fastest growing group of the homeless and that a large percentage of the total homeless population consists of families. The general assembly therefore finds that it is beneficial to the state to fund prevention activities programs to assist families and other persons who are likely to become homeless without some community assistance; that this article is enacted to provide a means by which such programs may be financed through a voluntary contribution designation on state income tax return forms; and that it is desirable to encourage residents of this state to designate the amount of such contribution to help fund such prevention activities programs on their state income tax return forms.

26-7.8-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Division" means the division of housing within the department of local affairs created in section 24-32-704, C.R.S.

(1.5) "Executive director" means the executive director of the department of local affairs.

(2) "Homeless prevention activities program" means a community-based or community-oriented program which is operated by the division and established pursuant to the criteria set forth in section 26-7.8-103 to assist in preventing families and other persons from becoming homeless.

(3) Repealed.

(4) "Unit of local government" means a county, city and county, city, town, or municipality.

26-7.8-103. Homeless prevention activities program - criteria. (1) A homeless prevention activities program established pursuant to this article shall provide, but need not be limited to:

(a) Assistance in avoiding eviction and foreclosure from an apartment or home;

(b) Counseling for families and persons to prevent them from becoming homeless;

(c) Mediation services to assist persons in avoiding eviction and foreclosure;

(d) Programs that assist persons who are in danger of becoming homeless in obtaining services and information;

(e) Referrals to and assistance in obtaining job-training, job-counseling, or information about job openings.

(1.5) The program established by this article shall be administered by the division with recommendations from an advisory committee which is hereby created. The advisory committee shall be composed of at least three members selected by the executive director. One member shall be a representative of the department of human services, and two members shall be representatives from the public at large. The committee shall serve without compensation and shall not be entitled to reimbursement for their expenses while attending meetings of the committee. The division shall administer the program under the direction of the advisory committee.

(2) At least seventy-five percent of all voluntary contributions made to the homeless prevention activities program fund pursuant to section 39-22-1301, C.R.S., shall be used for direct or financial benefit to individuals in Colorado who are homeless or in danger of becoming homeless; except that no funds shall be expended for direct cash payment to homeless persons or persons who are in danger of becoming homeless.

(2.5) The division is authorized to spend up to five percent of all voluntary contributions made to the homeless prevention activities program fund, created pursuant to the provisions of section 39-22-1301, C.R.S., or fifteen thousand dollars, whichever is greater, for costs incurred in administering the program established by this article.

(3) Repealed.

26-7.8-104. Homeless prevention activities program - contracts with nongovernmental agency - program standards. (1) The division shall enter into contracts or agreements for services for homeless prevention activities; except that the division shall not spend more than five percent of all voluntary contributions received on administrative costs.

(2) Repealed.

(3) The advisory committee shall direct the division to establish and enforce standards for all homeless prevention activities programs established pursuant to this article.

(4) The advisory committee shall establish standards governing this program which assure that the funds collected pursuant to section 39-22-1301, C.R.S., are allocated to nongovernmental agencies, either directly or through the coordination and oversight of units of local government, for use for direct client services and assistance.

(5) Repealed.

26-7.8-105. Funding of homeless prevention activities programs. (Repealed)

26-7.8-106. Repeal of article. (Repealed)

ARTICLE 8

Vocational Rehabilitation

26-8-101. Rehabilitation programs. In carrying out the provisions of this article, the state department shall be charged with coordinating and strengthening the programs of rehabilitation of disabled and nondisabled persons to the end that they may attain their maximum potential in employment, self-care, and independent living.

26-8-102. Personnel - terminology. (1) Subject to the availability of duly appropriated funds, the executive director may appoint necessary personnel to administer rehabilitation programs in accordance with the provisions of this article.

(2) Whenever any law of this state refers to the department of rehabilitation, said law shall be construed as referring to the state department. Whenever any law of this state refers to the director of the department of rehabilitation, said law shall be construed as referring to the executive director.

26-8-103. Functions of the department. (1) The state department shall manage, control, and supervise all rehabilitation programs provided in this article, including but not limited to:

(a) All duties and functions previously assigned to the vocational rehabilitation division of the state board of vocational education;

(b) All duties and functions previously assigned to the division of rehabilitation for the blind;

(c) All duties and functions relating to home teaching of and teachers for the adult blind vested in, exercised by, or imposed upon the state department or its predecessors prior to July 1, 1973, whether by law, rule, or regulation;

(d) Other duties and functions assigned by this article.

26-8-104. Administration. (1) The state department shall, in accordance with section 26-1-108:

(a) Make rules and regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, the investigation and determination of eligibility for vocational rehabilitation services, procedures for fair hearings, the establishment and operation of rehabilitation facilities and workshops, and such other rules and regulations as may be necessary to carry out the purposes of this article;

(b) Make certification for disbursement, in accordance with rules and regulations, of funds available for carrying out the purposes of this article;

(c) Accept and use gifts made unconditionally, by will or otherwise, for carrying out the purposes of this article. Gifts made under such conditions as in the judgment of the executive director are proper and consistent with the provisions of this article may be accepted and shall be held, invested, reinvested, and used in accordance with the conditions of the gift.

26-8-105. Rehabilitation of persons with disabilities. (1) Except as otherwise provided by law, the state department shall provide rehabilitation services to persons with disabilities determined to be eligible therefor.

(2) For the purposes of this article, "person with a disability" means any one or more of the following:

(a) Any individual who has a physical or mental condition which materially limits, contributes to limiting, or, if not corrected, will probably result in limiting the individual's activities or functioning and which constitutes a substantial disability to employment but which is of such nature that vocational rehabilitation services may reasonably be expected to render the individual fit to engage in a remunerative occupation;

(b) An individual of not less than employable age who is under such physical or mental disability as to require institutional care or attendance in his household continuously or for a substantial portion of the time, but who can be reasonably expected, as a result of rehabilitation services, to achieve such ability of independent living that he will no longer require such institutional care or such attendance in his household;

(c) An individual who does not have substantial physical or mental disability who is receiving aid from public funds and who otherwise may be expected to remain a public charge of the county or state; who has a vocational disability because of lack of training, experience, skills, or other factors which, if corrected, would lead to self-support instead of dependency; who is either responsible for the individual's own maintenance or is the responsible head of a household; and who has a potential capacity which would warrant development with a reasonable chance for employment after rehabilitation services.

(3) The state department shall:

(a) Cooperate with other departments, agencies, and institutions, both public and private, in providing the services authorized by this article to persons with disabilities, in studying the problems involved therein, and in establishing, developing, and providing, in conformity with the purposes of this article, such programs, facilities, and services as may be necessary or desirable;

(b) Enter into reciprocal agreements with other states to provide for the services authorized by this article to residents of the states concerned;

(c) Establish and operate rehabilitation facilities and workshops and make grants to public and other nonprofit organizations for such purposes;

(d) Operate through contract and supervise the operation of vending stands and other small businesses, established pursuant to this article and in accordance with the requirements of the federal government for the receipt of federal funds, to be conducted by individuals with severe disabilities, particularly the blind;

(e) Provide training and instruction (including the establishment and maintenance of such research fellowships and traineeships with such stipends and allowances as may be deemed necessary) in matters relating to vocational rehabilitation;

(f) Provide home teaching of and teachers for the adult blind;

(g) Provide such medical, diagnostic, physical restoration, training, and other rehabilitation services as may be needed to enable disabled individuals to attain the maximum degree of self-care;

(h) Provide for the return to full or partial self-support of nondisabled recipients of public assistance whose capacity to earn a living is impaired.

(4) (a) Vocational rehabilitation services, as defined by the federal "Vocational Rehabilitation Act", shall be provided directly or through public or private instrumentalities to or for the benefit of any individual with disabilities who is residing in the state at the time of filing an application therefor, and whose rehabilitation the state department determines after full investigation can be satisfactorily achieved, or who is eligible therefor under the terms of an agreement with another state or with the federal government.

(b) Any goods or services other than diagnostic and related services (including transportation) required for the determination of eligibility for service and of the nature and scope of the services to be provided, guidance, training, and placement shall be provided at the public cost only to the extent that the individual with disabilities is found to require financial assistance in accordance with the rules and regulations of the state department.

26-8-106. Cooperation with federal government. The state department shall cooperate with the federal government in carrying out the purposes of any federal statutes pertaining to the purposes of this article, including the licensing of blind persons to

operate vending stands on federal property, and is hereby authorized to adopt by rule and regulation such methods of administration as are reasonably required by the federal government for the proper and efficient operation of such agreements and to comply with such conditions as may be necessary to secure the full benefits of such federal statutes.

26-8-107. Work therapy program - creation - cash fund. (1) There is hereby created in the state department a work therapy program to provide sheltered workshop programs for training and employment of persons receiving services at the mental health institutes and at the regional centers located at Grand Junction, Pueblo, and Wheat Ridge.

(2) (a) The state department shall transmit all moneys collected pursuant to this section to the state treasurer, who shall credit the same to the work therapy cash fund, which fund is hereby created and referred to in this section as the "fund". The fund shall consist of any moneys held for the state department as of May 3, 2012, from work therapy activities and any moneys received by the state department after May 3, 2012, pursuant to this paragraph (a). The moneys in the fund are subject to annual appropriation by the general assembly to the state department for the direct and indirect costs associated with implementing this section.

(b) The state treasurer may invest any moneys in the fund not expended for the purpose of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of moneys in the fund to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year remain in the fund and shall not be credited or transferred to the general fund or another fund.

ARTICLE 8.1

Independent Living Services

26-8.1-101. Legislative declaration. The general assembly hereby determines and declares that it recognizes omissions in the delivery of independent living services to significantly disabled individuals and desires to remedy such inadequacies in the delivery system through services at the community level. To advance and support the independence of disabled individuals and to assist such individuals to live outside of institutions, the general assembly hereby enacts this article.

26-8.1-102. Definitions. As used in this article, unless the context otherwise

requires:

(1) "Cross-disability" means, with respect to an independent living center, that a center provides independent living services to individuals representing a range of significant disabilities and does not require specific significant disabilities before determining that an individual is eligible for independent living services.

(2) "Independent living center" means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that is designated as an eligible agency under Title VII, section 725 of the federal "Rehabilitation Act of 1973", as amended, and that:

(a) Is designed and operated within a local community by individuals with disabilities; and

(b) Provides a required core of independent living services and programs and an array of expanded services.

(3) "Independent living core services" means:

(a) Information and referral services;

(b) Independent living skills training;

(c) Peer counseling, including cross-disability peer counseling; and

(d) Individual and systems advocacy.

(4) "Independent living services" means:

(a) Independent living core services; and

(b) Other services and assistance as defined in 34 CFR 364.4.

(5) "Individual with a significant disability" means an individual with a severe physical, mental, cognitive, or sensory impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment.

26-8.1-103. Functions of state department - appropriations. (1) (a) Subject to available appropriations, the state department may contract with independent living centers for independent living core services.

(b) The executive director shall review expenditures in accordance with the standards for independent living services set by the state department pursuant to section 26-8.1-105 and the evaluation standards prescribed in section 26-8.1-107. The state department may withhold state funds if the executive director determines that the programs of such independent living centers do not comply with said standards.

(2) For purposes of allocating moneys under this article, each independent living center shall submit a proposed budget to the state department which shall include proposed expenditures, including proposed expenditures for services that the center

intends to provide.

26-8.1-104. Written plan - consumer choice. Each independent living center shall maintain an individual consumer service record indicating the consumer's choice of services, including an individualized independent living plan regarding the consumer's choice of services or a written waiver of such plan.

26-8.1-105. Rules. The state department shall promulgate rules setting forth standards for levels and types of core services which shall be in compliance with federal rules as defined in Title VII, section 725 of the federal "Rehabilitation Act of 1973", as amended. The state department shall also adopt rules that set standards for certification of independent living centers and shall require that any center must be designated as an eligible agency under Title VII, section 725 of the federal "Rehabilitation Act of 1973", as amended, and must meet all federal requirements for independent living centers.

26-8.1-106. State plan. The statewide independent living council created pursuant to the federal "Rehabilitation Act of 1973", as amended, shall develop and revise the state plan for independent living to reflect the provisions of this article.

26-8.1-107. Approval of independent living centers - evaluation standards. (1) The following requirements shall be met by each independent living center as a condition of the approval of its program:

(a) The program shall be under the control and direction of a board of directors or trustees of a nonprofit corporation, the members of which shall be persons with a demonstrated interest in programs for persons with disabilities and fifty-one percent or more of the members of the board shall be persons with disabilities;

(b) The independent living center shall be staffed with fifty-one percent or more of persons with disabilities;

(c) The independent living center shall comply with all of the provisions of this article and the rules promulgated thereunder.

(2) In addition to the requirements of subsection (1) of this section, each independent living center, as a condition of approval of its program by the state department, shall agree to comply with the following evaluation standards:

(a) **Philosophy.** The independent living center shall promote and practice the independent living philosophy of:

(I) Consumer control of the center regarding decision-making, service delivery,

management, and establishment of the policy and direction of the center;

(II) Self-help and self-advocacy;

(III) Development of peer relationships and peer role models;

(IV) Equal access of individuals with significant disabilities to all of the center's services, programs, activities, resources, and facilities, whether publicly or privately funded, without regard to the type of significant disability of the individual; and

(V) Promoting equal access of individuals with all types of significant disabilities to all services, programs, activities, resources, and facilities in the community, whether public or private, and regardless of funding source, on the same basis that access is provided to other individuals with disabilities and to individuals without disabilities.

(b) **Provision of services.** The independent living center shall provide independent living services to individuals with a range of significant disabilities. The independent living center shall provide independent living services on a cross-disability basis. The independent living center shall determine eligibility for independent living services and shall not exclude eligibility on the presence of any one specific significant disability.

(c) **Independent living goals.** The independent living center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek assistance in the development and achievement of independent living goals from the center.

(d) **Community options.** The independent living center shall conduct outreach and activities to increase the availability and improve the quality of community options for independent living to facilitate the development and achievement of independent living goals by individuals with significant disabilities.

(e) **Independent living core services.** The independent living center shall provide independent living core services and, as appropriate, a combination of any of the other independent living services referred to in section 26-8.1-102 (4) (b).

(f) **Activities to increase community capacity.** The independent living center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.

(g) **Resource development activities.** The independent living center shall conduct resource development activities to obtain funding from sources other than federal and state sources.

(3) The independent living center shall submit annually to the state department a performance report that provides evidence that the center has met the evaluation standards set forth in subsection (2) of this section.

26-8.1-108. Acceptance of federal grants. The executive director is authorized to accept, on behalf of the state, any grants of federal funds made available for any purposes

consistent with the provisions of this article. As indicated in the general appropriations act, the executive director, with the approval of the governor, has the power to direct the disposition of any such grants so accepted in conformity with the terms and conditions under which given.

ARTICLE 8.2

Products of the Rehabilitation
Center for the Visually Impaired

26-8.2-101. Legislative declaration. (1) It is the purpose of this article to further the policy of this state to encourage and assist blind individuals to achieve maximum personal independence through useful and productive gainful employment by assuring an expanded and consistent manner for sale of blind-made products and services, thereby enhancing the dignity and capacity for self-support of blind persons and minimizing their dependence on welfare and costly institutionalization.

(2) To further the purposes of this article and to contribute to the economy of state government, it is the intent of the general assembly that there be close cooperation between the rehabilitation center for the visually impaired and the division of correctional industries or any other state agency from which procurement of products or services is required under the provisions of any law in effect on July 1, 1979.

26-8.2-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Center" means the rehabilitation center for the visually impaired of the state department of human services.

(2) "Public agency" means any public office, officer, department, commission, institution, or bureau, any agency, division, or unit within a department or office, or any other public authority of this state. "Public agency" shall not include any municipality, county, school district, special district, nor any other political subdivision of this state.

26-8.2-103. Sale of products. (1) In order to provide preferential treatment to the products and services of the center offered for sale, public agencies shall purchase such products and services directly from the center in accordance with applicable specifications of the department of personnel. When such products and services are available, the price determined by the center shall be an amount equal to the cost of raw

materials, labor, overhead, and delivery.

(2) The center may furnish to any person authorized to make purchases for any public agency and to all political subdivisions of the state a list of available products and services which are suitable for procurement.

(3) Notwithstanding any provision of this article, no purchase shall be made of any product or service that does not conform to the standards and specifications necessary for the purpose for which the goods are required.

26-8.2-104. Contracts. The executive director of the department of personnel shall not approve any contracts made in violation of this article by any public agency over which he has control of purchasing.

26-8.2-105. Cooperation of center with other agencies. The center and the division of correctional industries and any other public agency from which procurement of products or services is required under any law in effect on July 1, 1979, are authorized to enter into such contractual agreements, cooperative working relationships, or other arrangements as may be beneficial for effective coordination and efficient realization of the objectives of this article and any other law requiring procurement of products or services from any public agency.

ARTICLE 8.3

Blind-made Products - Registration

26-8.3-101. Legislative declaration. It is the purpose of this article to protect blind persons and organizations established to aid blind persons in the sale of blind-made products and to prevent misrepresentation in connection with the sale of blind-made products.

26-8.3-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Blind-made products" means those goods, wares, and merchandise for which blind persons perform at least seventy-five percent of the total hours of direct labor of manufacture.

(2) "Blind person" means a person having not more than 20/200 central visual

acuity in the better eye with correcting lenses or an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees.

(3) "Direct labor" means all work required for manufacture, but does not include the supervision, administration, shipping, inspection, or packaging of products.

(4) "Manufacture" means the preparation, processing, and assembling of goods, wares, or merchandise, including manufacture by subcontracting of component materials.

26-8.3-103. Registration - investigation. Any persons engaged in the manufacture or distribution of blind-made products may apply to the state department on forms provided by the department for a registration and an authorization to use an official imprint, stamp, symbol, or label, designed or approved by the state department, to identify goods and articles as blind-made products. The state department shall investigate each application to assure that such person is actually engaged in the manufacture or distribution of blind-made products. The state department may approve applications by nonresident persons, without investigation, upon proof that they are recognized and approved by their state of residence, state of doing business, or organization pursuant to a law of such state imposing requirements substantially similar to those prescribed in this article.

26-8.3-104. Identification of blind-made products. No goods or articles made in this or any other state shall be displayed, advertised, offered for sale, or sold in this state upon a representation that the same are blind-made products unless identified as such by the official imprint, stamp, symbol, or label designed or approved by the state department.

26-8.3-105. Violations - penalty. (1) It is unlawful for any person to use or employ, willfully or knowingly, the official imprint, stamp, symbol, or label designed or approved by the state department, unless such use is authorized by the state department, as provided for in section 26-8.3-103. Each such use is a separate offense.

(2) It is unlawful for any person to willfully or knowingly represent, directly or indirectly, by any means, for the purpose of financial gain to himself, that particular goods, wares, or merchandise are blind-made products if such products are not blind-made products. Every product so misrepresented is a separate offense.

(3) On and after October 1, 1979, any person who violates any of the provisions of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

ARTICLE 8.5

Vending Facilities in State Buildings -
Business Enterprise Program

26-8.5-100.1. Short title. This article shall be known and may be cited as the "Business Enterprise Program Act".

26-8.5-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Blind person" means a person having not more than 20/200 central visual acuity in the better eye with correcting lenses or an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees.

(2) "State property" means any building, land, or other real property owned, leased, or occupied by any department or agency of the state of Colorado, but "state property" does not include any property owned, leased, or occupied by any institution of higher education, the Auraria higher education center established in article 70 of title 23, C.R.S., or the board of commissioners of the Colorado state fair authority.

(3) "Vending facility" means automatic vending machines, a cafe, a cafeteria, a restaurant, a snack bar, a concession stand, or any other facility at which food, drinks, drugs, novelties, souvenirs, tobacco products, notions, or related items are regularly sold.

26-8.5-102. Priority for blind persons - licensing. The state department shall issue licenses to blind persons who are qualified to operate vending facilities, in accordance with the criteria used for the licensing of operators of vending facilities on federal property pursuant to section 26-8-106 and the federal "Randolph-Sheppard Vending Stand Act", as from time to time amended. In authorizing vending facilities on state property, priority shall be given to blind persons who are licensed by the state department. The purpose of this priority is to enlarge the economic opportunities of blind persons by providing remunerative employment and to stimulate blind persons to greater efforts in striving to make themselves self-supporting.

26-8.5-103. Satisfactory sites for vending facilities required. (1) Effective July 1, 1977, no department or agency of the state of Colorado shall construct, shall acquire by

ownership, rent, lease, or otherwise, or shall undertake to substantially alter or renovate, in whole or in part, any building unless after consultation with the state department it is determined that such building will include a satisfactory site or sites for the location and operation of a vending facility by a blind person.

(2) Each such department or agency shall provide notice to the state department of its plans for the occupation, acquisition, construction, alteration, or renovation of a building adequate to permit the state department to determine whether such building includes a satisfactory site or sites for a vending facility.

(3) The provisions of this section shall not apply when the state department determines that the number of people using the building will be insufficient to support a vending facility.

(4) For the purpose of this section, "satisfactory site" means an area determined by the state department to have sufficient space, electrical and plumbing outlets, and such other facilities as are prescribed by rule of the state department for the location and operation of a vending facility.

(5) No charge shall be made to the state department for the use of state-furnished space, for maintenance or janitorial services, for repair of the building structure in and adjacent to the vending facility area, including any necessary initial and periodical painting and decorating, for utilities required to operate vending facilities and vending machines, or for repairing and replacing floor coverings, cleaning windows, or providing other related building services in accordance with the normal level of building service applicable to the state building on which the vending facility is located.

26-8.5-104. Vending machines - income. Effective July 1, 1977, one hundred percent of all commission income from vending machines on state property shall accrue to the state department, which shall disburse such income in accordance with the rules and regulations of the state department. The office of state planning and budgeting shall notify the state department of the location of all vending machines on state property, and the state department shall be responsible for the collection and accounting for income from these vending machines.

26-8.5-105. Cooperation - locations - rules and regulations. (1) It is the duty of the heads of all state departments and agencies to negotiate and to cooperate in good faith to accomplish the purposes of this article relating to vending facilities, including vending machines and other coin-operated devices in operation on or before July 1, 1977.

(2) If the state department determines that the operation of a vending facility by a blind person in a state building is not feasible, the location may be operated by another person, in the discretion of the office of state planning and budgeting.

(3) When no person is immediately available on the premises for the management of vending machines, the commission income from such machines shall be given to the state department in accordance with section 26-8.5-104.

(4) The state department shall be responsible for the operation of a vending facility program in accordance with its rules and regulations and in accordance with federal guidelines under the federal "Randolph-Sheppard Vending Stand Act", as from time to time amended.

26-8.5-106. Status of existing contracts. The provisions of this article shall not extend to existing contracts until the expiration of those contracts.

26-8.5-107. Business enterprise program cash fund - creation. There is hereby created in the state treasury the business enterprise program cash fund, referred to in this article as the "fund", that shall consist of moneys accruing to the state department from assessments against the net proceeds of each vending facility operator consistent with the provisions of this article, any income from vending machines on federal or state property that accrues to the state department, and any federal moneys that may become available. Any moneys currently attributed to the business enterprise program and any reserves shall be transferred to this fund for future use consistent with this article. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the administration of this article. Any moneys in the fund not expended for the purposes of this article may be invested by the state treasurer as provided in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

ARTICLE 8.7

Colorado Commission for Individuals
Who Are Blind or Visually Impaired

26-8.7-101 to 26-8.7-107. (Repealed)

ARTICLE 9

Veterans Service Office and Officers

26-9-101 to 26-9-105. (Repealed)

ARTICLE 10

Veterans Affairs

26-10-101 to 26-10-111. (Repealed)

26-10-112. Board of veterans affairs - world war II memorial dedication - fund - grants - repeal. (Repealed)

ARTICLE 11

Older Coloradans' Act

PART 1

COLORADO COMMISSION ON THE AGING

26-11-100.1. Short title. This article shall be known and may be cited as the "Older Coloradans' Act".

26-11-100.2. Legislative declaration. (1) The general assembly hereby finds and declares that older Coloradans constitute a fundamental resource of this state. Often, their competence, experience, and wisdom are underutilized, and a means must be found to use their abilities more effectively for the benefit of all Coloradans. The number of persons in this state sixty years of age or older is increasing rapidly, and, of these persons, the number of women, minorities, and persons seventy-five years of age or older is expanding at an even greater rate. Among those persons seventy-five years of age or older, there is a higher incidence of functional disability. The social and health problems of older people

are compounded by the lack of access to existing services and by the unavailability of a complete range of services in all areas of the state. The ability of older people to maintain self-sufficiency and personal well-being with the dignity to which their years of labor entitle them and to realize their maximum potential as creative and productive individuals are matters of profound importance and concern for all Coloradans.

(2) The general assembly further declares that it is the policy of this state: To protect older Coloradans from abuse, neglect, or exploitation; to involve older Coloradans in the planning and operation of all programs and services that may affect them; to encourage agencies at all levels of government, as well as in the private sector, to develop alternative services and forms of care that would provide a range of services to be delivered in the community and in the home and that would facilitate access to other services which support independent living and prevent unnecessary institutionalization; to give priority in planning services and programs to those older Coloradans with the greatest economic need or the greatest social need; and to facilitate and encourage joint program planning and policy development among state and local agencies which recognize and strengthen the community and personal support networks to which people belong and on which they depend and which administer programs and deliver services to the older population.

26-11-101. Commission on the aging created. (1) There is hereby created in the state department the Colorado commission on the aging, referred to in this article as the "commission", which shall consist of seventeen members appointed by the governor, with the consent of the senate. Two members shall be appointed from each congressional district of the state, one of whom shall be from each major political party, and, after July 1, 1976, and thereafter when a vacancy occurs, one of such members shall be from west of the continental divide. A vacancy on the commission occurs whenever any member moves out of the congressional district from which he or she was appointed. Any member who moves out of such congressional district shall promptly notify the governor of the date of such move, but such notice is not a condition precedent to the occurrence of the vacancy. The governor shall fill the vacancy as provided in subsection (2) of this section. Appointments made to take effect on January 1, 1983, shall be made in accordance with section 24-1-135, C.R.S. No more than nine members of the commission shall be members of the same major political party. One member shall be appointed from the state at large, one member shall be appointed from among the membership of the senate, and one member shall be appointed from among the membership of the house of representatives. Appointments to the commission shall comply with the requirements of the rules and regulations of the United States department of health and human services promulgated pursuant to Public Law 93-29, known as the "Older Americans Comprehensive Services Amendments of 1973", as such rules and regulations appear in

section 903.50 (c) of title 45 of the code of federal regulations. In making appointments to the commission, the governor is encouraged to include representation by at least one member who is a person with a disability, a family member of a person with a disability, or a member of an advocacy group for persons with disabilities, provided that the other requirements of this subsection (1) are met.

(2) All members of the commission shall be appointed for terms of four years each, commencing July 1 in the year of appointment. Appointments to fill vacancies shall be for the unexpired term of the vacated office and shall be made in the same manner as original appointments. Whenever a member of the senate or house of representatives serving as a member of the commission ceases to hold his office in the senate or house of representatives, a vacancy on the commission shall occur, and the governor shall fill the vacancy by the appointment of a similarly qualified person who at the time is holding office, as the case may be, in the senate or house of representatives.

26-11-102. Organization of commission. The commission shall elect from its membership a chairman, a vice-chairman, and such other officers as it deems necessary. The vice-chairman shall act as chairman in the absence or disability of the chairman. The commission shall meet on call of the chairman but not less than once every three months. A majority of the members of the commission shall constitute a quorum for the transaction of business.

26-11-103. Compensation - expenses. The members of the commission shall not receive compensation for their services, but they shall be reimbursed for expenses incurred by them in the performance of their official duties.

26-11-104. Director - staff. Pursuant to section 13 of article XII of the state constitution, the executive director shall appoint the director of the commission and such clerical and professional staff as may be necessary to carry out the purposes of this article. The director of the commission shall be the chief administrative officer for the commission and shall be a person who is professionally qualified to assume the responsibilities of the position.

26-11-105. Duties of commission. (1) The commission, through its director, shall carry out the following purposes:

(a) Conduct, and encourage other organizations to conduct, studies of the problems of the state's older people;

(b) Assist governmental and private agencies to coordinate their efforts on behalf of the aging and aged in order that such efforts be effective and that duplication and waste of effort be eliminated;

(c) Promote and aid in the establishment of local programs and services for the aging and aged. The commission shall assist governmental and private agencies by designing surveys that may be used locally to determine needs of older people; by recommending the creation of services; by collection and distribution of information on aging; and by assisting public and private organizations in all ways the commission may deem appropriate.

(d) Conduct promotional activities and programs of public education on problems of the aging;

(e) Review existing programs for the aging and make recommendations to the governor and the general assembly for improvements in such programs;

(f) Advise and make recommendations to the state department and the state office on aging, created pursuant to part 2 of this article, on the problems of and programs and services for the aging and aged.

26-11-106. Gifts - grants. The state department, acting for and on behalf of the state, may receive and accept title to any grant or gift from any source, including the federal government, and all grants, grants-in-aid, and gifts shall be deposited with the state treasurer and shall be continuously available to the state department to carry out the purposes of this article.

PART 2

STATE OFFICE ON AGING

26-11-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Advisory council" means a representative body of laypersons and service providers which represents the interests of the older persons within the boundaries of a planning and service area and which is designated by the area agency on aging pursuant to section 26-11-205.

(2) "Area agency on aging" means an identifiable private nonprofit or public agency designated by the state office on aging which works for the interests of older Coloradans within a planning and service area and which engages in community planning, coordination, and program development and provides a broad array of social and nutritional services.

(3) "Area plan" means a comprehensive and coordinated system of programs in a

planning and service area.

(3.5) "Child" means a person who is not more than eighteen years of age.

(4) "Comprehensive and coordinated system of programs" means programs of interrelated social and nutritional services designed to meet the needs of older persons.

(4.5) "Family caregiver" means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual who is sixty years of age or older.

(4.7) "Grandparent or older individual who is a relative caregiver" means a grandparent or step-grandparent of a child, or a relative of a child by blood or marriage, who is sixty years of age or older and who:

(a) Lives with the child;

(b) Is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and

(c) Has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

(5) "Greatest economic need" means the need resulting from an income level at or below the poverty threshold established by the United States bureau of the census.

(6) "Greatest social need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural or social isolation, including that caused by racial and ethnic status, which restrict an individual's ability to perform normal daily tasks or which threaten his capacity to live independently.

(7) "Planning and service area" means a geographical area within the state, designated by the state office on aging, in which the area agency on aging shall carry out the area plan.

(8) "State office" means the state office on aging within the state department.

26-11-202. State office on aging. The executive director shall create within the state department a state office on aging, the head of which shall be the director of the state office, who shall be appointed by the executive director. The state office and the director of the state office shall exercise their powers and perform their duties and functions under the state department as if the same were transferred to the state department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

26-11-203. Duties of the state office. (1) In addition to such other duties and functions as the executive director may allocate to the state office, the state office shall have the following duties and functions:

(a) To develop and administer a state plan on aging, which includes input from

area agencies on aging;

(b) To establish a process that encourages local, regional, and statewide participation in the development stages of the state plan on aging, which shall be coordinated with the area agencies on aging, the commission established under part 1 of this article, and other persons or entities involved in programs for older persons;

(c) To assist public and nonprofit private agencies in planning and developing programs to facilitate a statewide network of comprehensive, coordinated services and opportunities for older persons, giving priority to those agencies, programs, services, and activities that support independent living;

(d) To study those aspects of the problems of aging necessary to accomplish the purpose of state policy through such activities as conducting research, computing statistics, and holding hearings;

(e) To maintain a clearinghouse of information related to the interests and needs of older persons and act as a referral service for the dissemination of said information;

(f) To assess the need for services to be provided to the older population within the state and determine the extent to which the state's service delivery system serves said population, with particular emphasis on older persons with the greatest economic and social needs;

(g) To encourage and support the involvement of volunteers and seek ways to utilize the private sector to assume greater responsibility in meeting the needs of older persons; and

(h) To designate area agencies on aging to assist the state office in carrying out its functions in specified geographic areas within the state.

26-11-204. Area agency on aging - duties. (1) An area agency on aging shall have the following duties:

(a) To develop and administer an area plan, consistent with the state plan, for a comprehensive and coordinated system of programs in the planning and service area;

(b) To assist older persons in obtaining their rights, benefits, and entitlements currently available under the law;

(c) To identify special needs or barriers to maintaining personal independence;

(d) To involve older persons in the area in the development and planning of services delivered within the area;

(e) To assess the needs for services within the planning and service area to determine the effectiveness of existing services available within the area;

(f) To conduct public hearings on the needs and problems of older persons and on the area plan in conjunction with the area's advisory council;

(g) To designate an interagency committee composed of public or private nonprofit agencies within the planning and service area, including, but not limited to,

health systems agencies and health transportation agencies, private service providers, and senior citizen organizations in order to improve the coordination of services;

(h) To review and provide comment on program plans of other agencies that affect older persons;

(i) To provide information to the state office on the special needs of older persons within the planning and service area;

(j) To establish communication with the local news media to inform the public of available services and opportunities to contribute to the planning and implementation of said services;

(k) To coordinate and assist local public and nonprofit private agencies in the planning and development of programs to establish a comprehensive and coordinated system of programs and opportunities for older persons;

(l) To act as an advocate for and represent the issues and concerns of older persons; and

(m) To provide services or to contract with local providers to provide services under the family caregiver support program.

26-11-205. Area agency on aging advisory council. (1) Each area agency on aging, designated pursuant to section 26-11-203 (1) (h), shall designate an advisory council consisting of a representative body of laypersons and service providers which represent the interests of older persons within the planning and service area. Said advisory council shall:

(a) Serve to advise the area agency on aging;

(b) Actively seek advice from community organizations on aging, senior advocacy organizations, and other persons or entities interested in the needs and problems of older persons;

(c) Act as an advocate for and represent the issues and concerns of older persons; and

(d) Take an active role in the development, planning, and implementation of the area plan.

26-11-205.5. Older Coloradans program - distribution formula - cash fund. (1) There is hereby created in the state department the older Coloradans program, referred to in this section as the "program". The program shall provide moneys to area agencies on aging to provide grants to provide community-based services to persons sixty years of age or older to assist such persons to live in their own homes and communities for as long as possible. Such services shall include but are not limited to congregate nutrition, home-delivered meals, transportation services, in-home services, ombudsman

services, legal services, elder abuse prevention, outreach, and information and referral services.

(2) Moneys appropriated for the program shall be distributed to area agencies on aging using the same formula that the state office uses to distribute moneys available under Title III, parts (B), (C), (D), and (F) of the federal "Older Americans Act of 1965", as amended, but such moneys shall be allocated as a whole and not allocated to individual parts of Title III; except that appropriations from the fund of accumulated interest are not subject to the restriction that requires allocations as a whole. An area agency on aging shall use no more than ten percent of the moneys received from the program for administrative expenses.

(3) The proposed uses of moneys from the program shall be included in each area agency on aging's area plan developed pursuant to section 26-11-204 (1) (a).

(4) (a) On or before August 1, 2002, and each August 1 thereafter, each area agency on aging shall submit a report to the state office detailing the use of moneys from the program for the previous fiscal year, including an itemization of how many more persons received each service because of such moneys.

(b) Repealed.

(5) (a) There is hereby created the older Coloradans cash fund, referred to in this subsection (5) as the "fund". The fund consists of moneys allocated and credited to the fund from sales and use taxes pursuant to the provisions of section 39-26-123 (3), C.R.S., and any moneys appropriated to the fund by the general assembly. In addition, the state treasurer may credit to the fund any public or private gifts, grants, or donations received by the state department for implementation of the program. The fund is subject to annual appropriation by the general assembly to the state department. Notwithstanding the provisions of section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund is credited to the fund. Any amount remaining in the fund at the end of any fiscal year shall remain in the fund and not be transferred or credited to the general fund or any other fund.

(b) There is hereby created within the fund the senior services account, referred to in this paragraph (b) as the "account". The account shall consist of moneys transferred to the account pursuant to section 39-3-207 (6), C.R.S. Moneys in the account are subject to annual appropriation to the state department for distribution to area agencies on aging pursuant to subsection (2) of this section. The state department may designate the senior services for which moneys in the account shall be used.

26-11-205.7. Community long-term care study - older Coloradans study cash fund - strategic plan - authority to implement. (1) (a) Subject to the receipt of sufficient moneys pursuant to paragraph (b) of this subsection (1), the state department or, if appropriate, the department of health care policy and financing shall contract for a

study of the population eligible for services under the older Coloradans program created pursuant to section 26-11-205.5. The state department and the department of health care policy and financing shall make necessary data available to the contractor. In selecting a contractor to perform the study, the state departments are not required to follow the competitive bidding requirements of the "Procurement Code", articles 101 to 112 of title 24, C.R.S. The study shall include research and analysis of:

(I) The demographic changes that will impact the demand for long-term care services and supports;

(II) The number of persons sixty years of age or older who would benefit from receiving additional services through the older Coloradans program thereby avoiding more expensive care needs;

(III) The types of services and supports needed by persons over sixty years of age to remain in their own residences and communities for as long as possible and any existing or projected needs for those services and supports;

(IV) The overall amount of savings to the state across the continuum of care associated with providing services to older adults in their own homes and communities;

(V) Other states' experiences with long-term care services and supports, including cost savings or cost avoidance; and

(VI) Recommendations for a long-term strategic implementation plan for providing services through the older Coloradans program.

(b) (I) The state department is authorized to seek and accept gifts, grants, or donations from private and public sources for the purposes of this section; except that the state department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state. The state department shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the older Coloradans study cash fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund shall be subject to annual appropriation by the general assembly to the state department for the direct and indirect costs associated with implementing this section.

(II) Any moneys in the fund not expended for the purpose of this section 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. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(2) If the study conducted pursuant to paragraph (a) of subsection (1) of this section concludes that increasing funding for community-based services as provided in the older Coloradans program would result in cost savings, by July 1, 2011, subject to the receipt of sufficient moneys pursuant to paragraph (b) of subsection (1) of this section, the state department shall report to the members of the health and human services

committees of the senate and house of representatives, or any successor committees, and to the members of the joint budget committee a long-term strategic implementation plan, developed in cooperation with the area agencies on aging designated pursuant to section 26-11-203 (1) (h), that identifies the expected needs for services and recommends potential funding sources.

(3) If the study conducted pursuant to paragraph (a) of subsection (1) of this section concludes that one or more changes would result in cost savings to the state, without adversely affecting the care provided, and the changes are recommended in the strategic implementation plan developed pursuant to subsection (2) of this section, the state department or the department of health care policy and financing shall request, through the state budget process, that the changes be implemented and, if necessary, shall recommend legislation to implement the changes to the health and human services committees of the senate and house of representatives, or any successor committees, or the joint budget committee.

(4) (a) If the strategic implementation plan developed pursuant to subsection (2) of this section identifies additional studies that should be conducted, subject to the receipt of sufficient moneys pursuant to paragraph (b) of subsection (1) of this section, the state department or the department of health care policy and financing shall contract for one or more studies identified in the strategic implementation plan. The state department and the department of health care policy and financing shall make necessary data available to all the contractors. In selecting a contractor to perform any study conducted pursuant to this subsection (4), the state departments are not required to follow the competitive bidding requirements of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

(b) If one or more studies conducted pursuant to paragraph (a) of this subsection (4) concludes that implementing the changes recommended by the study would result in cost savings to the state, without adversely affecting the care provided, the state department or the department of health care policy and financing shall request, through the state budget process, that the changes be implemented and, if necessary, shall recommend legislation to implement the changes to the health and human services committees of the senate and house of representatives, or any successor committees, or to the joint budget committee of the general assembly.

26-11-206. Federal requirements - compliance. Nothing in this part 2 shall be construed to prevent the state department from complying with the requirements of the rules and regulations of the United States department of health and human services promulgated pursuant to the federal "Older Americans Act of 1965", as amended.

26-11-207. Family caregiver support program - creation. (1) The general

assembly hereby finds, determines, and declares that it would be beneficial to the state to develop a service delivery system to respond to the needs of caregivers who care for frail, elderly persons or to the needs of grandparents and relative caregivers who have taken on the challenge and responsibility of raising children. The general assembly also finds that the federal "Older Americans Act of 2000", Pub.L. 106-501, has authorized a family caregiver support program to be administered by area agencies on aging. The general assembly finds that by implementing the family caregiver support program support can be given to caregivers so that elderly individuals may be able to remain in their homes and support may be provided to grandparents or older individuals who are relative caregivers of children.

(2) There is hereby created in the state department the family caregiver support program, referred to in this section as the "program". The program shall allocate available moneys to area agencies on aging to provide support services to the following caregivers:

(a) Family caregivers of older individuals; and

(b) Grandparents or older individuals who are relative caregivers of children.

(3) Subject to available appropriations, services to caregivers shall be provided by an area agency on aging or by an entity with which the area agency on aging has contracted. The services to caregivers under the program shall include:

(a) Information to caregivers about available services;

(b) Assistance to caregivers in gaining access to the services;

(c) Individual counseling, organization of support groups, and caregiver training to assist the caregivers in making decisions and solving problems relating to their caregiving responsibilities;

(d) Respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and

(e) Supplemental services, on a limited basis, to complement the care provided by caregivers.

(4) In the case of a family caregiver of an older individual, respite care, as described in paragraph (d) of subsection (3) of this section, and supplemental services, as described in paragraph (e) of subsection (3) of this section, shall be provided only if the older individual meets the conditions specified in the federal law under the definition of the term "frail" which states that the older individual is functionally impaired because the individual either:

(a) Is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cuing, or supervision; or

(b) Due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

(5) The area agency on aging shall give priority for services under the program to older individuals with greatest social and economic need, with particular attention to low-

income older individuals, and to older individuals providing care and support to persons with mental retardation and related developmental disabilities.

(6) Each area agency on aging shall coordinate the activities of the agency or any contractors with whom the agency has contracted with the activities of other community agencies and volunteer organizations providing the types of support services described in subsection (3) of this section.

(7) The state shall not use more than ten percent of the total federal and state share of the moneys available to the state for the program to provide support services to grandparents and older individuals who are relative caregivers of children.

ARTICLE 11.5

Colorado Long-term Care
Ombudsman Program

26-11.5-101. Short title. This article shall be known and may be cited as the "Colorado Long-term Care Ombudsman Act".

26-11.5-102. Legislative declaration. (1) The general assembly hereby recognizes that the former state department of social services, currently the state department of human services, pursuant to the federal "Older Americans Act of 1965", as amended, has established a state long-term care ombudsman program.

(2) The general assembly finds, determines, and declares that it is the public policy of this state to encourage community contact and involvement with patients, residents, and clients of long-term care facilities.

(3) The general assembly further finds, determines, and declares that in order to comply with the federal "Older Americans Act of 1965", as amended, and effectively assist patients, residents, and clients of long-term care facilities in the assertion of their civil, human, and legal rights, the structure of a state long-term care ombudsman program and the powers and duties thereunder shall be specifically defined.

26-11.5-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Elderly resident" means any individual who is sixty years of age or older who is a current or prospective or former patient or client of any long-term care facility.

(2) "Local ombudsman" means an individual trained and designated as qualified

by the state long-term care ombudsman to act as a representative of the office of the state long-term care ombudsman.

(3) "Long-term care facility" or "facility" means:

(a) A nursing care facility as defined in section 25.5-4-103 (14), C.R.S.;

(b) An assisted living residence as defined in section 25-27-102 (1.3), C.R.S.;

(c) Any swing bed in an extended care facility.

(4) "Office" means the state long-term care ombudsman office.

(5) "Older Americans act" means the federal "Older Americans Act of 1965", as amended, 42 U.S.C. sec. 3001.

(6) "Resident" means any individual who is a current or prospective or former patient or client of any long-term care facility.

(7) "State long-term care ombudsman" means the person designated to implement the state long-term care ombudsman program and to perform the duties and functions required under this article.

26-11.5-104. Creation of state long-term care ombudsman program. (1) Pursuant to the older Americans act, there is hereby established a state long-term care ombudsman program which shall be comprised of a state long-term care ombudsman office and local ombudsman offices established throughout the state.

(2) The state long-term care ombudsman office shall be established and operated under the state department of human services either directly or by contract with or grant to any public agency or other appropriate private nonprofit organization; except that such office shall not be administered by any agency or organization responsible for licensing or certifying long-term care services in the state. The office shall be administered by a full-time qualified state long-term care ombudsman who shall be designated in accordance with rules and regulations promulgated by the state department.

(3) Local ombudsman programs shall be established statewide. Such programs shall be operated by the state department under contract, grant, or agreement between the state department and a public agency or an appropriate private nonprofit organization. Personnel of local programs shall be trained and designated as qualified representatives of the office in accordance with section 26-11.5-105 (1) (b).

26-11.5-105. Duties of state long-term care ombudsman. (1) In addition to such other duties and functions as the state department may allocate to the office, the state long-term care ombudsman shall have the following duties and functions in implementing a statewide long-term care ombudsman program:

(a) (I) Establish statewide policies and procedures for operating the state long-term care ombudsman program including procedures to identify, investigate, and seek the

resolution or referral of complaints made by or on behalf of any elderly resident related to any action, inaction, or decision of any provider of long-term care services or of any public agency, including the state department of human services and county departments of social services, that may adversely affect the health, safety, welfare, or rights of such elderly resident.

(II) The policies and procedures adopted pursuant to subparagraph (I) of this paragraph (a) may be applied to complaints by or on behalf of any resident of a long-term care facility where the provision of ombudsman services will either benefit elderly residents of the facility involved in the complaint or elderly residents of long-term care facilities in general, or where ombudsman service is the only viable avenue of assistance available to the resident and such service will not significantly diminish the program's effort on behalf of elderly residents.

(b) Provide training and technical assistance to personnel of local ombudsman programs. Upon successful completion of such training the office may designate such personnel as qualified representatives of the office and shall issue to such representatives long-term care ombudsman identification cards.

(c) Establish procedures to analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies with respect to long-term care facilities and services. On the basis of such analysis and monitoring, the office shall recommend changes to such laws, regulations, and policies to the appropriate governing body.

(d) Prepare a notice informing residents of ombudsman services for posting at long-term care facilities.

(2) In addition to the duties and functions under subsection (1) of this section, the office and its representatives shall have the authority to pursue administrative, legal, or other appropriate remedies on behalf of residents for the purpose of effectively carrying out the provisions of paragraph (a) of subsection (1) of this section.

26-11.5-106. Local ombudsmen - representatives of office. (1) A local ombudsman, whether an employee or volunteer of a local ombudsman program, shall be considered a representative of the office for the purposes of carrying out policies and procedures adopted by the state long-term care ombudsman in accordance with this article, but only upon the completion of training and designation as a qualified representative by the state long-term care ombudsman. As a representative of the office, a local ombudsman shall follow rules and regulations of the state department and policies and procedures established by the state long-term care ombudsman.

(2) Each local ombudsman shall carry an identification card issued annually and signed by the state long-term care ombudsman and shall, upon the request of a supervisory staff member of a facility, present such card in order to obtain access to

residents and records of such facility.

26-11.5-107. Notice of ombudsman services. (1) Every long-term care facility shall post in a conspicuous place a notice with the name, address, and phone number of the office and the name, address, and phone number of the nearest available local ombudsman program. Such notice shall be provided by the state long-term care ombudsman.

(2) Each long-term care facility shall provide, in writing, to any resident eligible for ombudsman services pursuant to this article who is subject to an involuntary transfer from such facility the name, address, and phone number of the nearest available local ombudsman and the name, address, and phone number of the office. Such information shall be included on the notice required under section 25-1-120 (1) (k), C.R.S.

26-11.5-108. Access to facility - residents - records - confidentiality. (1) An ombudsman, upon presenting a long-term care ombudsman identification card, shall have immediate access to a long-term care facility and to its residents eligible for ombudsman services pursuant to this article for the purposes of effectively carrying out the provisions of this article.

(2) In performing ombudsman duties and functions in accordance with this article an ombudsman shall have access to review the medical and social records of a resident eligible for ombudsman services pursuant to this article, provided the resident has consented to such review. In the event consent to such review is not available because the resident is incapable of consenting and has no guardian to provide such consent, inspection of such records may be made by the state long-term care ombudsman.

(3) In carrying out the provisions of this section, each ombudsman shall follow procedures of confidentiality in accordance with the older Americans act.

26-11.5-109. Interference with ombudsmen prohibited - civil penalty. (1) No person shall willfully interfere with an ombudsman in the ombudsman's performance of duties and functions under this article.

(2) No person shall take any discriminatory, disciplinary, or retaliatory action against the following individuals for any communication with an ombudsman or for any information provided in good faith to the office in carrying out its duties and responsibilities under this article:

(a) Any resident eligible for ombudsman services pursuant to this article;

(b) Any officer or employee of a facility or governmental agency providing services to residents of long-term care facilities.

(3) Any person who commits a violation under subsection (1) or (2) of this section shall be subject to the following civil penalties:

(a) For a violation of subsection (1) of this section, a penalty of not more than two thousand five hundred dollars per violation;

(b) For a violation of subsection (2) of this section, a penalty of not more than five thousand dollars per violation.

(4) (a) Any person listed in paragraphs (a) and (b) of subsection (2) of this section, or any person acting on such person's behalf, including the state or a local ombudsman, may file a complaint with the department of human services against any person who violates subsection (1) or (2) of this section. The said department shall investigate such a complaint and, if there is sufficient evidence of a violation, shall be authorized to assess, enforce, and collect the appropriate penalty set forth in subsection (3) of this section.

(b) Prior to the assessment of a penalty, the department of human services shall give written notice to the person against whom a penalty will be assessed, stating the basis for the violation and the amount of the penalty to be assessed. Such person, upon request, shall be given a hearing in accordance with section 24-4-105, C.R.S., which hearing shall constitute final agency action. Such agency action shall be subject to judicial review in accordance with section 24-4-106, C.R.S.

(c) The department of human services shall promulgate rules and regulations necessary for the implementation of this subsection (4).

(d) All penalties collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the general fund. Penalties provided under this section shall be in addition to and not in lieu of any other remedy provided by law.

26-11.5-110. Immunity from liability. Any ombudsman who, in good faith, acts within the scope of the duties and functions of this article shall be immune from civil or criminal liability. For the purposes of this section, there shall be a rebuttable presumption that, when acting within the scope of the duties and functions of this article, an ombudsman acts in good faith. Nothing in this section shall be construed to abrogate or limit the immunity or exemption from civil liability of any agency, entity, or person under any statute, including the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

26-11.5-111. Duties of state department. (1) In order to implement the provisions of this article, the state department shall carry out the following duties:

(a) Establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with specific provision for the submission

of such data on a regular basis to the state agency responsible for licensing or certifying long-term care facilities;

(b) Establish procedures to assure that information contained in any files maintained in accordance with the state long-term care ombudsman program shall be disclosed only at the discretion of the state long-term care ombudsman and that the identity of a complainant be disclosed only with the written consent of such complainant or in accordance with a court order;

(c) Ensure that no individual involved in the designation of the state long-term care ombudsman, nor any officer, employee, or volunteer of the statewide program in performing ombudsman functions, is subject to any conflict of interest;

(d) Ensure that adequate legal counsel is available to an ombudsman for advice and counseling concerning the performance of ombudsman duties and functions and for legal representation of an ombudsman against whom legal action is brought in connection with the performance of ombudsman duties and functions provided for under this article;

(e) Promulgate rules and regulations necessary for the efficient administration and operation of the state long-term care ombudsman program.

26-11.5-112. Federal requirements - compliance. Nothing in this article shall be construed to prevent the state department or the office from complying with the requirements of the rules and regulations of the United States department of health and human services promulgated pursuant to the older Americans act.

ARTICLE 12

State and Veterans Nursing Homes

PART 1

MANAGEMENT, CONTROL, AND SUPERVISION

26-12-101. Short title. This article shall be known and may be cited as the "State Veterans Nursing Homes Act".

26-12-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Executive director" means the executive director of the state department of human services.

(2) "Resident" means a person who resides in a state nursing home operated pursuant to the provisions of this article.

(3) "State board" means the state board of human services.

(4) "State department" means the state department of human services.

(5) "State nursing home" means any state nursing home or any state veterans nursing home and all programs operated by a state nursing home or state veterans nursing home, including domiciliary services, day care, and other facility programs.

(6) "State veterans nursing home" means a state nursing home that has been designed and constructed so as to qualify for federal funds under the provisions of federal Public Law 88-450, as amended, and that is operated so as to qualify for per diem payments from the United States veterans administration under the provisions of 38 U.S.C. sec. 1741.

26-12-103. State board duties - rule-making. The state board shall adopt rules for the management, control, and supervision of the state nursing homes operated pursuant to the provisions of this article.

26-12-104. Eligibility for care. (1) A person shall be considered for admission to any state nursing home if he or she meets the eligibility requirements prescribed in state and federal regulations.

(2) After admission, a resident shall be subject to periodic review as to financial status, need for continuing medical institutional care, and other eligibility factors.

(3) A resident may be transferred or discharged for cause in accordance with federal regulations.

26-12-105. Application for admission - preference. (1) Any person may apply for admission to any state nursing home in the manner prescribed by rules of the state board.

(2) All applications shall be voluntary, and any person admitted to a state nursing home shall have the right to leave the state nursing home at any time he or she chooses.

(3) A state nursing home shall review all applications for admission with reasonable promptness.

(4) If the number of eligible applicants exceeds the available facilities in a state nursing home, the state nursing home shall give preference in admission to persons whose needs are greatest under standards established in state and federal regulations.

26-12-106. Vacancies - additional admissions. In the event that vacancies occur in a state nursing home and there are no applications for admission from persons eligible under section 26-12-104, the state nursing home shall be open for temporary occupancy to any person based on the person's need for medical care and ability to pay for services in accordance with the rules of the state board.

26-12-107. Standards - management. (1) Each state nursing home shall be operated and maintained under standards established by the department of public health and environment.

(2) Each state nursing home shall have:

(a) A nursing home administrator; and

(b) Such additional employees, including medical and nursing personnel, as may be required to provide nursing home services for which the state nursing home was licensed.

(3) All state nursing homes shall be managed as a group by the state department, unless the state department contracts for the management of a state nursing home in accordance with section 26-12-119.

26-12-108. Payments for care - funds - annual report - collections for charges - central fund for state nursing homes created. (1) (a) The state department shall establish rates for the care of residents, which rates shall be as nearly equal to the cost of operation and maintenance of the state nursing homes as practicable. Payments shall be made to the state department unless otherwise provided pursuant to a contract entered into in accordance with section 26-12-119. The state department shall deposit such payments together with any other moneys received from any source for the operation and maintenance of the state nursing homes with the state treasurer, who shall credit all such moneys to the central fund for state nursing homes, referred to in this article as the "central fund", which fund is hereby created.

(a.5) For the fiscal year beginning July 1, 2007, and for each fiscal year thereafter, the general assembly shall appropriate from the general fund to the central fund an amount not exceeding ten percent of the total gross revenue accrued by the central fund during the preceding fiscal year in coordination with the state department's standard budget request process. The state department shall use these funds to pay operational expenses of, and make capital improvements to, the state nursing homes.

(b) (I) The state department is authorized to expend moneys out of the central fund for the direct and indirect costs incurred by the state department for the operation and administration of the state nursing homes and for capital construction in connection with such state nursing homes. Such expenditures shall not require an appropriation by the general assembly but shall be limited to amounts in the central fund.

(II) All requests for capital construction submitted by the state department shall be considered by the capital development committee pursuant to section 2-3-1304, C.R.S.

(III) All interest derived from the deposit and investment of moneys in the central fund shall be credited to such fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the central fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(c) The state department shall prepare and submit to the general assembly an annual report detailing the financial status of each of the state nursing homes. This report shall also identify which of the state nursing homes administered pursuant to the provisions of this article are owned by the state but operated under contract by another entity.

(2) It is lawful for each state nursing home and the Colorado state veterans center at Homelake to deposit moneys belonging to the benefit fund established prior to July 1, 1985, and all donations or other voluntary contributions that may be received on or after that date in any manner for the benefit of residents of each state nursing home and the Colorado state veterans center at Homelake in an interest-bearing account with a federally insured financial depository pursuant to section 24-75-603, C.R.S. Withdrawals from such accounts shall be made only for the benefit, aid, and assistance of residents of each state nursing home or the occupants of the Colorado state veterans center at Homelake, including recreational equipment and facilities.

(3) The executive director may, in the name of the people of the state of Colorado and through the attorney general, institute and maintain actions at law for the collection of charges due from residents of state nursing homes and the Colorado state veterans center at Homelake, or said residents' conservators, guardians, executors, or administrators, resulting from the failure, neglect, or refusal of said persons to pay such charges.

26-12-109. County chargeability. For the purposes of this part 1, a resident in any state nursing home shall be a charge for public assistance purposes to the county in which such state nursing home is located.

26-12-110. Declaration of policy - enterprise status. (1) Any state nursing home or group of state nursing homes shall constitute an enterprise for purposes of section 20 of article X of the state constitution so long as:

(a) The state department retains authority to issue anticipation warrants on behalf of such state nursing home or group of state nursing homes; and

(b) Such state nursing home or group of state nursing homes receives less than ten percent of its total annual revenues in grants from the state and all Colorado local governments combined.

(2) So long as it constitutes an enterprise, a state nursing home or a group of state nursing homes shall not be subject to any of the provisions of section 20 of article X of the state constitution.

26-12-111. Proposed state nursing homes - criteria. (1) The state department, in consultation with the Colorado board of veterans affairs, shall be responsible for recommending any proposed sites for state nursing homes to be constructed, leased, or purchased on or after July 1, 1998, to the capital development committee and the joint budget committee. The general assembly shall be responsible for the selection of any proposed site for such state nursing homes.

(2) When evaluating a potential site for a proposed state nursing home, the following criteria shall be considered:

(a) The proximity of the proposed facility to veterans affairs medical services;

(b) The impact the proposed home would have upon the financial viability of state nursing homes already in existence;

(c) Whether there is an established bed need for the proposed state nursing home based upon the location of Colorado veterans, their families, and support systems.

(3) Any state nursing home constructed, leased, or purchased on or after July 1, 1998, shall have a bed capacity of at least one hundred twenty beds.

(4) No state veterans nursing home shall be constructed on or after July 1, 1998, unless other state veterans nursing homes have maintained an average occupancy rate of at least eighty percent over the six-month period immediately prior to the commencement of the construction of the new state veterans nursing home.

26-12-112. Powers and duties of state department. (1) The state department may, in addition to the powers granted in this article, whenever authorized and locations have been designated by the general assembly:

(a) Establish, construct, operate, maintain, and improve, within the state of Colorado, buildings and facilities, and the means necessary thereto, for the full exercise of the powers granted by this article;

(b) Identify the records that the nursing home administrator of each state nursing home shall submit to the state department;

(c) Set aside a special sinking fund account in the central fund for the payment of anticipation warrants authorized by and issued under the provisions of section 26-12-113 and for the payment of interest due on such warrants; except that the state department shall not pledge the general income of the state of Colorado or appropriations made by the general assembly for any state nursing home, nor shall it create a mortgage upon the property belonging to any such state nursing home, for the payment of the principal of the

warrants and interest thereon. The state department shall deposit into the sinking fund account fees and revenues received from residents at state nursing homes sufficient to cover necessary reserve accounts and principal and interest payments, which fees and revenues shall first be applied upon the payment of principal and such anticipation warrants and interest thereon. Any moneys in said sinking fund account not necessary for the reserve nor for the payment of said principal and interest may be made available for the maintenance and operation of such state nursing homes.

(d) Accept any grants from, or payments made by, the United States or any agency or instrumentality thereof and receive gifts, legacies, devises, and conveyances of property, real or personal, that may be made, given, transferred pursuant to a purchase and sale, or granted to the state department for state nursing homes. The state department, with the approval of the governor, shall make disposition of such property in the best interest of the state nursing homes under the control and supervision of the state department.

(2) All titles to real property and all improvements thereon shall be vested in the state, and the title deeds thereto and all insurance policies, certificates of water rights, and other evidences of ownership to the real property or improvements of said nursing home shall be deposited with the state department.

(3) No payment shall be made out of the state treasury or otherwise for any real property described in this section until the title has been examined and approved by the attorney general. Every such deed of conveyance shall be immediately recorded in the office of the proper county clerk and recorder and thereafter deposited with the state department.

(4) The state department, by October 31, 2002, and on or before October 31 each year thereafter, shall provide sufficient information to enable the Colorado board of veterans affairs to complete the report required by section 28-5-703 (3), C.R.S.

(5) Repealed.

26-12-113. Anticipation warrants - legislative declaration. (1) (a) For the purpose of defraying the cost of construction of new facilities, reconstruction or improvement of existing facilities, and maintenance and operation of such facilities, the state department may, with the approval of the governor, issue anticipation warrants that shall be payable solely from the sinking fund account described in section 26-12-112, and the payments and interest on such anticipation warrants shall be a first charge on and shall be payable from said account.

(b) The general assembly hereby finds and declares that the authority to issue anticipation warrants as set forth in this section shall constitute authority to issue revenue bonds for the purposes of section 20 of article X of the state constitution.

(2) Any other provision of this article notwithstanding, the state department may

not issue any anticipation warrants or otherwise borrow funds for the construction of additional state nursing homes, unless such construction of additional state nursing homes is specifically authorized by law.

26-12-114. Interest - term. All anticipation warrants issued under the provisions of sections 26-12-110 to 26-12-118 shall bear interest at a rate determined by the state department and shall be executed in such a manner, shall be paid serially in such annual installments, beginning not later than two years and extending not more than twenty-five years from the date thereof, and shall be executed and paid at such place or places as the executive director shall determine.

26-12-115. Signatures validated. If any of the officers whose signatures or countersignatures appear on the anticipation warrants issued under the provisions of this article or coupons attached thereto cease to be such officers before delivery of such warrants, such signatures and countersignatures shall nevertheless be valid and sufficient for all purposes with the same force and effect as if they had remained in office until such delivery.

26-12-116. Obligations limited. (1) Nothing in sections 26-12-110 to 26-12-118 shall be construed as to authorize the state department to incur any obligation of any kind or nature except such as shall be payable solely from moneys accruing to the special sinking fund account created pursuant to section 26-12-112.

(2) It shall be plainly stated on the face of each anticipation warrant that it has been issued under the provisions of sections 26-12-110 to 26-12-118 and that it does not constitute an indebtedness of the general fund of the state within the meaning of any constitutional provision or limitation.

26-12-117. Anticipation warrants legal investments. It is lawful for the state of Colorado, any of its departments, institutions, or agencies, or any political subdivision of the state to purchase anticipation warrants issued pursuant to the provisions of sections 26-12-110 to 26-12-118 if such warrants satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.; except that the state, its departments, institutions, or agencies, or any of its political subdivisions shall not invest more than twenty percent of the total of any specific fund of such entities in such warrants.

26-12-118. Order of payment of warrants. The anticipation warrants issued under this part 1 shall be serially numbered and shall be paid off and retired in the order in which they were issued.

26-12-119. Contractual agreements. (1) The state department is authorized to contract with any public or private entity for all or part of the operation or management of any state nursing home in accordance with the "Procurement Code", articles 101 to 112 of title 24, C.R.S., and with part 5 of article 50 of title 24, C.R.S.

(2) Any contract authorized pursuant to subsection (1) of this section shall specify the entity's reporting relationship to the state and delineate responsibility for rate calculation, financial performance, liability, and compliance with section 20 of article X of the state constitution.

26-12-120. Intestate estate - escheat. (1) If a resident dies without legal heirs and without a will disposing of his or her estate, all of the property, real and personal, shall pass to the state of Colorado for the sole use and benefit of the state nursing home in which the resident lived at the time of his or her death, subject to the provisions of section 25.5-4-302, C.R.S., and subsection (2) of this section.

(2) (a) The personal property and effects of deceased residents shall be taken into possession by the state nursing home administrator of the state nursing home in which the resident lived at the time of his or her death and held in accordance with the rules of the state board.

(b) Such rules shall provide for a sufficient period of time not to exceed one year in which the heirs of a deceased resident may make claim to the deceased resident's property and effects. If no claim is made to the property, the property may be sold, and the proceeds of the sale shall be placed in the benefit fund created by section 26-12-108 (2) for the personal use and benefit of other residents of the state nursing home in which the resident lived at the time of his or her death, subject to claims as a result of appropriate judicial proceedings.

26-12-121. State veterans nursing homes - local advisory boards - rules - repeal. (1) The state board, with input from the division within the state department that is responsible for state nursing homes, shall promulgate rules to establish the requirements and procedures governing the creation and operation of local advisory boards at each of the existing state nursing homes within the state department, located in Homelake, Florence, Rifle, Aurora, and Walsenburg, Colorado.

(2) Each local advisory board shall consist of at least five members. At least one of the members shall be a resident of the state nursing home or veterans nursing home or a person who, at the time of his or her appointment, is a family member of a resident of the nursing home.

(3) (a) This section is repealed, effective July 1, 2017.

(b) Prior to repeal, the local advisory boards appointed pursuant to this section

shall be reviewed as provided in section 2-3-1203, C.R.S.

PART 2

SPECIFIC STATE NURSING HOMES AUTHORIZED

26-12-201. State nursing homes authorized.

(1) Repealed.

(2) (a) Subject to available appropriations, there is hereby authorized the establishment and construction of state nursing homes for veterans of service in the armed forces of the United States and their spouses, surviving spouses, or dependent parents. Each such state nursing home shall be known as the Colorado state veterans nursing home, collectively referred to in this article as "state veterans nursing homes".

(b) State veterans nursing homes shall be located at or near the city of Florence, at or near the city of Walsenburg, at or near the city of Rifle, and in Homelake.

(3) The state department shall evaluate any proposed sites for a state veterans nursing home to be constructed, leased, or purchased on or after July 1, 1998, in accordance with section 26-12-111.

(4) The state veterans nursing homes shall be designed and constructed so as to qualify for federal funding under the provisions of federal Public Law 88-450, as amended. The state veterans nursing homes shall be under the control and supervision of the state department, and they shall be operated so as to qualify for per diem payments from the United States veterans administration under the provisions of 38 U.S.C. sec. 1741.

26-12-201.5. Nursing home at former Fitzsimons authorized - Fitzsimons state veterans nursing home advisory board. (1) Subject to available appropriations, there is hereby authorized the establishment and construction of a state veterans nursing home on the site of the former Fitzsimons Army medical center.

(2) Preference for admission to the state veterans nursing home authorized pursuant to subsection (1) of this section shall be given to any veteran who is not currently a resident in another state veterans nursing home.

(3) and (4) (Deleted by amendment, L. 2000, p. 1552, § 30, effective August 2, 2000.)

(5) Construction of the facility authorized pursuant to subsection (1) of this section shall begin no later than October 1, 2001, or upon receipt of the federal funding for such construction.

(6) Beginning in fiscal year 2004-05, and for each fiscal year thereafter, the state department is authorized to use general funds appropriated to cover any operational

shortfall incurred by the facility after its construction and before it begins to generate revenues sufficient to cover its operational expenses.

(7) Repealed.

26-12-202. Walsenburg - contractual arrangement. (1) For as long as the contract is in effect with the Huerfano county hospital district for the operation of the Walsenburg state veterans nursing home, the contract shall state that the home is a separate entity for financial reporting purposes. The contract shall also state that the district is responsible for financial reporting, rate calculation, financial performance, compliance with all state and federal regulations, and compliance with section 20 of article X of the state constitution.

(2) The Walsenburg state veterans nursing home shall remain a state-owned entity for purposes of qualifying for federal veterans assistance payments and other federal veterans programs.

(3) Nothing in this section shall be construed as affecting the state's ability to take over operations or to contract with any other entity should the contract with the district terminate.

26-12-203. The Colorado state veterans center - jurisdiction - definition. (1) (a) The Colorado state veterans center at Homelake, consisting of a state nursing home, a domiciliary care unit, and the Homelake military veterans cemetery, referred to in this part 2 as the "center", as transferred to the state department by the "Administrative Organization Act of 1968", is hereby declared to be a state home for veterans of service in the armed forces of the United States and their spouses, surviving spouses, and dependent parents.

(b) The legal effect of any statute enacted prior to July 1, 1973, designating such institution as the soldiers' and sailors' home or the Monte Vista golden age center, or by any other name, or property rights acquired and obligations incurred prior to said date under any other name, shall not be impaired hereby.

(2) The center shall be under the control and supervision of the state department.

(3) For purposes of this section, "domiciliary care" means the provision of shelter, food, and necessary medical care on an ambulatory self-care basis:

(a) To assist any individual who is eligible for occupancy in the center pursuant to sections 26-12-104 and 26-12-106 and who is suffering from an incapacitating disability, disease, or defect that prevents such veteran from earning a living, but that does not require hospitalization or nursing care services to attain physical, mental, and social well-being; and

(b) To restore, through special rehabilitative programs, such individual to his or her highest level of functioning.

26-12-204. Sale of property. (1) The executive director, with the approval of the state board, shall sell any real property at the center declared to be surplus by the state board to the highest bidder on such terms and conditions as are deemed appropriate by the executive director for not less than the appraised value thereof, as determined by an appraiser who is a member of the members appraisal institute (MAI), and to execute deeds of conveyance of such real property.

(2) Upon the sale of real property pursuant to subsection (1) of this section, the proceeds shall be deposited in the central fund and applied toward the retirement of any outstanding anticipation warrants.

26-12-205. Homelake military veterans cemetery - definitions - fund - rules - notice of funding through gifts, grants, and donations - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Cemetery" means the Homelake military veterans cemetery established and maintained at the center pursuant to subsection (2) of this section, including:

(I) The two triangular areas that are adjacent to, and to the northeast and northwest of, the circular cemetery proper; and

(II) The triangular area of land to the direct north of the existing cemetery as of May 3, 2012.

(b) "Fund" means the Homelake military veterans cemetery fund created pursuant to subsection (4) of this section.

(2) (a) The general assembly hereby authorizes the establishment and maintenance of the cemetery at the center. The state department shall maintain the cemetery.

(b) The state department may enter into contracts or agreements with any person or public or private entity to prepare, develop, construct, operate, and maintain the cemetery.

(3) (a) Any veteran who served honorably in any branch of the armed forces of the United States and who, at the time of his or her death, was a resident of this state shall be eligible for burial and interment at the cemetery. .

(b) Burial and interment may be provided at the cemetery for any spouse, surviving spouse, or dependent parent of an honorably discharged veteran of any branch of the armed forces of the United States.

(c) All necessary expenses incident to the burial and interment at the cemetery of any person who may be buried and interred at the cemetery pursuant to the provisions of this section shall be paid from the estate of the decedent.

(d) The state department shall adopt procedures whereby persons who are eligible for burial and interment in the cemetery, in exchange for monetary consideration in an amount to be determined by the state department but not to exceed the amount of the burial and memorial benefit provided to an eligible veteran by the federal department of

veterans affairs, may reserve plots there for the burial and interment of themselves and their spouses. In adopting such procedures, the state department shall ensure that a person who possesses such a reservation on May 3, 2012, shall retain his or her reservation.

(4) (a) There is hereby established in the state treasury the Homelake military veterans cemetery fund. The fund shall consist of moneys transferred to the fund pursuant to paragraph (b) of this subsection (4), any revenue generated from activities associated with the cemetery and its operations, and any moneys appropriated to the fund by the general assembly. The moneys in the fund are subject to annual appropriation by the general assembly to the state department for the direct and indirect costs associated with capital improvements to, and the operation and maintenance of, the cemetery and for the implementation of this section. Any moneys in the fund not expended for the purpose of the section may be invested by the state treasurer as provided in section 24-36-113, C.R.S. Any interest and income derived from the deposit and investment of moneys in the fund shall be credited to the fund.

(b) (I) The state department is authorized to accept gifts, grants, and donations for the purposes of this section; except that the state department shall not accept a gift, grant, or donation that is subject to conditions that are inconsistent with the provisions of this section or any other law of the state. The state department shall transfer all private and public moneys received through gifts, grants, and donations to the state treasurer, who shall credit the same to the fund.

(II) To the extent permitted by subparagraph (I) of this paragraph (b), a person who contributes a gift, grant, or donation to the fund may designate a specific purpose for which the gift, grant, or donation is to be used. The state department shall not unreasonably delay a project that is sufficiently funded by gifts, grants, or donations.

(c) The state department shall not expend more than five percent of the moneys annually expended from the fund to pay for the administrative costs of implementing this section.

(d) (I) The state department shall notify the legislative council staff when it has received adequate funding through gifts, grants, or donations for the purposes of this section and shall include in the notification the information specified in section 24-75-1303 (3), C.R.S.

(II) This paragraph (d) is repealed, effective July 1, 2015.

(5) The general assembly hereby finds, determines, and declares that any use of the cemetery property is for a public purpose expressly authorized by the general assembly and therefore permissible under any grant of right-of-way applicable to such property executed by the state board of land commissioners.

(6) Subject to available appropriations, the state department may contract for professional services necessary for the implementation of this section.

(7) It is the intent of the general assembly that the state department will implement the provisions of this section by assigning to the cemetery one-half of a full-time

employee from within the existing personnel resources of the state department.

(8) (a) On or before January 1, 2014, the state department shall establish a phased plan for expansion of the cemetery. The state department shall identify phases in a manner that is aesthetically appropriate, cost-effective, and capable of incremental implementation as funding becomes available; except that the first phase shall consist of the portion of the project described in paragraph (b) of this subsection (8). The expansion project shall include work sufficient to meet the demand for unreserved burial plots in the cemetery and to allow the state department to conduct interments at the rate of fifteen interments per year. To the extent practicable, in implementing the expansion plan, the state department shall make use of work completed by third parties pursuant to paragraph (b) of subsection (2) of this section and coordinate with such parties to ensure that work completed for the expansion project meets the standards and specifications of the phased plan.

(b) On or before July 1, 2014, the state department shall complete the expansion of the cemetery and make available for eligible veterans of the United States armed forces and their spouses new cemetery plots in the two triangular areas that are adjacent to, and to the northeast and northwest of, the circular cemetery proper.

(c) (I) On or before January 1, 2015, the state department shall submit to the state, military, and veterans affairs committees of the house of representatives and senate, or any successor committee, a report concerning:

(A) The status of the phased plan for expansion of the cemetery;

(B) The day-to-day and yearly requirements that are involved in the maintenance of the cemetery;

(C) The extent to which the department relies upon state employees for the actual maintenance of the cemetery; and

(D) The extent to which the state department contracts with other public or private entities, as described in paragraph (b) of subsection (2) and subsection (6) of this section, for the actual maintenance of the cemetery.

(II) This paragraph (c) is repealed, effective January 2, 2015.

26-12-206. Statement of intent. The general assembly of the state of Colorado hereby expresses its intent to appropriate the necessary funds from time to time to plan and construct the state nursing homes and to operate said homes in accordance with Title 38, U.S. Code.

26-12-207. Federal funds. Whenever a law or rule pertaining to the veterans administration or any other federal law permits the state to receive federal funds for the use and benefit of the state nursing homes, the executive director shall apply for and use such federal funds for the benefit of the state nursing homes.

PART 3

EVALUATION OF QUALITY OF CARE IN
STATE AND VETERANS NURSING HOMES

26-12-301 to 26-12-306. (Repealed)

PART 4

BOARD OF COMMISSIONERS OF
STATE VETERANS NURSING HOMES

26-12-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Board of commissioners" means the board of commissioners of state veterans nursing homes created in section 26-12-402.

(2) "Division" means the division of state veterans nursing homes, or its successor agency, in the state department.

26-12-402. Board of commissioners of state veterans nursing homes - creation - powers and duties. (1) There is hereby created the board of commissioners of state veterans nursing homes within the state department. The board of commissioners shall exercise its powers, duties, and functions under the state department as if it were transferred to the state department by a **type 2** transfer under the provisions of the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(2) The functions of the board of commissioners are to:

(a) Advise the division and the state veterans nursing homes located in Homelake, Florence, Rifle, Aurora, and Walsenburg, Colorado;

(b) Provide continuity, predictability, and stability in the operation of the state veterans nursing homes; and

(c) Provide guidance to future administrators at the state veterans nursing homes based on the collective institutional memory of the board of commissioners.

(3) (a) The board of commissioners shall consist of seven members, no more than four of whom are members of the same political party, and all of whom shall be subject to confirmation by the senate.

(b) The governor shall appoint the seven members of the board of commissioners as follows:

(I) Three veterans, one of whom shall be either a member of the state board of veterans affairs or that board's designee;

(II) Three persons with expertise in nursing home operations, including:

(A) A person who is a nursing home administrator at the time of appointment and who is experienced in the financial operations of nursing homes;

(B) A person who has practicing clinical experience in nursing homes; and

(C) A person who has experience in multi-facility management of nursing homes; and

(III) The state long-term care ombudsman, as defined in section 26-11.5-103 (7), or a local ombudsman, as defined in section 26-11.5-103 (2), that is recommended to the governor by the state long-term care ombudsman.

(c) The appointed members of the board of commissioners shall serve terms of four years; except that, of the members first appointed, the governor shall select three members who shall serve terms of two years.

(4) An appointed member may be removed for cause at any time during the member's term by the governor. Vacancies on the board of commissioners shall be filled by appointment by the governor with the consent of the senate for the unexpired terms in the manner described in subsection (3) of this section.

(5) Members of the board of commissioners shall serve without pay but shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

(6) All members of the board of commissioners shall be voting members. The members of the board of commissioners shall elect a chair, a vice-chair, and a secretary from among the membership of the board. Board action shall require the affirmative vote of a majority of a quorum of the board of commissioners.

(7) The board of commissioners shall:

(a) Endeavor to ensure that the highest quality of care is being provided at the state veterans nursing homes and that the financial status of the homes is maintained on a sound basis;

(b) Obtain information concerning the following:

(I) The status of the central fund, as described in section 26-12-108, and the progress of capital construction projects that are proposed or underway; and

(II) Issues of resident care arising from sources, including but not limited to department of public health and environment surveys, veterans administration surveys, consultant contractor reports, plans of correction to both surveys and consultant reports, vacant position reports, and reports from the division;

(c) Have direct access to any consulting contractor working with the state veterans nursing homes and obtain written and oral reports;

(d) Have direct access to the executive director of the state department and the state board for the purposes of alerting state department policymakers of potential

problems in state veterans nursing homes and establishing effective working relationships and lines of communication with the state department and state board at all levels;

(e) Have the authority to visit and review the operation of the state veterans nursing homes;

(f) Participate in any request for proposal panel that selects division-wide consulting firms for the state veterans nursing homes;

(g) Have authority to review and comment on rules promulgated by the state department and the state board concerning the state veterans nursing homes before the rules are submitted for public comment;

(h) Meet as often as necessary but not less than three times per year; and

(i) (I) On or before January 1, 2008, and on or before each January 1 thereafter, make an annual report of issues and recommendations developed by the board of commissioners to the executive director of the state department and the governor; and

(II) Transmit electronic versions of each annual report to:

(A) The members of the general assembly who sit on the health and human services committees and the state, veterans, and military affairs committees of the senate and the house of representatives, or any successor committees; and

(B) The members of the state board of veterans affairs.

(8) Nothing in this part 4 shall be construed to abridge, amend, or supersede any provision of a contractual agreement that the state department has entered into with any of the state veterans nursing homes.

26-12-403. Repeal of part. (1) This part 4 is repealed, effective July 1, 2017.

(2) Prior to repeal, the board of commissioners appointed pursuant to this part 4 shall be reviewed as provided in section 2-3-1203, C.R.S.

ARTICLE 13

Child Support Enforcement Act

26-13-101. Short title. This article shall be known and may be cited as the "Colorado Child Support Enforcement Act".

26-13-102. Legislative declaration. The purposes of this article are to provide for enforcing the support obligations owed by obligors, to locate obligors, to establish parentage, to establish and modify child support obligations, and to obtain support in

cooperation with the federal government pursuant to Title IV-D of the federal "Social Security Act", as amended, and other applicable federal regulations.

26-13-102.5. Definitions. As used in this article, unless the context otherwise requires:

(1) "Delegate child support enforcement unit" means the unit of a county department of social services or its contractual agent which is responsible for carrying out the provisions of this article. The term contractual agent shall include a private child support collection agency, operating as an independent contractor with a county department of social services, that contracts to provide any services that the delegate child support enforcement unit is required by law to provide.

(2) (a) "IV-D case" or "IV-D support order" means a case or a support order with respect to a child in which support enforcement services are provided, in accordance with Title IV-D of the federal "Social Security Act", as amended, and pursuant to this article, by the delegate child support enforcement unit to a custodian of a child who is or was a recipient:

(I) Of aid to families with dependent children, as that program was in effect as of July 16, 1996;

(II) Under the Colorado works program pursuant to part 7 of article 2 of this title;

(III) Of medical assistance only under articles 4, 5, and 6 of title 25.5, C.R.S.;

(IV) Of Title IV-E foster care; or

(V) Of foster care services under article 5 of this title.

(b) The terms "IV-D case" or "IV-D support order" also include any case or order in which the custodian of a child applies to the delegate child support enforcement unit for support enforcement services and pays a fee for such services under section 26-13-106 (2).

26-13-102.7. Privacy - legislative declaration. (1) The general assembly hereby finds that while it is beneficial to the children of the state of Colorado to have procedures by which to enhance the establishment and enforcement of child support, some of which may include the collection and transmission of certain informational data by electronic and other means, the general assembly also determines that it is equally important to prevent abuses of personal information and to safeguard the fundamental right of individuals to privacy. To ensure the privacy of individuals against whom child support is to be established or enforced or on whose behalf it is to be collected, the general assembly hereby determines that it is appropriate that certain safeguards be established.

(2) In addition to any other confidentiality provisions set forth in this article and section 14-14-113, C.R.S., the child support enforcement agency and the delegate child

support enforcement units, when exercising authority pursuant to this article and section 14-14-113, C.R.S., to establish, modify, or enforce support obligations, shall make every effort to preserve the integrity and confidentiality of the informational data obtained from other sources about the support obligor and obligee and the informational data provided to any other source about such individuals. The child support enforcement agency and the delegate child support enforcement units shall share only the minimum amount of information required by law and by means that are most capable of preserving the integrity and confidentiality of the information or data about the individual. Specifically, the informational data maintained or transmitted pursuant to this article shall be:

(a) Processed fairly and lawfully;

(b) Collected for specified, explicit, and legitimate purposes as provided by statute or rule and not further processed in a way incompatible with those purposes;

(c) Adequate, relevant, and not excessive in relation to the purposes for which such information is collected or processed;

(d) Accurate and, where necessary, kept up to date to the maximum extent feasible; and

(e) Kept in a form that permits identification of the subject of such information for no longer than is necessary for the purposes for which the information was collected or for which it was processed.

(3) In addition, an individual about whom information is gathered or transmitted pursuant to this article or section 14-14-113, C.R.S., shall have the right to access such information relating to him or her in order to verify the accuracy of the information and the lawfulness of the processing of such information.

(4) Any individual about whom information is gathered or transmitted pursuant to this article or section 14-14-113, C.R.S., shall be entitled to civil damages in a court of law against any person or entity who knowingly violates the provisions of this section.

26-13-102.8. Nondisclosure of information in exceptional circumstances. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information shall be sealed and may not be disclosed to the other party or the public. A party seeking disclosure of all or part of such identifying information may request a hearing before the court. After a hearing in which the court takes into consideration the health, safety, or liberty of the party or child, the court shall make findings based upon the considerations specified in this section and may order disclosure of all or part of the information if the court determines the disclosure to be in the interest of justice.

26-13-103. Support enforcement program. The state department, pursuant to

rules and regulations, shall establish a program to provide necessary support enforcement services. The state department shall establish a single and separate agency within the department to administer or supervise the administration of such program in accordance with Title IV-D of the federal "Social Security Act", as amended, and this article.

26-13-104. State plan. The state department shall prepare and submit to the United States secretary of health and human services a state plan and any amendments to such state plan that become necessary which meet the requirements of Title IV-D of the federal "Social Security Act", as amended.

26-13-105. Child support enforcement services - review. (1) Subject to the provisions of section 26-13-104, the child support enforcement program shall include the following, as required by federal law:

(a) The establishment and modification of an obligor parent's legal obligation to support his or her dependent children, including determination of parentage when necessary;

(b) The location of an obligor parent or putative parent;

(c) The monitoring and processing of an obligor parent's child support and maintenance payment;

(d) The enforcement of an obligor parent's support obligation as set forth in section 26-13-106 (1);

(e) Any necessary investigative and administrative activities which may be necessary to accomplish the services required by this section;

(f) (I) Annual reviews of the child support enforcement program, to be conducted by the state department, including all information as may be necessary to measure the state's compliance with federal requirements.

(II) The state department shall review the cost associated with conducting the annual reviews required in this paragraph (f) and the number of full-time equivalent employees (FTE) of the state department required to complete the reviews. The state department shall examine and evaluate the feasibility and cost-effectiveness of privatizing this function.

(1.5) Upon the request of another state, the state department or its agent is authorized to provide the identification, through data matches with any entity where assets may be found, of assets owned by a person who owes child support in another state and to seize such assets through levy or other appropriate processes.

(2) In any action brought pursuant to this article, or any action brought by a governmental agency, to establish, modify, or enforce a child support obligation or to enforce a maintenance obligation as set forth in section 26-13-106, the prosecuting

attorney represents the people of the state of Colorado. Nothing in this section shall be construed to modify statutory mandate, authority, or confidentiality required of any governmental agency, nor should representation by a prosecuting attorney be construed to create an attorney-client relationship between the attorney and any party, other than the people of the state of Colorado, or witness to the action; except that any district attorney or county attorney as contractual agent for a county department shall collect a fee pursuant to section 26-13-106 (2).

(3) (a) In addition to the annual review required by paragraph (f) of subsection (1) of this section, or as a part of such review, the state department shall evaluate the cost and effectiveness of each of the provisions implemented by House Bill 97-1205. Such evaluation shall include a review of the following:

(I) The amount of increase in support collection, if any, associated with the implementation of each new provision contained in House Bill 97-1205;

(II) The cost, in federal, state, and county dollars, associated with the implementation of each new provision set forth in House Bill 97-1205;

(III) The number of full-time equivalent employees (FTE) necessitated by the implementation of each new provision contained in House Bill 97-1205 at both the state and county levels; and

(IV) Such additional data as may be necessary.

(b) (Deleted by amendment, L. 2001, p. 1172, § 10, effective August 8, 2001.)

26-13-106. Eligibility for services. (1) Support enforcement services shall be provided to those recipients of medicaid-only and Title IV-E foster care as required by federal law and to participants in the Colorado works program implemented pursuant to part 7 of article 2 of this title who, as a condition of eligibility pursuant to federal law, must assign their rights to support to, and cooperate with, the state department in the establishment, modification, and enforcement of support obligations owed by obligors to their children and the enforcement of maintenance owed by obligors to their spouses or former spouses.

(2) Child support establishment, modification, and enforcement services under state law and under the "Uniform Interstate Family Support Act", article 5 of title 14, C.R.S., shall be provided to any person who completes a written application and pays the required fee; except that the county may elect to pay the fee out of county child support enforcement funds. The state department shall establish, by rule, a fee to be charged for services provided under this section. Such fee shall be applied toward reimbursing expenditures incurred by the child support enforcement program. County departments and their contractual agents for legal services, including district and county attorneys, may pursue such fee, notwithstanding any other provision of law. Nonpayment of any fee charged by the state department for services provided under this section shall not be the

basis for any criminal prosecution or order of contempt of the court.

(3) The county department may recover any costs incurred in excess of fees from the obligor in a case in which an individual is receiving child support enforcement services under subsection (2) of this section.

(4) After more than five hundred dollars has been collected from an obligor during a year, the county department shall recover a fee of twenty-five dollars from the obligee if the obligee has never received public assistance. The county department shall withhold the fee from the first amount collected that exceeds the five-hundred-dollar threshold.

26-13-107. State parent locator service - definitions. (1) There shall be established in the state department a state parent locator service to assist delegate child support enforcement units or their authorized agents, other states, and agencies of the federal government in the location of parents who have or appear to have abandoned children who qualify under section 26-13-106.

(2) To effectuate the purposes of subsection (1) of this section, the executive director may request and shall receive from departments, boards, bureaus, or other agencies of the state, including but not limited to law enforcement agencies, or any of its political subdivisions, and the same are authorized to provide, such assistance and data as will enable the state department and delegate child support enforcement units or their authorized agents properly to carry out their powers and duties to locate such parents for the purpose of establishing parentage or establishing, modifying, or enforcing child support obligations. In addition, any federal agency or such agency's authorized agents properly carrying out their powers and duties to locate a parent for the purpose of establishing parentage or establishing, modifying, or enforcing child support obligations may request and shall have access to any motor vehicle or law enforcement system used by the state to locate an individual. Any records established pursuant to the provisions of this section shall be available only to the following:

(a) Any state or local agency or official seeking to collect child support under the state plan or the agency's or official's authorized agents;

(b) The attorney general, district attorneys, and county attorneys;

(c) Courts having jurisdiction in support or abandonment proceedings or actions to establish child support against a parent or to issue an order against a parent for the allocation of parental responsibilities or parenting time rights or any agent of such court;

(d) The obligee parent, legal guardian, attorney, or agent of a child who is not receiving aid under Title IV-A of the federal "Social Security Act", as amended, when a court order is provided; and

(e) United States agents or attorneys for use with the federal parent locator service in connection with a parental kidnapping or child custody case, as authorized by federal

law.

(3) (a) (I) All departments and agencies of the state and local governments, including but not limited to law enforcement agencies, shall cooperate in the location of parents who have abandoned or deserted children who qualify under section 26-13-106; and, on request of a delegate child support enforcement unit or its authorized agent, the state department, or the district attorney of any judicial district in this state, they shall supply any information on hand, notwithstanding any other provisions of law making such information confidential, concerning:

(A) The location of any individual, including the individual's social security number, most recent address, and the name, address, and employer identification number of the individual's employer, or facilitating the discovery of such individual's location, who is under an obligation to pay child support, against whom such an obligation is sought, or to whom such an obligation is owed;

(B) The individual's wages or other income from employment and any benefits of employment, including any right to or enrollment in group health care coverage; and

(C) The type, status, location, and amount of any assets of, or debts owed by or to, any such individual.

(II) The department of revenue shall furnish, at no cost to inquiring departments and agencies, such information as may be necessary to effectuate the purposes of this article. Any information so provided may be transmitted to those persons or entities specified in paragraph (a.5) of this subsection (3). The procedures whereby this information will be requested and provided shall be established pursuant to rules and regulations of the state department. The state department and delegate child support enforcement units shall use such information only for the purposes of administering child support enforcement under this title, and the district attorney shall use it only for the purpose of establishing parentage or establishing, modifying, or enforcing child support obligations. The state department and delegate child support enforcement units shall not use the information, or disclose it, for any other purpose. Any violation or misuse of this information will be subject to any civil or criminal penalties provided by law.

(a.5) The state parent locator service shall only accept applications from and transmit Colorado and federal parent locator information to:

(I) Any state or local agency or official seeking to collect child support under the state plan or the agency's or official's authorized agents;

(II) The attorney general, district attorneys, and county attorneys;

(III) Courts having jurisdiction in support and abandonment proceedings or actions to establish child support against a parent or to issue an order against a parent for the allocation of parental responsibilities or parenting time rights or any agent of such court;

(IV) The obligee parent, legal guardian, attorney, or agent of a child who is not receiving aid under Title IV-A of the federal "Social Security Act", as amended, when a

court order is provided;

(V) United States agents or attorneys for use with the federal parent locator service in connection with a parental kidnapping or child custody case, as authorized by federal law; and

(VI) The court when a court order is provided from a parent seeking to enforce a child custody, parental responsibilities, or parenting time order.

(b) Nothing in this subsection (3) shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if such information is required to be kept confidential by the federal law or regulations relating to such program, or to compel the disclosure of any information disclosed in any document, report, or return made confidential by section 39-21-113, C.R.S.

(c) The state parent locator service or the equivalent of a state child support enforcement agency or delegate child support enforcement unit of any other state may initiate a request requiring any employer, trustee, payor of funds, or other employer located within this state or doing business in this state to provide any information on the employment, compensation, and benefits of any individual for whom information is known. Compliance with such a request shall not subject the employer, trustee, or payor of funds to liability to the obligor for disclosing such information without a subpoena pursuant to this paragraph (c). The state department shall not use the provisions of this paragraph (c) for the information-gathering purposes of the financial institution data match system required by section 26-13-128.

(d) The state parent locator service or a delegate child support enforcement unit may obtain information from credit bureaus on the whereabouts, income, and assets of individuals pursuant to the provisions of the federal "Fair Credit Reporting Act" in order to provide the services set forth in section 26-13-105.

(e) The state parent locator service or a delegate child support enforcement unit may initiate a request requiring any person located within this state or doing business in this state who is in possession or control of personal property or information concerning the location, benefits, income, and assets of parents with a child support obligation to provide such information to the requesting agency. Compliance with such request shall not subject the holder to liability to the obligor for disclosing such information without a subpoena pursuant to this paragraph (e).

(e.5) The state parent locator service may initiate an administrative subpoena requiring any public employee retirement benefit plan or financial institution located within this state or doing business in this state that is in possession or control of personal property or information concerning the location, benefits, income, and assets of a person who owes or is owed an obligation for child support debt, retroactive child support, or child support arrearages or against whom an obligation is sought to provide such information to the requesting agency. Compliance with such subpoena shall not subject

the public employee retirement benefit plan or the financial institution to liability to the parent for disclosing such information.

(f) (I) (A) The state parent locator service or the equivalent of a state child support enforcement agency or delegate child support enforcement unit of any other state is authorized to issue an administrative subpoena to gather financial or other information to establish, modify, or enforce a support order. An administrative subpoena is authorized to be issued to a public utility for records pertaining to individuals who owe or are owed child support or against or with respect to whom a support obligation is sought. Such subpoena shall require the public utility to furnish documentation providing the names and addresses of these individuals and the names and addresses of the employers of such individuals as appearing in the customer records of the public utility. A public utility responding to an administrative subpoena request shall be entitled to collect a reasonable fee for the processing of each such subpoena.

(B) In seeking information from a public utility, as defined in subparagraph (III) of this paragraph (f), the state parent locator service shall be subject to the confidentiality requirements and restrictions set forth in section 631 of the federal "Cable Communications Policy Act of 1984", 47 U.S.C. sec. 551.

(II) The provisions of this section shall in no way alter the method of regulation or deregulation of telecommunications service as set forth in article 15 of title 40, C.R.S.

(III) For purposes of this section, "public utility" means any gas corporation, electrical corporation, telegraph corporation, water corporation, rural electric association, municipal electric systems, person, or municipality that operates for the purpose of supplying gas, electricity, telegraph services, or water to the public for domestic, mechanical, or public uses and that is subject to regulation by the public utilities commission under articles 1 to 7 of title 40, C.R.S., and any telephone corporation, municipal telephone entity, or other corporation that offers telecommunications services to the public that is subject to the provisions of article 15 of title 40, C.R.S., and any corporation that provides cable television services to the public.

(g) The child support enforcement agency shall make every reasonable effort to accommodate those entities to which the child support enforcement agency directs an administrative subpoena, if the requirements of this section would pose a hardship on those entities.

(4) The state parent locator service may establish fees to be charged for the provision of services in paragraphs (d) and (e) of subsection (2) of this section and in subparagraphs (IV) and (V) of paragraph (a.5) of subsection (3) of this section.

(5) This section shall apply to all child support obligations ordered as a part of any proceeding, regardless of when the order was entered.

26-13-108. Recovery of public assistance paid for child support and

maintenance - interest collected on support obligations - designation in annual general appropriations act. (1) Whenever the state department, a county department or its authorized agent, or a district attorney recovers any amounts of support for public assistance recipients, such amounts shall be deposited in the county social services fund, and, if such support is used to reimburse public assistance paid in accordance with federal law, the federal government shall be entitled to a share in accordance with applicable federal law, the county shall be entitled to a share in accordance with state law, and the state shall be entitled to the remaining share. The state may redirect all or a portion of the state's share to the county pursuant to section 26-13-112.5. The general assembly shall designate in a footnote in the annual general appropriations act the portion of the state's share that is redirected to the counties. Costs and expenses reasonably and necessarily incurred by the office of district or county attorney, as contractual agent for a county department, in carrying out the provisions of this article shall be billed to county departments of social services or a county department of social services within the judicial district for the actual cost of services provided. Each county shall make an annual accounting to the state department on all amounts recovered.

(2) (Deleted by amendment, L. 97, p. 1294, § 37, effective July 1, 1997.)

(3) Effective July 1, 2000, a county may pay families that are eligible for temporary assistance for needy families, pursuant to part 7 of article 2 of this title, an amount that is equal to the state and county share of child support collections as described in subsection (1) of this section. Such payments shall not be considered income for the purpose of grant calculation. However, such income shall be considered income for purposes of determining eligibility. If a county chooses to pay child support collections directly to a family that is eligible for temporary assistance for needy families, pursuant to part 7 of article 2 of this title, the county shall report such payments to the state department for the month in which the payments are made and shall indicate the choice of this option in its performance contract for Colorado works.

(4) Any interest collected on support obligations pursuant to the "Colorado Child Support Enforcement Procedures Act", article 14 of title 14, C.R.S., which support obligations were due to recipients receiving assistance under the Colorado works program, as described in part 7 of article 2 of this title, shall be deposited in the county social services fund and shall be distributed in accordance with the provisions of this section.

26-13-109. Enforcement of support UIFSA. (1) The state department shall be the state information agency for the "Uniform Interstate Family Support Act", article 5 of title 14, C.R.S., in this state and reciprocal laws of other states; and, in this capacity, the state department shall:

(a) Assist county departments and other agencies to carry out their responsibilities,

powers, and duties to establish and enforce the liability of parents for the support of their minor children;

(b) Aid in the location of deserting parents through the operation of the state parent locator service established in section 26-13-107, obtain and transmit pertinent information and data from public officials and agencies, and assist in the training of local personnel employed to locate such parents;

(c) Stimulate and encourage cooperation, through the holding of meetings and the exchange of information, between and among public officials, law enforcement agencies, and courts having powers and duties relating to the enforcement of the liability of parents for the support of their minor children, including cooperation with public officials, agencies, and courts of other states and the federal government, and, upon request or when required to do so by other provisions of law, advise such officials, agencies, and courts in the exercise of such powers or in the performance of such duties;

(d) Develop, or assist in the development of, appropriate forms, guides, manuals, handbooks, and other materials which may be necessary or useful effectively to accomplish the objectives of this section;

(e) Adopt any rules and regulations which may be necessary to carry out the purposes of this article.

26-13-110. Federal requirements. Nothing in this article shall be construed to prevent the state department from complying with federal requirements for the child support enforcement program expressly provided by Title IV-D of the "Social Security Act", as amended, in order for the state to qualify for federal funds under such act and to maintain said program within the limits of available appropriations.

26-13-111. State income tax refund offset. (1) (a) At any time prescribed by the department of revenue, but not less frequently than annually, the state department shall certify to the department of revenue information regarding persons who owe a child support debt to the state pursuant to section 14-14-104, C.R.S., or who owe child support arrearages as requested as a part of an enforcement action pursuant to article 5 of title 14, C.R.S., or who owe child support arrearages which are the subject of enforcement services provided pursuant to section 26-13-106.

(b) Such information shall include the name and the social security number of the person owing the child support debt or arrearages, the amount of same, and any other identifying information required by the department of revenue.

(2) Prior to final certification of the information specified in subsection (1) of this section to the department of revenue, the state department shall notify the obligated parent, in writing, that the state intends to refer the parent's name to the department of

revenue in an attempt to offset the parent's child support debt or arrearages against the parent's state income tax refund. Such notification shall include information on the parent's right to object to the offset.

(3) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 39-21-108 (3), C.R.S., and after deduction of the fees authorized in subsection (4) of this section to be collected from applicants receiving support enforcement services pursuant to section 26-13-106 (2), the state department shall disburse such amounts to the appropriate county department for processing or for distribution to the individual receiving support enforcement services pursuant to section 26-13-106, as appropriate.

(4) The state department shall promulgate rules and regulations, pursuant to article 4 of title 24, C.R.S., establishing procedures to implement this section and may promulgate rules and regulations establishing reasonable fees to be collected from an applicant who is receiving support enforcement services provided pursuant to section 26-13-106 (2). Such fees shall not exceed the amount necessary to cover the cost of collecting overdue child support using the state tax refund offset procedure.

(5) The home addresses and social security numbers of persons subject to the income tax refund offset, provided to the state department by the department of revenue, shall be sent to the respective delegate child support enforcement unit as defined in section 14-14-102, C.R.S.

26-13-111.5. State vendor payment offset. (1) At any time prescribed by the controller, but not less frequently than annually, the state department shall certify to the controller information regarding persons who owe child support debt pursuant to section 14-14-104, C.R.S., or who owe child support arrearages as requested as part of an enforcement action under article 5 of title 14, C.R.S., or who owe child support arrearages that are the subject of enforcement services provided under section 26-13-106.

(2) Upon notification by the controller of amounts deposited with the state treasurer pursuant to section 24-30-202.4, C.R.S., the state department shall disburse such amounts to the appropriate county for processing and distribution to the federal, state, or local agency to whom the person is obligated.

(3) The state department shall promulgate rules establishing procedures to implement this section pursuant to article 4 of title 24, C.R.S.

(4) The last-known addresses and social security numbers of persons subject to the vendor payment offset, provided to the state department by the controller, shall be sent to the respective county departments or the food stamp district administered by the state department.

26-13-112. Child support incentive payments. (Repealed)

26-13-112.5. Child support incentive payments. (1) In federal fiscal year 2000 and each federal fiscal year thereafter, one hundred percent of the federal incentives received by the state shall be passed through to the county departments. The state board shall promulgate rules specifying performance measures pursuant to which incentives shall be distributed to the county departments.

(2) A county to which a payment is made pursuant to this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the county department for any of the following purposes:

(a) To carry out the approved state plan; or

(b) For any activity, including cost-effective contracts, approved by the state division of child support enforcement, whether or not the expenditures for the activity are eligible for federal reimbursement, that may contribute to improving the effectiveness or efficiency of the child support program.

(3) If federal incentives paid to any county department are greater than its share of child support administrative costs, then that county department shall demonstrate how the federal incentive money is expended and contributes to the program as defined in paragraph (b) of subsection (2) of this section.

(4) All federal and state incentives paid to counties pursuant to section 26-13-108 shall be divided and distributed to the county departments according to the distribution formula as promulgated in state rule by the state board, to be promulgated no later than January 1, 2000.

(5) The state department shall pay incentives to county departments on a quarterly basis.

(6) This section shall take effect January 1, 2000.

26-13-113. Placement in foster care automatic assignment of right. When a child is placed in foster care pursuant to article 5 of this title or Title IV-E of the federal "Social Security Act", as amended, all rights to current and accrued child support for the benefit of the child are assigned by operation of law to the state department. When placement has terminated, the assignment of rights to accrued child support shall remain in effect until foster care cost of care or maintenance costs have been reimbursed in full. Amounts collected pursuant to this section shall be distributed to the federal government, the state, and the county proportionately according to each entity's contribution.

26-13-114. Family support registry - collection and disbursement of child

support and maintenance - rules - legislative declaration. (1) The general assembly hereby finds, determines, and declares that it has been demonstrated that the establishment and operation of one automated central payment registry for the processing of child support, child support when combined with maintenance, and maintenance payments is beneficial to the state in the collection and enforcement of family support obligations. It is the intent of the general assembly by enacting this section to authorize the implementation of one central family support registry for the collection, receipt, and disbursement of payments with respect to:

(a) Child support obligations for children whose custodians are receiving child support enforcement services from delegate child support enforcement units (IV-D cases);

(b) Child support obligations for children whose custodians are not receiving child support enforcement services from delegate child support enforcement units (non-IV-D cases), if the court orders such obligations to be paid through the family support registry pursuant to this title, section 14-10-117, C.R.S., or title 19, C.R.S., or if the court order is subject to income-withholding pursuant to section 14-14-111.5, C.R.S., and if the executive director of the state department has notified the state court administrator pursuant to subsection (5) of this section that the judicial district in which the court issuing the order is situated is ready to participate in the family support registry; and

(c) Maintenance obligations, if the court orders payments for such obligations to be paid through the family support registry pursuant to this title or section 14-10-117, C.R.S., or if the order is subject to income-withholding pursuant to section 14-14-111.5, C.R.S., and if the executive director of the state department has notified the state court administrator that the judicial district in which the court issuing the order is situated is ready to participate in the family support registry and the family support registry is ready to accept such maintenance payments.

(2) "Family support registry" means a central registry maintained and operated by the state department acting as the child support enforcement agency that receives, processes, disburses, and maintains a record of the payment of child support, child support when combined with maintenance, maintenance, child support arrears, or child support debt made pursuant to court order or administrative order.

(3) The child support enforcement agency is authorized to establish and maintain or contract for the establishment and maintenance of a family support registry to receive, process, and disburse support payments. Development and operation of the family support registry shall be subject to available appropriations.

(4) In operating the family support registry, the child support enforcement agency is authorized to:

(a) Receive, process, and disburse payments for child support, child support when combined with maintenance, maintenance, child support arrears, or child support debt;

(b) Maintain records of any payments collected, processed, and disbursed through the family support registry;

(c) (Deleted by amendment, L. 98, p. 759, § 10, effective July 1, 1998.)

(d) Answer inquiries from authorized parties concerning payments processed through the family support registry;

(e) Collect a fee for the processing of insufficient funds checks. The child support enforcement agency shall issue a notice to the originator of the second insufficient funds check received within any six-month period that no further checks will be accepted from the person and that future payments for a period of six months following the issuance of the notice shall be required to be paid by cash or certified funds. In the event that a disbursement to the obligee becomes unfunded due to insufficient funds, stop payment, or other reason, the unfunded disbursement may be recovered from the next payment. The department of human services shall ensure that provisions are available for obligors to make cash payments through their county child support enforcement units.

(5) On and after July 1, 1998, the child support enforcement agency and the office of the state court administrator shall jointly begin implementing the family support registry in particular counties and judicial districts with respect to non-IV-D cases and orders in which payments are directed to be paid through the family support registry, as mutually agreed by the executive director and the state court administrator. The executive director of the state department shall inform the state court administrator when a particular county or judicial district is ready to implement and participate in the family support registry for non-IV-D cases. The family support registry shall be available for support orders for use by all counties and judicial districts consistent with federal law.

(6) Upon implementation of the family support registry in a particular county or judicial district, the following procedures shall be followed:

(a) All court orders entered or modified and all administrative orders issued pursuant to this title or title 14 or 19, C.R.S., that require payments for child support, child support when combined with maintenance, maintenance, child support arrears, or child support debt to be paid through a registry shall be made through the family support registry except as provided by section 14-14-111.5 (3) (a) (II), C.R.S.

(b) For non-IV-D cases or orders that require payments to be made to the clerk of the court, the district court for each county and the Denver juvenile court shall send or cause to be sent a notice to redirect payments to the family support registry once the executive director of the state department has notified the state court administrator that the judicial district in which the court is situated, pursuant to subsection (5) of this section, is ready to participate in the family support registry. The notice shall be sent by first-class mail and shall state that all payments shall be made to the family support registry. The notice shall be sent to the following persons:

(I) In non-IV-D cases in which there is an order to make the payments through a registry, any obligor who is obligated to pay child support, child support when combined with maintenance, or maintenance where the order does not already specify paying through the family support registry;

(II) Any employer or trustee who has been withholding wages under a wage assignment pursuant to section 14-14-107, C.R.S., as it existed prior to July 1, 1996;

(III) Any employer or other payor of funds who has been withholding income pursuant to an income assignment pursuant to section 14-14-111, C.R.S., as it existed prior to July 1, 1996, or section 14-14-111.5, C.R.S.;

(IV) Any obligor or employer who receives a notice to redirect payments as specified in subparagraph (I) of this paragraph (b) who fails to make the payments to the family support registry and who continues to make payments to the court or to the delegate child support enforcement unit shall be sent a second notice to redirect payments. The second notice shall be sent certified mail, return receipt requested. Such notice shall contain all of the information required to be included in the first notice to redirect payments and shall further state that the obligor or employer has failed to make the payments to the correct agency and that the obligor or employer shall redirect the payments to the family support registry at the address indicated in the notice. Failure to make payments to the family support registry after a second notice shall be grounds for filing a motion for contempt.

(c) Any payment required to be made to the family support registry that is received by the court or by a delegate child support enforcement unit shall be forwarded to the family support registry within five working days after receipt. Any such payments forwarded shall be identified with the information specified by the family support registry, including but not limited to, the court case number, the county where the court case originated, and the name of the obligor. A copy of the notice to redirect payments described in subparagraph (I), (II), (III), or (IV) of paragraph (b) of this subsection (6) shall be mailed to the obligee and to the court in cases of a IV-D case or order, by first-class mail.

(d) (Deleted by amendment, L. 98, p. 759, § 10, effective July 1, 1998.)

(7) All support orders shall contain:

(a) The amount of the payment;

(b) The specific day or dates on which the payment is due;

(c) The name, date of birth, residential address, and sex of the obligor, and the name and address of the employer of the obligor;

(d) The name, date of birth, residential address, and sex of the obligee;

(e) The name, date of birth, and sex of all dependents covered under the support order;

(f) A statement that the parties are required to notify the family support registry, if the support order requires payments to be made through the family support registry, of any change in residential and mailing address of the obligor or obligee or of any change in address of the employer or payor of funds or any other changes that may affect the administration of the support order, including changes in employment of the obligor.

(8) The clerk of the court shall notify the family support registry within five

working days after any entry of judgment is filed in relation to any child support, child support when combined with maintenance, or maintenance case where payments are required to be paid through the family support registry, whether by order of court or verified entry of judgment, including the inclusive dates of the judgment and the judgment amount.

(9) (a) The judicial department and the state department shall cooperate in the transfer of the functions relating to the collection of child support and maintenance from the judicial department to the state department.

(b) The court shall provide the following information to the family support registry, if available, in those cases in which the court orders payment to be made through the family support registry:

(I) The date of the order;

(II) The court case number;

(III) The name and address of the obligor;

(IV) The name and address of the obligee; and

(V) The name and address of the obligor's employer.

(10) A copy of the record of payment maintained by the family support registry shall be admissible into evidence as proof of the payments made through the family support registry.

(11) The state board shall promulgate such rules and regulations, pursuant to section 24-4-103, C.R.S., as are necessary to implement this section.

(12) (Deleted by amendment, L. 96, p. 623, § 38, effective July 1, 1996.)

(13) (a) A party to a case identified by the court as one in which the party is directed to make maintenance payments through the family support registry shall pay a minimal per transaction processing fee, in an amount to be determined annually by rule of the executive director of the state department to cover the direct and indirect costs associated with processing the maintenance payment, which fee shall be paid by such person each time the maintenance payment is made through the family support registry.

(b) The fees collected pursuant to paragraph (a) of this subsection (13) shall be transmitted to the state treasurer, who shall credit the same to the family support registry fund, created pursuant to section 26-13-115.5.

26-13-115. Child support enforcement agency fund created - application of interest, fees, and recovered costs. (Repealed)

26-13-115.5. Family support registry fund created. (1) There is hereby created in the state treasury a fund to be known as the family support registry fund, which shall consist of any moneys credited thereto from the investment earnings on moneys deposited

with the state treasurer, moneys accruing from collections for child support received by the family support registry, any undeliverable child support payments, and any fees collected pursuant to section 26-13-114 (13). Moneys in the family support registry fund shall be continuously appropriated to the state department to reimburse the family support registry for unfunded payments by obligors or for other incidental expenditures associated with the operation of the family support registry. At the end of any fiscal year, all unexpended and unencumbered moneys in the family support registry fund shall remain in the fund and shall not be credited or transferred to the general fund or any other fund of the state; except that any non-IV-D child support payments that are undeliverable after two years shall be considered unclaimed property for purposes of the "Unclaimed Property Act" and shall be reported to the administrator of the "Unclaimed Property Act" for purposes of locating the payee. Consistent with the requirements for confidentiality of information regarding child support, the state department shall specify the amount of money that is unclaimed and provide sufficient identifying information, if available, to allow the administrator to locate the payee.

(2) Repealed.

26-13-116. Debt information made available to consumer reporting agencies - notice to noncustodial parent - fees - rules and regulations - definitions. (1) For purposes of this section, "consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(2) (Deleted by amendment, L. 97, p. 1295, § 38, effective July 1, 1997.)

(2.5) (a) The child support enforcement agency may provide information to consumer reporting agencies regarding child support obligations pursuant to federal law.

(b) (Deleted by amendment, L. 97, p. 1295, § 38, effective July 1, 1997.)

(3) Prior to furnishing any information pursuant to subsection (2.5) of this section, the child support enforcement agency shall provide advance notice to the obligor parent regarding the proposed release of the information to the consumer reporting agency. Such notice shall contain an explanation of the obligor parent's right to contest the accuracy of the information to be released.

(4) (Deleted by amendment, L. 96, p. 617, § 22, effective July 1, 1996.)

(5) The state board shall promulgate rules and regulations, pursuant to section 24-4-103, C.R.S., to implement this section, including but not limited to procedures for contesting the accuracy of the information listed on the notice. Such rules shall be in addition to any rights that a person may have to contest a consumer reporting agency report under sections 12-14.3-106 to 12-14.3-108, C.R.S.

26-13-117. Study of centralized system for processing child support payments. (Repealed)

26-13-118. Lottery winnings offset. (1) (a) The state department shall periodically certify to the department of revenue information regarding persons who owe a child support debt or child support costs to the state pursuant to section 14-14-104, C.R.S., or who owe child support arrearages as requested as a part of an enforcement action pursuant to article 5 of title 14, C.R.S., or who owe child support arrearages or child support costs which are the subject of enforcement services provided pursuant to section 26-13-106.

(b) Such information shall include the social security number of the person owing the child support debt, arrearages, or child support costs, the amount of same, and any other identifying information required by the department of revenue.

(2) Upon receiving notification from the department of revenue that a lottery winner appears among those certified by the state department pursuant to section 24-35-212, C.R.S., the state department shall notify the obligated parent, in writing, that the state intends to offset the parent's current monthly child support obligation, child support debt, child support arrearages, and child support costs against the parent's winnings from the state lottery. Such notification shall include information on the parent's right to object to the offset and to request an administrative review pursuant to the rules and regulations of the state board of human services.

(3) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 24-35-212, C.R.S., and after deduction of the fees authorized in subsection (4) of this section to be collected from applicants receiving support enforcement services pursuant to section 26-13-106 (2), the state department shall disburse such amounts to the appropriate county department for processing or for distribution to the individual receiving support enforcement services pursuant to section 26-13-106, as appropriate.

(4) The state department shall promulgate rules and regulations, pursuant to article 4 of title 24, C.R.S., establishing procedures to implement this section and may promulgate rules and regulations establishing reasonable fees to be collected from an applicant who is receiving support enforcement services as provided pursuant to section 26-13-106 (2). Such fees shall not exceed the amount necessary to cover the cost of collecting overdue child support using the state lottery winnings offset procedure.

(5) The home addresses and social security numbers of persons subject to the state lottery winnings offset provided to the state department by the department of revenue shall be sent to the respective delegate child support enforcement unit as defined in section 14-14-102, C.R.S.

26-13-118.5. Unclaimed property offset - definitions. (1) The state department may enter into a memorandum of understanding with the state treasurer, acting as the administrator of unclaimed property under the "Unclaimed Property Act", article 13 of title 38, C.R.S., for the purpose of offsetting against a claim for unclaimed property the amount of current child support, child support debt, retroactive child support, child support arrearages, child support costs, or child support when combined with maintenance owed by the person claiming the unclaimed property.

(2) The state department shall notify an obligated person in writing that the state intends to offset the person's current child support, child support debt, retroactive child support, child support arrearages, child support costs, or child support when combined with maintenance against the person's claim for unclaimed property. The notification shall include information on the person's right to object to the offset and to request an administrative review.

(3) For purposes of this section, "claim for unclaimed property" means a cash claim submitted in accordance with section 38-13-117, C.R.S.

26-13-118.7. Gambling winnings - interception - rules. (1) Pursuant to section 24-35-604 (2), C.R.S., the state department shall periodically certify to the registry operator information regarding persons who owe a child support debt or child support costs to the state pursuant to section 14-14-104, C.R.S., or who owe child support arrearages requested as part of an enforcement action pursuant to article 5 of title 14, C.R.S., or who owe child support arrearages or child support costs that are the subject of enforcement services provided pursuant to section 26-13-106. The information shall include the social security number of the person owing the child support debt, arrearages, or child support costs, the amount owed, and the other information required by the registry operator pursuant to section 24-35-604 (4), C.R.S.

(2) Upon receipt from the registry operator of a payment and accompanying information pursuant to section 24-35-605 (2) (b), C.R.S., the state department shall notify the obligated parent in writing that the state intends to offset the parent's child support debt, child support arrearages, or child support costs against the parent's winnings from limited gaming or from pari-mutuel wagering on horse or greyhound racing. The notice shall include information on the parent's right to object to the offset and to request an administrative review pursuant to the rules of the state board.

(3) Upon receipt of a payment from the registry operator pursuant to section 24-35-605 (2) (b), C.R.S., the state department shall deposit the payment with the family support registry created pursuant to section 26-13-114. After the final disposition of any administrative review requested pursuant to subsection (2) of this section, the state department shall disburse the payment for processing or for distribution to the individual receiving support enforcement services pursuant to section 26-13-106, as appropriate.

(4) The state department shall promulgate rules pursuant to article 4 of title 24,

C.R.S., establishing procedures to implement this section.

(5) The state department shall send the name, address, and social security number of any person subject to the interception of gambling winnings provided by the registry operator to the respective delegate child support enforcement unit as defined in section 14-14-102 (2), C.R.S.

(6) (Deleted by amendment, L. 2009, (HB 09-1137), ch. 308, p. 1662, § 13, effective September 1, 2009.)

26-13-119. Distribution of amounts collected. (1) This section shall only apply to Title IV-D cases under the federal "Social Security Act" where the delegate child support enforcement unit is providing support enforcement services pursuant to section 26-13-106 and has responsibility to collect the required support obligation for the month.

(2) Notwithstanding any provision in the Colorado rules of civil procedure to the contrary, any amounts collected by the delegate child support enforcement agency, except for federal income tax refund offsets, shall be allocated and distributed first to satisfy the required support obligation for the month in which the collection was received, except when the payment is distributed to pay the fee required by section 26-13-106 (4). In cases where some portion of an amount collected pursuant to execution on a judgment is diverted to satisfy the required support obligation for the month in which the collection was received, the delegate child support enforcement agency shall file a partial satisfaction of judgment with the court that reflects the portion of the amount collected that is actually allocated and distributed to satisfy the judgment.

26-13-120. Administrative review of child support orders. (Repealed)

26-13-121. Review and modification of child support orders. (1) (a) The general assembly finds that review of child support orders is required in order for this state to comply with the federal "Family Support Act of 1988", the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", and the federal "Deficit Reduction Act of 2005".

(b) The delegate child support enforcement unit shall provide the obligor and obligee not less than once every thirty-six months notice of their right to request a review of a child support order. The notice may be included in the support order.

(c) Either party to a case in which services are being provided pursuant to section 26-13-106 may submit a written request for review of the current child support order. The request shall include the financial information from the requesting party necessary to conduct a calculation pursuant to the Colorado child support guidelines set forth in

section 14-10-115, C.R.S. The requesting party shall provide his or her financial information on the form required by the division of child support enforcement.

(d) The delegate child support enforcement unit may initiate a review of a current child support order upon its own request.

(2) The delegate child support enforcement unit shall review each request received from a party and:

(a) If it has been thirty-six months or more since the last review of the current child support order, the delegate child support enforcement unit shall grant the request for review; or

(b) If it has been fewer than thirty-six months since the last review of the current child support order, the delegate child support enforcement unit shall grant the request for review if the requesting party provides a reason for review that could result in a change to the monthly support obligation based upon the application of the Colorado child support guidelines set forth in section 14-10-115, C.R.S. If the reason for review arises from the circumstances of the requesting party, supporting documentation or a demonstration that there has been a substantial and continuing change in circumstances warranting a review of the child support amount shall be included with the request. The delegate child support enforcement unit shall assess and consider the information provided to determine whether a review is warranted and should be conducted. If a request is denied pursuant to this paragraph (b), the delegate child support enforcement unit shall notify the requesting party in writing that the denial does not limit the party's right to seek modification of a child support order pursuant to section 14-10-122, C.R.S.

(2.5) If there is an active assignment of rights, the delegate child support enforcement unit shall review the child support order once every thirty-six months to determine if an adjustment of the child support order is appropriate.

(3) (a) If the delegate child support enforcement unit grants the request for review, it shall issue a notice of review to the parties. In the case of an automatic review in which there is an active assignment of rights, both parties shall be considered nonrequesters. The notice of review shall advise the parties that a review is to be conducted and allow the nonrequesters twenty days from the date of the notice to provide the financial information necessary to calculate the child support obligation pursuant to section 14-10-115, C.R.S. If the child support order is an administrative order established pursuant to article 13.5 of this title, the review shall be conducted pursuant to section 26-13.5-112.

(b) The review of the child support order shall be conducted on or before the thirtieth day after notice of review is sent to the parties. The review may be conducted in person at the delegate child support enforcement office or via United States mail or via an electronic communication method. The delegate child support enforcement unit may grant a continuance of the review for good cause. The continuance shall be for a reasonable period of time to be determined by the delegate child support enforcement unit, not to exceed thirty days. During the review, the determination of the monthly support

obligation shall be based on the child support guidelines set forth in section 14-10-115, C.R.S. To obtain information necessary to conduct the review, the delegate child support enforcement unit is authorized to serve, by first-class mail or by electronic means if mutually agreed upon, an administrative subpoena to any person, corporation, partnership, or other entity, public employee retirement benefit plan, financial institution, or labor union for an appearance or for the production of records and financial documents.

(c) An adjustment to the order shall be appropriate only if the standard set forth in section 14-10-122 (1) (b), C.R.S., is met.

(d) (Deleted by amendment, L. 2002, p. 25, § 5, effective January 1, 2003.)

(4) (a) After the review is completed, the child support enforcement unit shall provide a post-review notice advising the obligor and obligee of the review results. The review results shall include a child support guideline worksheet. If the review indicates that an adjustment to the current monthly support obligation should be made, a proposed order shall also be included. The delegate child support enforcement unit shall provide all supporting financial documentation used to calculate the monthly support obligation to both parties. The review results shall also contain an advisement to the parties of the right to challenge the proposed order, the time frame in which to assert the challenge, and the method for doing so.

(b) The obligor and obligee shall be given fifteen days from the date of the post-review notice to challenge the review results. The grounds for the challenge shall be limited to the issue of mathematical or factual error in the calculation of the monthly support obligation. The delegate child support enforcement unit may grant an extension of up to fifteen days to challenge the review results based upon a showing of good cause.

(b.5) The delegate child support enforcement unit shall have fifteen days from the date of receipt of the challenge to respond to a challenge based upon a mathematical or factual error. If a challenge results in a change to the monthly support obligation, the delegate child support enforcement unit shall provide an amended notice of review to the obligor and obligee. The obligor and obligee shall be given fifteen days from the date of the amended notice of review to challenge the results of any subsequent review. The grounds for the challenge shall be limited to the issue of mathematical or factual error in calculation of the monthly support obligation.

(c) (Deleted by amendment, L. 2007, p. 1654, § 15, effective July 1, 2008.)

(5) (a) (I) If the review indicates that a change to the monthly support obligation is appropriate and the review is not challenged or all challenges have been addressed, the delegate child support enforcement unit shall file a motion to modify with the court. A copy of the motion shall be provided by the delegate child support enforcement unit to the obligor and obligee and shall contain an advisement that the obligor and obligee may file a written response with the court setting forth any objections to the motion to modify.

(II) If a motion to modify is filed with the court, the court may enter an order granting the motion, issue a revised order, or set a hearing. Regardless of whether the

order has been approved by the obligor and obligee, the court may grant the motion to modify.

(b) If a hearing is necessary, the court shall hold a hearing within forty-five days after service of the motion to modify, and the court shall decide only the issues of child support and medical support. Any documentary evidence provided by the obligee or the obligor or by the delegate child support enforcement unit may be admitted into evidence by the court without the necessity of laying a foundation for its admissibility, and the court may determine the relative weight or credibility to give any such documentation.

(5.3) If income information is not available for the obligor, the delegate child support enforcement unit may file a motion to modify child support with the court. The court may enter an order increasing the child support obligation by an increment not to exceed ten percent per year for each year after the support order was entered or last modified.

(5.7) Nothing in this section shall be construed to limit a delegate child support enforcement unit's right to file a motion to modify with the court pursuant to section 14-10-122, C.R.S.

(6) The state board shall adopt rules and regulations establishing standardized forms and procedures as necessary to implement the provisions of this article.

(7) This article shall apply to all orders for support of a child for whom child support enforcement services are being provided.

(8) Nothing in this section shall be construed to limit any party's right to seek modification of a child support order pursuant to article 5 of title 14, section 14-10-122, section 19-4-119, or section 19-6-104 (4), C.R.S.

26-13-121.5. Enforcement of obligation to maintain health insurance. (1) If a parent has been ordered to provide health insurance, as defined in section 14-14-102 (4.7), C.R.S., and such insurance is available at a reasonable cost consistent with the provisions of section 14-10-115 (10) (g), C.R.S., the delegate child support enforcement unit shall use the federally mandated national medical support notice to provide notice of the insurance provision to that parent's employer unless the child or children are already enrolled in a health insurance plan in accordance with the order.

(2) The national medical support notice shall be sent to the employer by means of first-class mail. The notice shall be continuing and shall remain in effect and be binding upon any current or successor employer upon whom it is served until further notice by the court or by the delegate child support enforcement unit. Receipt of the national medical support notice by the employer shall confer jurisdiction of the court over the employer. A notice describing the rights and conditions in paragraphs (a) to (c) of subsection (3) of this section shall be sent to the obligor by first-class mail.

(3) (a) The obligor shall be provided with a copy of the national medical support

notice upon submitting a written request to the delegate child support enforcement unit. The obligor shall have ten days from the date the notice describing the rights and conditions in paragraphs (a) to (c) of this subsection (3) is mailed to the obligor in which to file a written objection with the delegate child support enforcement unit based only upon one of the following mistakes of fact:

(I) There is a mistake in identity and the employee is not the obligor; or

(II) There is no court order to provide health insurance.

(b) The delegate child support enforcement unit shall have ten days from the date the objection is mailed by the obligor to resolve the mistake of fact. The delegate child support enforcement unit shall immediately notify the obligor in writing, by first class mail, of its decision. If the delegate child support enforcement unit agrees with the obligor, it shall immediately send a notice, by first-class mail, to the employer to terminate the national medical support notice.

(c) If the obligor does not agree with the decision of the delegate child support enforcement unit, he or she may file a written objection with the court. Upon any determination by the court which results in a finding in favor of the obligor, the delegate child support enforcement unit shall immediately mail a notice of termination of the national medical support notice to the employer and to the obligor, by first-class mail. The termination of the health insurance shall only be prospective and the employee shall not be entitled to any reimbursement for any premiums withheld or deducted from his or her wage prior to the plan administrator's prompt termination of the deduction for health insurance.

(4) (a) The employer shall complete the employer response, if applicable, attached to part A of the national medical support notice, which part A includes information for and responsibilities of the employer, and shall return the employer response to the delegate child support enforcement unit within twenty business days after the date of the notice.

(b) If the employer does not maintain or contribute to family health insurance coverage or if the obligor is not eligible for family health insurance coverage through his or her employer or if the obligor is no longer employed with that employer, then the employer shall specify such relevant circumstances or conditions in the employer response and shall return part A of the national medical support notice to the delegate child support enforcement unit.

(c) If none of the circumstances or conditions described in paragraph (b) of this subsection (4) apply, then the employer shall complete the applicable sections of the employer response and transfer part B of the national medical support notice to the appropriate plan administrator within twenty business days after the date of such notice. If the employer offers a number of different types of benefits through separate health insurance plans, the employer shall send copies of part B to each appropriate plan administrator.

(d) Any employer who fails to comply with the time frames stated in this subsection (4) may be found by the court to be in contempt of court.

(5) (a) The plan administrator shall complete and return part B of the national medical support notice to the delegate child support enforcement unit within forty business days after the date of such notice.

(b) If the plan administrator determines that the national medical support notice is not a qualified medical child support order, the plan administrator shall specify on part B the basis for such determination.

(c) If the plan administrator determines that the national medical support notice is a qualified medical child support order, the plan administrator shall complete the appropriate parts of the plan administrator response. Upon enrollment of the child or children, the plan administrator shall provide the following information to the delegate child support enforcement unit: The names of the persons covered by the health insurance plan; the complete name, address, and telephone number of the insurance carrier; and the applicable policy and group number of the health insurance plan. The plan administrator shall furnish the obligee with a description of the health insurance coverage available, any required forms, information describing the steps needed to effectuate such coverage, and the effective date of the coverage.

(d) If the plan administrator reports on part B of the national medical support notice that the obligor is not enrolled in a plan, as defined in section 14-14-102 (6.5), C.R.S., and more than one option is available under the plan, the plan administrator shall provide to the delegate child support enforcement unit a summary plan description of each option including the additional participant contribution required by each option and whether there is a limited service area with any option. The delegate child support enforcement unit shall forward the information to the obligee. The obligee shall select one of the available options. Within twenty business days after the date the plan administrator's response was sent to the delegate child support enforcement unit, the delegate child support enforcement unit shall notify the plan administrator of the selection. If the delegate child support enforcement unit does not reply to the plan administrator, the plan administrator shall enroll the child or children in the least costly plan otherwise available to the obligor for the benefit of the child or children.

(e) Promptly after enrollment, the plan administrator shall notify the obligor that coverage of the child or children is or will become available and the date the coverage takes effect. The obligor may file a written objection with the court after the date of the notice of such enrollment by the plan administrator if the premium amount does not meet the definition of reasonable cost as provided in section 14-10-115 (10) (g), C.R.S. Upon any determination by the court which results in a finding in favor of the obligor, the delegate child support enforcement unit shall immediately mail a notice of termination of the national medical support notice to the obligor and to the employer by first-class mail. The termination of the health insurance shall only be prospective and the obligor shall not

be entitled to any reimbursement for any premiums withheld or deducted from his or her wage prior to the plan administrator's prompt termination of the deduction for health insurance.

(f) If the plan administrator indicates that the child or children are enrolled in an option under the plan for which the employer has determined that the obligor's contribution exceeds the maximum amount allowed to be withheld under state and federal withholding limitations or prioritization, then the employer shall indicate the same and return part A of the national medical support notice to the delegate child support enforcement unit. Upon notification from the plan administrator that the child or children are enrolled, the employer shall withhold from the obligor's income any employee contribution and transfer the contribution to the appropriate plan or, if appropriate, notify the delegate child support enforcement unit that enrollment cannot be completed because of limitations or prioritization on withholding.

(g) Any employer who fails to comply with the time frames stated in this subsection (5) may be found by the court to be in contempt of court.

(6) The employer shall initiate withholding until and unless the employer receives notice from the delegate child support enforcement unit that the obligor is not responsible for the child's or children's health insurance coverage.

(7) The employer shall notify the plan administrator when an obligor has completed a waiting period or has otherwise met eligibility requirements for coverage.

(8) The national medical support notice shall not be terminated or modified except for the reasons set forth in section 14-14-112 (2) (h), C.R.S.

(9) If the national medical support notice is terminated or modified, then the employer shall comply with the provisions of section 14-14-112 (2) (k), C.R.S., regarding termination of coverage.

(10) An employer who is served with a national medical support notice shall follow the provisions of section 14-14-112 (2) (g) and (6), C.R.S., regarding notification of the termination of employment by the named obligor.

(11) Any employer who wrongfully fails to comply with this section may be subject to the sanctions set forth in section 14-14-112 (5), C.R.S.

(12) An employer shall neither refuse to hire a person nor discharge or take disciplinary action against an employee because of service of the national medical support notice pursuant to this section. Any person who violates this subsection (12) may be found by the court to be in contempt of court. If an employer discharges an employee in violation of the provisions of this section, the employee may, within ninety days, bring a civil action for the recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall be lost wages not to exceed six weeks, costs, and reasonable attorney fees.

(13) An employer who complies with a national medical support notice to deduct for health insurance benefits pursuant to this section shall not be liable to the obligor for

wrongful withholding.

(14) The delegate child support enforcement unit shall comply with the provisions of section 14-14-112 (9), C.R.S., when the order for medical support is modified or terminated.

(15) Deductions for health insurance shall also be ordered by a delegate child support enforcement unit under the provisions of the "Colorado Administrative Procedure Act for the Establishment and Enforcement of Child Support", created in article 13.5 of this title.

26-13-122. Administrative lien and attachment. (1) The state child support enforcement agency may issue a notice of administrative lien and attachment to any person, insurance company, or agency providing workers' compensation insurance benefits for any employer to attach workers' compensation benefits of an obligor who is responsible for the support of a child on whose behalf the obligee is receiving support enforcement services from the state's child support enforcement agency pursuant to this article. The notice shall include the following statements and information:

(a) The name and address of the person, insurance company, or agency providing workers' compensation insurance benefits;

(b) The name, last known address, and social security number of the obligor;

(c) The total amount owed for child support obligations, arrearages for child support, and child support debt;

(d) The percentage of benefits or the actual amount to be withheld from each payment;

(e) A statement that the notice of administrative lien and attachment is to take effect no later than the first payment after receipt of the notice;

(f) A statement that the person, insurance company, or agency providing workers' compensation insurance benefits may not withhold more than the limitations set forth in section 13-54-104 (3), C.R.S.;

(g) A statement that if more than one notice of administrative lien and attachment is received for the same obligor, the priorities set forth in subsection (2) of this section shall apply;

(h) Instruction on the disbursement of the withheld amounts, including the requirements that each disbursement:

(I) Shall be forwarded to the address indicated on the notice;

(II) Shall be forwarded within ten days after the date of each deduction and withholding;

(III) Shall be identified by the case number, the family support registry account number, and the name and social security number of each obligor and shall identify the date the deduction was made and the amount of the payment;

(IV) May be combined with other disbursements in a single payment to a single court or to the family support registry, if required to be sent to the registry, if the individual account of each disbursement is identified, as required by subparagraph (III) of this paragraph (h);

(i) A statement that compliance with the notice of administrative lien and attachment shall not subject the person, insurance company, or agency providing workers' compensation insurance benefits to liability to the obligor for wrongful withholding;

(j) A statement that noncompliance with the notice of administrative lien and attachment may subject the person or insurance company providing workers' compensation insurance benefits to liability and sanctions. If any person or insurance company providing workers' compensation insurance benefits wrongfully fails to deduct and withhold benefits in accordance with the provisions of this section, it may be held liable for an amount up to the accumulated amount such person or insurance company should have withheld from the obligor's benefits.

(k) A statement that, as long as the obligor is receiving workers' compensation benefits, the notice of administrative lien and attachment shall not be terminated or modified, except upon written notice by the state child support enforcement agency.

(2) An administrative lien and attachment for the collection from workers' compensation benefits for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance shall be continuing and shall have priority over any garnishment, lien, or wage assignment other than a notice previously served pursuant to this subsection (2) or a wage assignment activated pursuant to section 14-14-107 or 14-14-111, C.R.S., as those sections existed prior to July 1, 1996, or section 14-14-111.5, C.R.S. Such administrative lien and attachment shall require the person, insurance company, or agency providing workers' compensation insurance benefits to withhold, pursuant to section 13-54-104 (3), C.R.S., the portion of earnings subject to attachment at each succeeding disbursement interval until such amount is satisfied or the attachment is released in writing by the state child support enforcement agency.

(3) In order to attach and collect workers' compensation income for current child support, child support debt, retroactive child support, medical support, child support arrearages, or child support when combined with maintenance, the state child support enforcement agency is authorized to serve, by first-class mail or by electronic means if mutually agreed upon, a notice of administrative lien and attachment on any person, insurance company, or agency holding workers' compensation benefits that are owed to an obligor. A copy of the administrative lien and attachment shall be provided to the obligor and shall include information on the obligor's right to object to the administrative lien and attachment and to request an administrative review pursuant to the rules of the state board.

(4) At the time a claim for workers' compensation benefits is filed, the employee

shall be notified that if a child support obligation is owed, benefits may be attached and payment of the child support obligation may be withheld and forwarded to the obligee.

(5) For purposes of this section, "insurance company" includes Pinnacol Assurance.

(6) Subsections (2) and (3) of this section shall apply to all child support obligations ordered as part of any proceeding, regardless of when the order was entered, and all such child support obligors shall be subject to notice of administrative lien and attachment as described in subsections (2) and (3) of this section.

26-13-122.5. Administrative lien and attachment of inmate bank accounts. (1) The state child support enforcement agency or the delegate child support enforcement unit may issue a notice of administrative lien and attachment, only when such notice is prescribed and approved by the state child support enforcement agency, to the department of corrections or its agent having custody or control of inmate bank accounts in order to withhold funds from the bank account of a state inmate, as defined in section 17-1-102 (8), C.R.S., who is an obligor responsible for the support of a child or children on whose behalf the obligee is receiving support enforcement services from the state child support enforcement agency or a delegate child support enforcement unit pursuant to this article or who is an obligor responsible for the payment of maintenance or maintenance when combined with child support and the obligee is receiving support enforcement services from the state child support enforcement agency or a delegate child support enforcement unit pursuant to this article.

(2) A copy of the administrative lien and attachment shall be provided to the obligor by the department of corrections or its agent and shall include information on the obligor's right to object to the administrative lien and attachment and to request an administrative review pursuant to the rules of the state board.

(3) The notice of administrative lien and attachment shall contain:

(a) The name and address of the correctional facility or entity that withholds funds from inmate bank accounts;

(b) The name and social security number of the inmate and the name of the correctional facility in which the inmate is incarcerated;

(c) The total amount owed for current monthly child support, current maintenance when combined with child support, current maintenance, past due child support, past due maintenance when combined with child support, past due maintenance, child support debt, retroactive child support, or medical support;

(d) The amount or percentage of funds to be withheld monthly from inmate bank accounts, which amount or percentage shall not be less than fifty percent of the total amount withheld pursuant to section 16-18.5-106 (2), C.R.S.;

(e) A statement that the notice of administrative lien and attachment is to take

effect no later than forty-five days after receipt of the notice by the department of corrections;

(f) A statement that if more than one notice of administrative lien and attachment is received for the same obligor, the priorities set forth in subsection (4) of this section shall apply;

(g) Instruction on the disbursement of the withheld amounts, including the requirements that each disbursement:

(I) Shall be forwarded to the family support registry;

(II) Shall be forwarded within ten calendar days after the date of each deduction and withholding;

(III) Shall be identified by the case number, the family support registry account number, and the name and social security number of the obligor and shall identify the date the deduction was made and the amount of the payment;

(h) A statement that compliance with the notice of administrative lien and attachment shall not subject the department of corrections or its agent to liability to the obligor for wrongful withholding of funds;

(i) A statement that, as long as the obligor is incarcerated and has an obligation pursuant to paragraph (c) of this subsection (3), the notice of administrative lien and attachment shall not be terminated or modified, except upon written notice by the state child support enforcement agency or the delegate child support enforcement unit, unless the inmate is indigent according to department of corrections guidelines.

(4) An administrative lien and attachment for the collection from inmate bank accounts of current monthly child support, current maintenance when combined with child support, current maintenance, past due child support, past due maintenance when combined with child support, past due maintenance, child support debt, retroactive child support, or medical support shall be continuing and shall have priority over any garnishment, lien, or wage assignment other than a notice previously served pursuant to subsection (1) of this section or a wage assignment activated pursuant to section 14-14-107 or 14-14-111, C.R.S., as those sections existed prior to July 1, 1996, or section 14-14-111.5, C.R.S. In order to attach inmate bank accounts for current child support, child support debt, retroactive child support, medical support, child support arrearages, or child support when combined with maintenance, the state child support enforcement agency or the delegate child support enforcement unit is authorized to serve, by first-class mail or by electronic service, a notice of administrative lien and attachment on the department of corrections or its agent to withhold funds of an obligor.

(5) Subsections (1), (2), and (3) of this section shall apply to all child support obligations, maintenance when combined with child support, maintenance obligations, retroactive child support obligations, and medical support obligations ordered as a part of any proceeding, regardless of when the order was entered, and all such obligors shall be subject to notice of administrative lien and attachment as described in subsections (1), (2),

and (3) of this section.

26-13-123. Drivers' licenses - suspension for nonpayment of child support - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Child support order" means any administrative or court order requiring the payment of child support, child support arrears, child support debt, retroactive support, or medical support, whether or not such order is combined with an order for maintenance.

(b) "Driver's license" means a license issued by the department of revenue pursuant to article 2 of title 42, C.R.S.

(c) "Notice of compliance" means the notice issued pursuant to subsection (5) of this section that an obligor is in compliance with a child support order.

(d) "Notice of failure to comply" means the notice issued pursuant to subsection (4) of this section.

(e) "Notice of noncompliance" means the notice issued pursuant to subsection (3) of this section that an obligor is not in compliance with a child support order.

(f) "Obligor" has the same meaning as in section 26-13.5-102 (12).

(2) (a) The state child support enforcement agency shall, at least on an annual basis, identify as obligors subject to the provisions of this section any person who owes the following and has failed to execute and comply with the terms of an agreement to pay:

(I) Child support debt to the state pursuant to section 14-14-104, C.R.S.;

(II) Arrearages or medical support, as requested as part of an enforcement action pursuant to article 5 of title 14, C.R.S.;

(III) Child support arrearages, retroactive child support, or medical support that is the subject of enforcement services provided pursuant to section 26-13-106.

(b) An obligor is subject to the provisions of this section to the extent that any child support debt, arrearage balance, retroactive support, or medical support is owed and remains outstanding.

(3) (a) At least on an annual basis, the state child support enforcement agency shall issue a written notice of noncompliance to any obligor identified in subsection (2) of this section. The notice of noncompliance shall include the name and last-known address of the obligor and shall be sent to the obligor's last-known address.

(b) The notice of noncompliance shall include the following information:

(I) That the state child support enforcement agency's records indicate the obligor owes a duty of support under a child support order;

(II) That the state child support enforcement agency's records indicate the obligor has not complied with a child support order; or has a child support debt, child support arrearage balance, or owes retroactive child support; or has failed to provide the child medical support pursuant to a court or administrative order;

(III) That the obligor has failed to execute an agreement to repay the child support

debt or child support arrearage balance or to remain current on the required child support payments or has failed to abide by the terms of the agreement if an agreement has been executed by the obligor;

(IV) That the obligor may, in writing and no later than thirty days after the date of the notice, request an administrative review to object to the notice of noncompliance and that failure to request such a review within the time specified shall result in the issuance of a notice of failure to comply pursuant to subsection (4) of this section;

(V) That the sole grounds for an administrative review shall be a mistake in the identity of the obligor; a disagreement regarding the amount of the child support debt, arrearage balance, retroactive support, or medical support; or a showing that all child support payments were made when due;

(VI) That the delegate child support enforcement unit must conduct an administrative review within thirty days after receipt of the obligor's written request; and

(VII) That the obligor may request in writing an administrative review from the state child support enforcement agency within thirty days after the date of the delegate child support enforcement unit's decision.

(c) (I) No later than thirty days after the date of the notice of noncompliance, the obligor may request in writing that the delegate child support enforcement unit conduct an administrative review pursuant to rules and regulations developed by the state board of human services to implement the provisions of this article.

(II) No later than thirty days after the date of the delegate child support enforcement unit's decision, the obligor may request in writing an administrative review from the state child support enforcement agency.

(III) The sole grounds to be determined at the administrative review shall be a mistake in the identity of the obligor; a disagreement with the amount of the child support debt, arrearage balance, retroactive support, or medical support; or a showing that all child support payments were made when due.

(IV) The decision of the state child support enforcement agency shall be final agency action and may be reviewed as provided in section 24-4-106, C.R.S.

(V) A notice of failure to comply pursuant to subsection (4) of this section shall not be sent to the department of revenue unless the obligor has failed to request a review within the time specified or until a hearing has been concluded and all rights of review have been exhausted.

(4) After the rights of review pursuant to paragraph (c) of subsection (3) of this section have been exhausted or the time within which such review may be requested has elapsed, the state child support enforcement agency shall:

(a) Issue the notice of failure to comply to the department of revenue; and

(b) Send a copy of such notice to the obligor to the obligor's last-known address.

(5) (a) Upon receipt of the notice of failure to comply from the state child support enforcement agency, the department of revenue shall suspend the obligor's driver's license

pursuant to section 42-2-127.5, C.R.S. Such suspension shall not be grounds for a hearing or any other administrative review by the department of revenue. The department of revenue shall refer all requests for a hearing regarding the obligor's child support order to the state child support enforcement agency for referral to the delegate child support enforcement unit.

(b) The department of revenue may issue a probationary driver's license pursuant to section 42-2-127.5, C.R.S.

(c) The department of revenue shall only reinstate a driver's license upon receipt of a notice of compliance from the delegate child support enforcement unit that indicates the obligor has complied with the court or administrative order or has agreed upon a payment plan approved by the delegate child support enforcement unit. The delegate child support enforcement unit is not required to issue a notice of compliance based upon approval of a payment plan for an obligor who has received a second notice of failure to comply until such obligor has complied with such payment plan for at least three months.

(d) Nothing in this section shall limit the ability of the department of revenue to revoke or suspend a license, or to take any other disciplinary action against a driver, on any other grounds.

(e) The department of revenue, or any person acting on the department's behalf, shall not be liable for any actions taken to suspend the obligor's driver's license pursuant to this section.

(6) (a) The state board of human services shall promulgate rules and regulations, pursuant to article 4 of title 24, C.R.S., as are necessary to implement this section.

(b) The department of revenue is authorized to promulgate rules and regulations, pursuant to article 4 of title 24, C.R.S., as may be necessary to implement this section.

(7) (Deleted by amendment, L. 97, p. 1298, § 42, effective July 1, 1997.)

26-13-124. Privatization of child support enforcement programs. The state department shall consult with the counties to determine what services of the child support enforcement program may be advantageous to privatize. The state department is authorized to procure such services on behalf of participating counties if the participating counties and the state department agree to such procurement.

26-13-125. State directory of new hires - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Employee" means a natural person who is employed by an employer in this state for compensation, which employer withholds federal or state tax liabilities from the employee's compensation. "Employee" does not include an employee hired to perform intelligence or counterintelligence functions for an agency of the United States

government, as those terms are defined in the federal "Intelligence Organization Act of 1992", 50 U.S.C. sec. 401a, when the head of such agency has determined that reporting the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(b) "Employer" means a person or entity doing business in the state that engages an employee for compensation and for whom the employer withholds federal or state tax liabilities from the employee's compensation. "Employer" also includes any governmental entity and any labor organization.

(c) "Labor organization" means any organization that exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or of providing other mutual aid or protection in connection with employment.

(d) "Newly hired employee" means an employee who:

(I) Has not previously been employed by the employer; or

(II) Was previously employed by the employer but has been separated from his or her prior employment for at least sixty consecutive days.

Editor's note: Paragraph (d) is effective January 1, 2014.

(2) The state department, or its agent, shall establish and maintain a state directory of new hires on and after October 1, 1997, for the purpose of locating newly hired individuals for the purposes of establishing, enforcing, or modifying child support obligations and for other purposes specified in paragraph (b) of subsection (8) of this section.

Editor's note: This version of subsection (2) is effective until January 1, 2014.

(2) The state department, or its agent, shall establish and maintain a state directory of new hires on and after October 1, 1997, for the purpose of locating newly hired employees for the purposes of establishing, enforcing, or modifying child support obligations and for other purposes specified in paragraph (b) of subsection (8) of this section.

Editor's note: This version of subsection (2) is effective January 1, 2014.

(3) Effective October 1, 1997, each employer shall submit to the state directory of new hires a copy of the W-4 form or, at the option of the employer, an equivalent form for each new employee hired to work in Colorado on or after said date. The report may be transmitted to the state department by first class mail, magnetically, or electronically. The report shall contain the employee's name, address, and social security number. The report

shall contain the name and address of the employer and the identifying number assigned to the employer under section 6109 of the federal "Internal Revenue Code of 1986", as amended. No liability shall attach to any employer for furnishing information pursuant to this section. No employer shall be required to submit to the state directory of new hires a report concerning any employee hired for less than thirty days.

Editor's note: This version of subsection (3) is effective until January 1, 2014.

(3) Effective October 1, 1997, each employer shall submit to the state directory of new hires a copy of the W-4 form or, at the option of the employer, an equivalent form for each newly hired employee in Colorado. The report may be transmitted to the state department by first class mail, magnetically, or electronically. The report must contain the newly hired employee's name, address, social security number, and the date services for remuneration were first performed by the newly hired employee. The report must contain the name and address of the employer and the identifying number assigned to the employer under section 6109 of the federal "Internal Revenue Code of 1986", as amended. No liability shall attach to any employer for furnishing information pursuant to this section. No employer shall be required to submit to the state directory of new hires a report concerning any employee hired for less than thirty days.

Editor's note: This version of subsection (3) is effective January 1, 2014.

(4) Beginning not later than May 1, 1998, the state child support enforcement agency shall conduct automated comparisons of the social security numbers reported by employers pursuant to this section and the social security numbers appearing in the records of the family support registry for cases being enforced under the state plan. The state department may contract for the performance of the comparisons required by this subsection (4) with another governmental agency or a private entity.

(5) An employer that has employees who are employed in two or more states and that transmits reports magnetically or electronically may designate one state to which the employer shall submit reports. Any multistate employer that elects to transmit all reports to one state shall notify the secretary of the federal department of health and human services, in writing, which state the employer has designated for purposes of reporting.

(6) All employers shall report a newly hired employee within twenty calendar days after the date the employer hires the employee or, at the election of the employer, at the time of the first regularly scheduled payroll following the date of hire if such payroll is subsequent to the expiration of the twenty-day period. Reports submitted magnetically or electronically shall be submitted by two monthly transmissions, when necessary, and in all instances, the report shall be transmitted no more than twenty calendar days after the date of hire or, at the election of the employer, at the time of the first regularly scheduled

payroll following the date of hire if such payroll is subsequent to the expiration of the twenty-day period.

(7) (a) Within five business days after receipt of a report from an employer concerning a newly hired employee, the state child support enforcement agency shall enter the information into the state directory of new hires.

(b) Within two business days after the date the information regarding a newly hired employee is entered into the state directory of new hires, the state child support enforcement agency shall transmit an income assignment to the employer of the employee directing the employer to withhold an amount equal to the monthly child support obligation, including any past-due support obligation of the employee.

(c) Within three business days after the date the information regarding a newly hired employee is entered into the state directory of new hires, the state directory of new hires shall furnish the information to the national directory of new hires.

(d) No later than two years after the date the information regarding a newly hired employee is entered into the state directory of new hires, the state child support enforcement agency shall remove such name and information from the directory.

(8) (a) Information contained within the reports shall be made available to delegate child support enforcement units and their agents in order to locate individuals for purposes of establishing paternity or for purposes of establishing, modifying, or enforcing child support obligations.

(b) Information contained within the reports shall be made available to the administrators of the following programs for purposes of establishing or verifying eligibility or benefit amounts: Public assistance pursuant to the Colorado works program, as defined in section 26-2-703 (5); medicaid; food stamps; supplemental security income benefits; cash assistance programs under this title; public assistance as defined in section 26-2-103 (7); and unemployment compensation.

(c) Information contained within the reports shall be available to the department of labor and employment and the state agency operating the workers' compensation program.

26-13-126. Authority to deny, suspend, or revoke professional, occupational, and recreational licenses - definitions. (1) The state board of human services is authorized, in coordination with any state agency, board, or commission that is authorized by law to issue, revoke, deny, terminate, or suspend a professional, occupational, or recreational license, to promulgate rules for the suspension, revocation, or denial of professional, occupational, and recreational licenses of individuals who owe more than six months' gross dollar amount of child support and who are paying less than fifty percent of their current monthly child support obligation each month, or those individuals who fail, after receiving proper notice, to comply with subpoenas or warrants relating to

paternity or child support proceedings.

(2) (a) To effectuate the purposes of this section, the executive director of the state department may request the denial, suspension, or revocation of any professional, occupational, or recreational license issued by a state agency, board, or commission, referred to in this section as the "licensing agency". Upon such request, the state child support enforcement agency shall send a notice to the obligor by first class mail stating that the obligor has thirty days after the date of the notice within which to pay the past-due obligation, to negotiate a payment plan with the state child support enforcement agency, to request an administrative hearing with the delegate child support enforcement unit, or to comply with the warrant or subpoena. If the obligor fails to pay the past-due obligation, negotiate a payment plan, request an administrative hearing, or comply with the warrant or subpoena within thirty days after the date of the notice, the state child support enforcement agency shall send a notice to the licensing agency to deny, revoke, or suspend the professional, occupational, or recreational license of the individual identified as not in compliance with the court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or of the individual who failed, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

(b) The rules promulgated to implement this section shall provide that, if it is the first time the procedures authorized by this section have been employed to enforce support against the obligor, the state child support enforcement agency may only issue a notice to the licensing agency to suspend or to deny such obligor's license. However, the rules shall also provide that, in second and subsequent circumstances in which the provisions of this section are utilized to enforce support against the obligor, the state child support enforcement agency shall be authorized to issue a notice to the licensing agency to revoke an obligor's license, subject to full reapplication procedures upon compliance as specified by the licensing agency.

(c) No later than thirty days after the date of the notice to the obligor, the obligor may request in writing that the delegate child support enforcement unit conduct an administrative review pursuant to the rules and regulations developed by the state board to implement the provisions of this article.

(d) No later than thirty days after the date of the delegate child support enforcement unit's decision, the obligor may request in writing an administrative review from the state child support enforcement agency.

(e) The sole issues to be determined at the administrative review by both the delegate child support enforcement unit and the state child support enforcement agency shall be whether there is: A mistake in the identity of the obligor; a disagreement concerning the amount of the child support debt, an arrearage balance, retroactive support due, or the amount of the past-due child support when combined with maintenance; a

showing that all child support payments were made when due; a showing that the individual has complied with the subpoena or warrant; a showing that the individual was not properly served with the subpoena or warrant; or a showing that there was a technical defect with respect to the subpoena or warrant.

(f) The decision of the state child support enforcement agency shall be final agency action and may be reviewed pursuant to section 24-4-106, C.R.S.

(g) A notice to the licensing agency pursuant to paragraph (a) of this subsection (2) shall not be sent to the licensing agency unless the obligor has failed to request a review within the time specified or until a hearing has been concluded and all rights of review have been exhausted.

(h) Each licensing agency affected may promulgate rules, as necessary, and procedures to implement the requirements of this section. Such licensing agencies shall enter into memoranda of understanding, as necessary, with the state child support enforcement agency with respect to the implementation of this section. All due process hearings shall be conducted by the state department rather than the licensing agency.

(i) Nothing in this section shall limit the ability of each licensing agency to deny, suspend, or revoke a license on any other grounds provided by law.

(j) A licensing agency, or any person acting on its behalf, shall not be liable for any actions taken to deny, suspend, or revoke the obligor's license pursuant to this section.

(3) It is the intent of the general assembly that the same or similar conditions placed upon the issuance and renewal of a state license to practice a profession or occupation, as set forth in this section, should also be placed upon persons applying to or licensed to practice law. The general assembly, however, recognizes the practice of the Colorado Supreme Court in the licensure, registration, and discipline of persons practicing law in this state. Specifically, the general assembly acknowledges that in order to obtain a license to practice law in Colorado, a person must verify that he or she is not delinquent with respect to a court-ordered obligation to pay child support. In addition, the general assembly recognizes that pursuant to the "Colorado Rules of Professional Conduct" a lawyer may be disciplined, including by disbarment, for failing to pay child support.

(4) Subject to section 24-33-110 (1), C.R.S., for purposes of this section, "license" means any recognition, authority, or permission that the state or any principal department of the state or an agent of such department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not necessarily limited to, any license, certificate, certification, letter of authorization, or registration issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

26-13-127. State case registry. (1) The state department, or its agent, shall establish, maintain, update, and monitor an automated state case registry which shall include all cases in which child support orders have been established or modified on or after October 1, 1998.

(2) The judicial department shall collect and electronically transfer on a weekly basis, or more frequently as mutually agreeable, to the state department, or its agent, the following basic elements of all child support orders established or modified on or after October 1, 1998, which shall be stored in the state case registry:

(a) The name of the court, the county, and the case number;

(b) The names of the obligor, the obligee, and the children who are the subject of the order;

(c) (Deleted by amendment, L. 2008, p. 1350, § 8, effective July 1, 2008.)

(d) The date of birth of each parent and of each child for whom the order requires the payment of child support;

(e) The date the child support order was established or modified;

(f) The amount of monthly or other periodic support owed under the order.

(2.5) Notwithstanding the provisions of subsection (2) of this section, the parties shall provide the judicial department with the social security number of each party and each child who is the subject of a child support order. The judicial department shall collect and electronically transfer the social security numbers to the state department, or its agent, on a weekly basis or more frequently, as per mutual agreement. Nothing in this subsection (2.5) shall require that a person's social security number appear on the face of any court order entered pursuant to section 14-10-115, 14-14-104, or 19-4-116, C.R.S., or section 26-13-114 or 26-13.5-105.

(3) For each case in which services are being provided under Title IV-D of the federal "Social Security Act", as amended, and for which a support order has been established or modified, the state case registry shall include the basic information listed in subsection (2) of this section and the following additional information:

(a) Amounts owed, including arrears, interest, or late payment penalties and fees, due or past-due, under the order;

(b) The distribution of collected amounts;

(c) (Deleted by amendment, L. 98, p. 763, §13, effective July 1, 1998.)

(d) The amount of any lien imposed with respect to the order pursuant to section 14-10-122 (1.5), C.R.S.

(4) Information in the state case registry shall be accessible only by the state child support enforcement agency, the delegate child support enforcement units, the federal office of child support enforcement, the courts, or the agents of such agency, units, office, or courts.

26-13-128. Agreements with financial institutions - data match system - limited liability - definitions. (1) The general assembly authorizes the state department, or its agent, to design and implement a program pursuant to this section. The state department, or its agent, and financial institutions doing business in the state shall enter into agreements to effectuate the purpose of this section. The executive director may request and shall receive from such financial institutions or any state entity, such as a department, board, or agency of the state or any of its political subdivisions, the information and action described in this section.

(2) (a) The purpose of the program authorized by this section shall be to develop and operate, in coordination with such financial institutions and state entities, a data match system, using automated data exchanges, to the maximum extent feasible.

(b) The data match required by paragraph (a) of this subsection (2) shall be conducted quarterly.

(c) The state department shall provide to the financial institutions or any state entity the name, record address, and social security number of any person who owes past-due child support, as identified by the state.

(d) The agreement required pursuant to subsection (1) of this section shall provide that the data match be performed by the financial institution or state entity within forty-five days after the receipt of the informational electronic or magnetic data. The agreement shall also provide that the data be returned in electronic or magnetic form within three business days after the match is conducted. The financial institution or state entity shall include information concerning all accounts where a data match occurs, including but not limited to information regarding account numbers, account types, joint accounts, partnership accounts, sole proprietorship accounts, custodial accounts, and commercial accounts. The child support enforcement agency shall make a reasonable effort to accommodate those financial institutions upon which the requirements of this subsection (2) would pose a hardship.

(e) The financial institution or state entity, in response to a notice of lien or levy from the state department, shall encumber or surrender assets, except for custodial accounts created pursuant to the "Colorado Uniform Transfers to Minors Act", article 50 of title 11, C.R.S., funds in escrow and trust accounts of moneys held in trust for a third party, held by such institution or entity on behalf of any obligor parent who is subject to a child support lien, subject to any right of setoff the financial institution may have against such assets. Before the financial institution surrenders any assets of the obligor parent to the state department, the financial institution may apply, at the sole discretion of the financial institution, any assets held by the financial institution on behalf of the obligor parent against the balance of any amounts owed by the obligor parent to the financial institution, regardless of whether the obligor parent is in default under any agreement with the financial institution or whether any payments are currently due to the financial institution. Service of a notice of lien or levy pursuant to this subsection (2) shall be made

by United States first class mail and, in addition, may be made by United States registered or certified mail, return receipt requested, the cost for which may be withheld by the financial institution or state entity from the account of the obligor parent.

(3) Notwithstanding any other provision of federal or state law, a financial institution or state entity shall not be liable under any federal, state, or local law to any person for any disclosure of information to the state department for the purpose of establishing, modifying, or enforcing a child support obligation of an individual, or for encumbering, holding, refusing to release to the obligor, surrendering, or transferring any assets held by such financial institution or state entity in response to a notice of lien or levy issued by the state department or for any other action taken in good faith to comply with the requirements of this section regardless of whether such action was specifically authorized or described by this section. A financial institution shall not be required to give notice to an account holder or customer of the financial institution concerning whom the financial institution has provided information or taken any action pursuant to this section. The financial institution shall not be liable for the failure to provide such notice.

(4) The state department shall assure, through rules of the state board, that there are appropriate procedures to be followed by the state department or the delegate child support enforcement unit with respect to certain special types of financial institution accounts, including but not limited to joint, partnership, sole proprietorship, custodial, and commercial accounts, which rules shall identify factors the delegate child support enforcement unit shall consider in determining whether to attach the account or any portion of such account. Such rules shall specifically provide that custodial accounts created pursuant to the "Colorado Uniform Transfers to Minors Act", article 50 of title 11, C.R.S., and trust accounts of moneys held in trust for a third party shall not be attached, encumbered, or surrendered for purposes of enforcing support.

(5) The state department, after obtaining a financial record of an individual from a financial institution pursuant to this section, may disclose such financial record only for the purpose of and to the extent necessary to establish, modify, or enforce a child support obligation of such individual. If a state officer, employee, or authorized agent of the state knowingly, or by reason of negligence, discloses a financial record of an individual in violation of this subsection (5), such individual may bring a civil action for damages against the officer, employee, or authorized agent of the state pursuant to 42 U.S.C. sec. 669A (c).

(6) A financial institution shall be entitled to a reasonable fee in the amount of five cents per name per quarter, not to exceed its costs, for fulfilling the requirements of subsection (2) of this section.

(7) For purposes of this section:

(a) (I) "Account" includes:

(A) A deposit account;

(B) A demand deposit account;

(C) A checking account;
(D) A negotiable withdrawal order account;
(E) A savings account;
(F) A certificate of deposit;
(G) A passbook account;
(H) A time and term deposit account;
(I) A share account;
(J) A share draft account;
(K) A share certificate of deposit;
(L) A money market share account;
(M) A money market mutual fund account;
(N) A "N.O.W." account; or
(O) A similar account.

(II) "Account" shall also include:

(A) An interest in a mutual fund, a brokerage account, a fixed-rate annuity, a variable-rate annuity, a whole life insurance product, a universal life insurance product, a variable universal life insurance product, a fiduciary account, a trust account, or similar account;

(B) The securities of or issued by an investment company registered under the federal "Investment Company Act of 1940", a unit investment trust, a real estate investment trust, a commodity pool operator, a future commission merchant, or an introducing broker registered under the federal "Commodity Exchange Act", a general or limited partnership, or a similar entity; and

(C) Property, including funds held in or payable from any pension or retirement plan or deferred compensation plan, including a plan in which the debtor has received benefits or payments, has the present right to receive benefits or payments, or has the right to receive benefits or payments in the future and including a pension or plan that qualifies under the federal "Employee Retirement Income Security Act of 1974" as an employee pension benefit plan as defined in 29 U.S.C. sec. 1002, any individual retirement account, as defined in 26 U.S.C. sec. 408, and any plan as defined in 26 U.S.C. sec. 410 and as these plans may be amended from time to time, or any similar plan under state or local law.

(b) "Financial institution" includes:

(I) A state or nationally chartered bank, bank and trust company, trust company, savings and loan association, savings bank, or credit union;

(II) An investment company registered under the federal "Investment Company Act of 1940", a securities dealer, a commodity pool operator, a future commission merchant, or an introducing broker registered under the federal "Commodity Exchange Act", or other legal entity engaged in the business of buying or selling securities;

(III) A benefit association, a life insurance company, a safe deposit company, or a

state repository of moneys held for individuals; and

(IV) Any similar entity doing business in this state.

(c) "Financial record" has the meaning given such term in section 1101 of the federal "Right to Financial Privacy Act of 1978", 12 U.S.C. sec. 3401.

26-13-129. Exemption from federal law. Upon a determination, finding, or warning of noncompliance or upon such other notification from the federal department of health and human services that the state may not be, or is not, in compliance with a provision of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, relating to the establishment of paternity or the establishment, modification, or enforcement of support, the state department shall seek a federal waiver or exemption pursuant to 42 U.S.C. sec. 666 (d) from the specific requirement of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" with which the state is alleged to be out of compliance.

ARTICLE 13.5

Administrative Procedure
for Child Support
Establishment and Enforcement

26-13.5-101. Short title. This article shall be known and may be cited as the "Colorado Administrative Procedure Act for the Establishment and Enforcement of Child Support".

26-13.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Administrative order" means an order that involves payment or collection of support issued by a delegate child support enforcement unit or an administrative agency of another state or comparable jurisdiction with similar authority.

(2) "Arrears" or "arrearages" means amounts of past-due and unpaid monthly support obligations established by court or administrative order.

(3) "Child support debt" means, in the case in which there is no existing order for child support, an amount ordered by the court pursuant to section 14-14-104, C.R.S., or by a delegate child support enforcement unit pursuant to this article for unreimbursed public assistance provided to a family that has received or is receiving aid to families with

dependent children or temporary assistance to needy families. In the case in which there is an existing court or administrative order for support, "child support debt" means an amount equal to the amount of public assistance paid to the extent of the full amount of arrearages which have accrued as of the date of the court or administrative order that determines the child support debt.

(4) "Costs of collection" means attorney fees, costs for administrative staff time, service of process fees, court costs, costs of genetic tests, and costs for certified mail. Attorney fees and costs for administrative time shall only be collected in accordance with federal law and rules and regulations.

(5) "Court" or "judge" means any court or judge in this state having jurisdiction to determine the liability of persons for the support of another person. "Court" or "judge" includes a juvenile magistrate and a district court magistrate.

(6) "Custodian" means a parent, relative, legal guardian, or other person or agency having physical custody of a child.

(7) "Delegate child support enforcement unit" means the unit of a county department of social services or its contractual agent which is responsible for carrying out the provisions of article 13 of this title. The term contractual agent shall include a private child support collection agency, operating as an independent contractor with a county department of social services, or a district attorney's office, that contracts to provide any services that the delegate child support enforcement unit is required by law to provide.

(8) "Dependent child" means any person who is legally entitled to or the subject of a court order for the provision of proper or necessary subsistence, education, medical care, or any other care necessary for his health, guidance, or well-being who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.

(8.5) "District court" means any district court in this state and includes the juvenile court of the city and county of Denver and the juvenile division of the district court outside of the city and county of Denver.

(9) "Duty of support" means a duty of support imposed by law, by order, decree, or judgment of any court, or by administrative order, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise. "Duty of support" includes the duty to pay a monthly support obligation, a child support debt, any retroactive support due, support of children in foster care, medical support, and any arrearages.

(10) "Monthly support obligation" means the monthly amount of current child support that an obligor is ordered to pay by the court or by the delegate child support enforcement unit pursuant to this article.

(11) "Obligee" means any person or agency to whom a duty of support is owed or any person or agency having commenced a proceeding for the establishment or enforcement of an alleged duty of support.

(12) "Obligor" means any person owing a duty of support or against whom a proceeding for the establishment or enforcement of a duty of support is commenced.

(13) "Receipt of notice" means either the date on which service of process of a notice of financial responsibility is actually accomplished or the date on the return receipt if service is by certified mail, both in accordance with one of the methods of service specified in section 26-13.5-104.

26-13.5-103. Notice of financial responsibility issued - contents. (1) The delegate child support enforcement unit shall issue a notice of financial responsibility to an obligor who owes a child support debt or who is responsible for the support of a child on whose behalf the custodian of that child is receiving support enforcement services from the delegate child support enforcement unit pursuant to article 13 of this title. The notice shall advise the obligor:

(a) That the obligor is required to appear at the time and location stated in the notice for a negotiation conference to determine the obligor's duty of support;

(a.5) That a request for genetic tests shall not prejudice the obligor in matters concerning allocation of parental responsibilities pursuant to section 14-10-124 (1.5), C.R.S., and that, if genetic tests are not obtained prior to the legal establishment of paternity and submitted into evidence prior to the entry of the final order establishing paternity, the genetic tests may not be allowed into evidence at a later date;

(b) That the delegate child support enforcement unit shall issue an order of default setting forth the amount of the obligor's duty of support, if the obligor:

(I) Fails to appear for the negotiation conference as scheduled in the notice; and

(II) Fails to reschedule a negotiation conference prior to the date and time stated in the notice; and

(III) Fails to send the delegate child support enforcement unit a written request for a court hearing prior to the time scheduled for the negotiation conference;

(b.5) That, if the notice is issued for the purpose of establishing the paternity of and financial responsibility for a child, the delegate child support enforcement unit shall issue an order of default establishing paternity and setting forth the amount of the obligor's duty of support, if:

(I) The obligor fails to appear for the initial negotiation conference as scheduled in the notice of financial responsibility and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility; or

(II) The obligor fails to take a genetic test or fails to appear for an appointment to take a genetic test without good cause; or

(III) The results of the genetic test indicate a ninety-seven percent or greater probability that the alleged father is the father of the child, and the obligor fails to appear for the negotiation conference as scheduled in the notice and fails to reschedule a

negotiation conference prior to the date and time stated in the notice;

(c) (Deleted by amendment, L. 92, p. 213, § 17, effective August 1, 1992.)

(d) That the order of default shall be filed with the clerk of the district court in the county in which the notice of financial responsibility was issued; that, as soon as the order of default is filed, it shall have all the force, effect, and remedies of an order of the court, including, but not limited to, wage assignments issued prior to July 1, 1996, or income assignments issued thereafter or contempt of court; and that execution may be issued on the order in the same manner and with the same effect as if it were an order of the court;

(e) That a judgment may be entered on the order of financial responsibility issued pursuant to this article, and that if a judgment is not entered on the order of financial responsibility and needs to be enforced, the judgment creditor shall file with the court a verified entry of judgment specifying the period of time that the judgment covers and the total amount of the judgment for that period and that, notwithstanding the provisions of this paragraph (e), no court order for judgment nor verified entry of judgment shall be required in order for the county and state child support enforcement units to certify past-due amounts of child support to the internal revenue service or state department of revenue for purposes of intercepting a federal or state tax refund;

(f) The name of the custodian of the child on whose behalf support is being sought and the name, birth date, and social security number of such child;

(g) That the amount of the monthly support obligation shall be based upon the child support guidelines as set forth in section 14-10-115, C.R.S.;

(h) That, in calculating the amount of monthly support obligation pursuant to the child support guidelines as set forth in section 14-10-115, C.R.S., the delegate child support enforcement unit shall set the monthly support obligation based upon reliable information concerning the parents' income, which may include wage statements or other wage information obtained from the department of labor and employment, tax records, and verified statements and other information provided by the parents and that, in the absence of any such information, the delegate child support enforcement unit may set the monthly support obligation based on the current minimum wage for a forty-hour workweek;

(i) That the delegate child support enforcement unit may issue an administrative subpoena to obtain income information from the obligor;

(i.5) That the court or delegate child support enforcement unit may enter an order directing the obligor to pay for support of the child, in an amount as may be determined by the court or delegate child support enforcement unit to be reasonable under the circumstances, for a time period prior to the entry of an order establishing paternity or for a time period prior to the entry of the support order established pursuant to section 19-6-104, C.R.S.;

(j) The amount of the child support debt accrued and accruing;

(k) The amount of arrears or arrearages which have accrued under an

administrative or a court order for support;

(l) That the costs of collection, as defined in section 26-13.5-102 (3), may be assessed against and collected from the obligor;

(m) If applicable, that foster care maintenance may be collected against the obligor;

(n) The interest rate on any support payments which are not made on time;

(o) That the obligor may assert the following objections in the negotiation conference and that, if such objections are not resolved, the delegate child support enforcement unit shall schedule a court hearing pursuant to section 26-13.5-105 (3):

(I) That he is not the parent of the dependent child; however, if parentage has been previously determined by or pursuant to the law of another state, the obligor is advised that any challenge to the determination of parentage must be resolved in the state where the determination of parentage was made;

(II) That the dependent child has been adopted by a person other than the obligor;

(III) That the dependent child is emancipated; or

(IV) That there is an existing court or administrative order of support as to the monthly support obligation;

(p) That the duty to provide medical support shall be established under this article in accordance with section 14-10-115, C.R.S.;

(q) That an administrative order issued pursuant to this article may also be modified under this article;

(r) That the obligor is responsible for notifying the delegate child support enforcement unit of any change of address or employment within ten days of such change;

(s) That, if the obligor has any questions, the obligor should telephone or visit the delegate child support enforcement unit;

(t) That the obligor has the right to consult an attorney and the right to be represented by an attorney at the negotiation conference; and

(u) Such other information as set forth in rules and regulations promulgated pursuant to section 26-13.5-113.

26-13.5-103.5. Notice of financial responsibility amended - adding children. (1) In any existing case commenced under this article, if it is alleged that another child has been conceived of the parents named in the existing case and at least one of the presumptions of paternity specified in section 19-4-105, C.R.S., applies, the delegate child support enforcement unit shall issue an amended notice of financial responsibility to add the child to the case.

(2) The amended notice of financial responsibility to add a child to an existing case shall be served in the manner set forth in section 26-13.5-104.

(3) The amended notice of financial responsibility to add a child to an existing case shall contain all of the advisements required in an original notice of financial responsibility as set forth in section 26-13.5-103.

(4) Notwithstanding the provisions of subsection (1) of this section, in any case where there exists more than one alleged or presumed father for a child pursuant to section 19-4-105, C.R.S., a new case shall be commenced for that child to determine the child's paternity, establish child support, and address any other related issues. If it is determined that the child is the child of parents named in an existing case, the cases shall be consolidated pursuant to rule 42 of the Colorado rules of civil procedure.

26-13.5-104. Service of notice of financial responsibility. (1) The delegate child support enforcement unit shall serve a notice of financial responsibility on the obligor not less than ten days prior to the date stated in the notice for the negotiation conference:

(a) In the manner prescribed for service of process in a civil action; or

(b) By an employee appointed by the delegate child support enforcement unit to serve such process; or

(c) By certified mail, return receipt requested, signed by the obligor only. The receipt shall be prima facie evidence of service.

(2) Service of process to establish paternity and financial responsibility may be made under this article by certified mail as specified in subsection (1) of this section or by any of the other methods of service specified in said subsection (1).

(3) If process has been served pursuant to this section, no additional service of process shall be necessary if the case is referred to court for further review.

26-13.5-105. Negotiation conference - issuance of order of financial responsibility - filing of order with district court. (1) Every obligor who has been served with a notice of financial responsibility pursuant to section 26-13.5-104 shall appear at the time and location stated in the notice for a negotiation conference or shall reschedule a negotiation conference prior to the date and time stated in the notice. The negotiation conference shall be scheduled not more than thirty days after the date of the issuance of the notice of financial responsibility. A negotiation conference shall not be rescheduled more than once and shall not be rescheduled for a date more than ten days after the date and time stated in the notice without good cause as defined in rules and regulations promulgated pursuant to section 26-13.5-113. If a negotiation conference is continued, the obligor shall be notified of such continuance by first-class mail or by hand delivery. If a stipulation is agreed upon at the negotiation conference as to the obligor's duty of support, the delegate child support enforcement unit shall issue an administrative order of financial responsibility setting forth the following:

(a) The amount of the monthly support obligation and instructions on the manner in which it shall be paid;

(b) The amount of child support debt due and owing to the state department and instructions on the manner in which it shall be paid;

(c) The amount of arrearages due and owing and instructions on the manner in which it shall be paid;

(d) The names and dates of birth of the parties and of the children for whom support is being sought and the parties' residential and mailing addresses.

(e) and (f) (Deleted by amendment, L. 99, p. 1091, § 12, effective July 1, 1999.)

(2) A copy of the administrative order of financial responsibility issued pursuant to subsection (1) of this section, along with proof of service, shall be filed with the clerk of the district court in the county in which the notice of financial responsibility was issued or in the district court where an action relating to support is pending or an order exists but is silent on the issue of child support. The clerk shall stamp the date of receipt of the copy of the order and shall assign the order a case number. The order of financial responsibility shall have all the force, effect, and remedies of an order of the court, including, but not limited to, wage assignments issued prior to July 1, 1996, or income assignments issued thereafter or contempt of court. Execution may be issued on the order in the same manner and with the same effect as if it were an order of the court. In order to enforce a judgment based on an order issued pursuant to this article, the judgment creditor shall file with the court a verified entry of judgment specifying the period of time that the judgment covers and the total amount of the judgment for that period. Notwithstanding the provisions of this subsection (2), no court order for judgment nor verified entry of judgment shall be required in order for the county and state child support enforcement units to certify past-due amounts of child support to the internal revenue service or state department of revenue for purposes of intercepting a federal or state tax refund.

(3) (a) If no stipulation is agreed upon at the negotiation conference because the obligor contests the issue of paternity, the delegate child support enforcement unit shall issue an order for genetic testing and continue the negotiation conference to allow for the receipt of the genetic testing results. The delegate child support enforcement unit shall pay the costs of the genetic testing and may recover any testing costs from the presumed or alleged father if paternity is established.

(b) If no stipulation is agreed upon at the continued negotiation conference and the evidence relating to paternity does not meet the requirements set forth in section 13-25-126 (1) (g), C.R.S., the delegate child support enforcement unit may dismiss the action or take such other appropriate action as allowed by law.

(c) If no stipulation is agreed upon at the negotiation conference and paternity is not an issue, or, if paternity is an issue and either the evidence relating to paternity meets the requirements set forth in section 13-25-126 (1) (g), C.R.S., or parentage has been previously determined by another state, the delegate child support enforcement unit shall

issue temporary orders establishing current child support, arrears, foster care maintenance, medical support, and reasonable support for a time period prior to the entry of the order for support and shall file the notice of financial responsibility and proof of service with the clerk of the district court in the county in which the notice of financial responsibility was issued and shall request the court to set a hearing for the matter.

(d) Notwithstanding any rules of the Colorado rules of civil procedure, a complaint is not required in order to initiate a court action pursuant to this subsection (3). The court shall inform the delegate child support enforcement unit of the date and location of the hearing and the court or the delegate child support enforcement unit shall send a notice to the obligor informing the obligor of the date and location of the hearing. In order to meet federal requirements of expedited process for child support enforcement, the court shall hold a hearing and decide only the issue of child support within ninety days after receipt of notice, as defined in section 26-13.5-102 (13), or within six months after receipt of notice, as defined in section 26-13.5-102 (13), if the obligor is contesting the issue of paternity. If the obligor raises issues relating to the allocation of parental responsibilities, decision-making responsibility, or parenting time and the court has jurisdiction to hear such matters, the court shall set a separate hearing for those issues after entry of the order of support. In any action, including an action for paternity, no additional service beyond that originally required pursuant to section 26-13.5-104 shall be required if no stipulation is reached at the negotiation conference and the court is requested to set a hearing in the matter.

(4) The determination of the monthly support obligation shall be based on the child support guidelines set forth in section 14-10-115, C.R.S. The delegate child support enforcement unit may issue an administrative subpoena requesting income information, including but not limited to wage statements, pay stubs, and tax records. In the absence of reliable information, which may include such information as wage statements or other wage information obtained from the department of labor and employment, tax records, and verified statements made by the obligee, the delegate child support enforcement unit shall set the amount included in the order of financial responsibility pursuant to section 14-10-115, C.R.S., based on the current minimum wage for a forty-hour workweek.

(5) If the court or delegate child support enforcement unit finds that the respondent has an obligation to support the child or children mentioned in the petition or notice, the court or delegate child support enforcement unit may enter an order directing the respondent to pay such sums for support as may be reasonable under the circumstances, taking into consideration the factors found in section 19-4-116 (6), C.R.S. The court or delegate child support enforcement unit may also enter an order directing the appropriate party to pay for support of the child, in an amount as may be determined by the court or delegate child support enforcement unit to be reasonable under the circumstances, for a time period which occurred prior to the entry of the support order established pursuant to section 19-6-104, C.R.S.

(6) If a parent is unemployed and not incapacitated, the delegate child support enforcement unit may order such parent to pay such support in accordance with a plan approved by the delegate child support enforcement unit or to participate in work activities, as described in section 14-10-115 (5) (b) (II), C.R.S., as deemed appropriate by that delegate child support enforcement unit, as a condition of the child support order.

26-13.5-106. Default - issuance of order of default - filing of order with district court. (1) (a) If an obligor fails to appear for a negotiation conference as scheduled in the notice of financial responsibility, and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility, the delegate child support enforcement unit shall issue an order of default in accordance with the notice of financial responsibility. If an obligor fails to appear for a rescheduled negotiation conference, the delegate child support enforcement unit shall issue an order of default in accordance with the notice of financial responsibility.

(b) In an action to establish paternity and financial responsibility, the delegate child support enforcement unit shall issue an order of default establishing paternity and financial responsibility in accordance with the notice of financial responsibility if:

(I) The obligor fails to appear for the initial negotiation conference as scheduled in the notice of financial responsibility and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility; or

(II) The obligor fails to take a genetic test or fails to appear for an appointment to take a genetic test without good cause; or

(III) The results of the genetic test indicate a ninety-seven percent or greater probability that the alleged father is the father of the child, and the obligor fails to appear for the negotiation conference as scheduled in the notice of financial responsibility and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility.

(b.5) The state board shall promulgate rules defining what constitutes good cause for failure to appear at a negotiation conference.

(c) Such order of default shall be approved by the court and shall include the following:

(I) The amount of the monthly support obligation and instructions on the manner in which it shall be paid;

(II) The amount of child support debt due and owing to the state department and instructions on the manner in which it shall be paid;

(III) The amount of arrearages due and owing and instructions on the manner in which it shall be paid;

(IV) The name of the custodian of the child and the name, birth date, and social security number of the child for whom support is being sought;

(V) The information required by section 14-14-111.5 (2) (f) (II), C.R.S.;

(VI) In a default order establishing paternity, a statement that the obligor has been determined to be the natural parent of the child;

(VII) Such other information set forth in rules and regulations promulgated pursuant to section 26-13.5-113.

(d) Such order for default may direct the obligor to pay for support of the child, in an amount as may be determined by the court or delegate child support enforcement unit to be reasonable under the circumstances, for a time period prior to the entry of the order establishing paternity.

(2) A copy of any order of default issued pursuant to subsection (1) of this section, along with proof of service, and, in the case of a default order establishing paternity and financial responsibility under paragraph (b) of subsection (1) of this section, the obligee's verified affidavit regarding paternity and the genetic test results, if any, shall be filed with the clerk of the district court in the county in which the notice of financial responsibility was issued or in the district court where an action relating to child support is pending or an order exists but is silent on the issue of child support. The clerk shall stamp the date of receipt of the copy of the order of default and shall assign the order a case number. The order of default shall have all the force, effect, and remedies of an order of the court, including, but not limited to, wage assignments issued prior to July 1, 1996, or income assignments issued thereafter or contempt of court. Execution may be issued on the order in the same manner and with the same effect as if it were an order of the court. In order to enforce a judgment based on an order issued pursuant to this article, the judgment creditor shall file with the court a verified entry of judgment specifying the period of time that the judgment covers and the total amount of the judgment for that period. Notwithstanding the provisions of this subsection (2), no court order for judgment nor verified entry of judgment shall be required in order for the county and state child support enforcement units to certify past-due amounts of child support to the internal revenue service or state department of revenue for purposes of intercepting a federal or state tax refund.

26-13.5-107. Orders - duration - effect of court determinations. (1) A copy of any order of financial responsibility or of any order of default or of any temporary order of financial responsibility issued by the delegate child support enforcement unit shall be sent by such unit by first-class mail to the obligor or his attorney of record and to the custodian of the child.

(2) Any order of financial responsibility, any order of default, and any temporary order of financial responsibility shall continue notwithstanding the fact that the child is no longer receiving benefits under the programs listed in section 26-13-102.5 (2) (a), unless the child is emancipated or is otherwise no longer entitled to support. Any order of financial responsibility, any order of default, and any temporary order of financial

responsibility shall continue until modified by administrative order or court order or by emancipation of the child. In the event that the order of financial responsibility, order of default, or temporary order of financial responsibility is entered in a case at a time when there is a court action on the same case, the court may credit a portion of a monthly amount paid under the administrative process order towards future payments due in the court case only if the order in the court case is established at a lower amount than the administrative process order and only to the extent of the difference between the amount of the court order and the amount of the administrative process order.

(3) Nothing contained in this article shall deprive a court of competent jurisdiction from determining the duty of support of an obligor against whom an administrative order is issued pursuant to this article. Such a determination by the court shall supersede the administrative order as to support payments due subsequent to the entry of the order by the court but shall not affect any arrearage which may have accrued under the administrative order.

26-13.5-108. Request for court hearing. (Repealed)

26-13.5-109. Notice of financial responsibility - issued in which county. A notice of financial responsibility may be issued by a delegate child support enforcement unit pursuant to this article in any county where public assistance was paid, the county where the obligor resides, the county where the obligee resides, or the county where the child resides as prescribed by rule and regulation pursuant to section 26-13.5-113.

26-13.5-110. Paternity - establishment - filing of order with court. (1) The delegate child support enforcement unit may issue an order establishing paternity of and financial responsibility for a child in the course of a support proceeding under this article when both parents sign sworn statements that the paternity of the child for whom support is sought has not been legally established and that the parents are the natural parents of the child and if neither parent is contesting the issue of paternity or may issue an order of default establishing paternity and financial responsibility in accordance with section 26-13.5-106. Prior to issuing an order under this section, the delegate child support enforcement unit shall advise both parents in writing as prescribed by rule and regulation promulgated pursuant to section 26-13.5-113 of their legal rights concerning the determination of paternity.

(2) A copy of the order establishing paternity and financial responsibility and the sworn statements of the parents and, in the case of a default order establishing paternity and financial responsibility, the obligee's verified affidavit regarding paternity and the

genetic test results, if any, shall be filed with the clerk of the district court in the county in which the notice of financial responsibility was issued or as otherwise provided in accordance with the provisions of section 26-13.5-105 (2). The order establishing paternity and financial responsibility shall have all the force, effect, and remedies of an order of the district court, and the order may be executed upon and enforced in the same manner as set forth in section 26-13.5-105 (2).

(3) If the order establishing paternity is at variance with the child's birth certificate, the delegate child support enforcement unit shall order that a new birth certificate be issued under section 19-4-124, C.R.S.

(4) Service of process to establish paternity and financial responsibility may be made under this article by certified mail as specified in section 26-13.5-104 or by any of the other methods of service specified in said section.

26-13.5-111. Establishment and enforcement of duties of support upon request of agency of another state. (Repealed)

26-13.5-112. Modification of an order. (1) At any time after the entry of an order of financial responsibility or an order of default under this article, in order to add, alter, or delete any provisions to such an order, the delegate child support enforcement unit may issue a notice of financial responsibility to the obligor and obligee advising the obligor and obligee of the possible modification of the existing administrative order issued pursuant to this article. The delegate child support enforcement unit shall serve the obligor and the obligee with a notice of financial responsibility by first-class mail or by electronic means if mutually agreed upon. The obligor or the obligee may file a written request for modification of an administrative order issued under this article with the delegate child support enforcement unit. If the delegate child support enforcement unit denies the request for modification based upon the failure to demonstrate a showing of changed circumstances required pursuant to section 14-10-122, C.R.S., the delegate child support enforcement unit shall advise the requesting party of the party's right to seek a modification pursuant to section 14-10-122, C.R.S.

(1.2) At any time after entry of an administrative order issued pursuant to this article, an obligor or obligee may file a written request for review of the order with the delegate child support enforcement unit. The written request for review shall include financial information of the requesting party necessary to conduct a calculation pursuant to the Colorado child support guidelines described in section 14-10-115, C.R.S. The requesting party shall provide his or her financial information on the form required by the division of child support enforcement. The delegate child support enforcement unit shall review each request received and grant or deny the request using the standards described

in section 26-13-121 (2) (a) or (2) (b).

(1.3) If there is an active assignment of rights, the delegate child support enforcement unit shall, once every thirty-six months, review the administrative order to determine if an adjustment of the administrative order is appropriate.

(1.4) If the request for review is granted or in case of an automatic review where there is an active assignment of rights, a notice of review shall be issued to the requesting and nonrequesting parties. In the case of a review in which there is an active assignment of rights, the obligor and obligee shall be considered nonrequesters. The notice of review shall advise the obligor and obligee that a review is to be conducted and provide the nonrequesters twenty days within which to provide the financial information necessary to calculate the child support obligation pursuant to the Colorado child support guidelines described in section 14-10-115, C.R.S.

(1.5) (a) The review of the administrative order shall be conducted on or before the thirtieth day after notice of review is sent to the parties. During the review, the determination of the monthly support obligation shall be based on the child support guidelines set forth in section 14-10-115, C.R.S. The delegate child support enforcement unit may grant a continuance of the review for good cause. The continuance shall be for a reasonable period of time to be determined by the delegate child support enforcement unit, not to exceed thirty days.

(b) In order to obtain information necessary to conduct the review, the delegate child support enforcement unit is authorized, pursuant to sections 26-13.5-103 (1) and 26-13-121 (3) (d), to serve, by first-class mail or by electronic means if mutually agreed upon, an administrative subpoena to any person, corporation, partnership, public employee retirement benefit plan, financial institution, labor union, or other entity to appear or for the production of records and financial documents.

(c) An adjustment to the administrative order shall be appropriate only if the standard set forth in section 14-10-122 (1) (b), C.R.S., is met.

(1.7) (a) After the review is completed, the delegate child support enforcement unit shall provide a post-review notice and child support guideline worksheet advising the obligor and obligee of the review results. If a review indicates that an adjustment should be made, a notice of financial responsibility and a proposed order of financial responsibility shall be included. The delegate child support enforcement unit shall provide all supporting financial documentation used to calculate the monthly support obligation to both parties. The notice of financial responsibility shall advise the parties of the right to challenge the post-review notice of the review results, the time frame for challenging the review results, and the method for asserting the challenge.

(b) The obligor and obligee shall be given fifteen days from the date of the post-review notice to challenge the review results. The grounds for the challenge shall be limited to the issue of mathematical or factual error in the calculation of the monthly support obligation. The delegate child support enforcement unit may grant an extension of

up to fifteen days to challenge the review results based upon a showing of good cause. Any challenge may be presented at the negotiation conference scheduled pursuant to section 26-13.5-103 via first-class mail or via an electronic communication method.

(c) The delegate child support enforcement unit shall have fifteen days from the date of receipt of the challenge to respond to a challenge based upon a mathematical or factual error. If a challenge results in a change to the monthly support obligation, the delegate child support enforcement unit shall provide an amended notice of review to the obligor and obligee. The parties shall be given fifteen days from the date of the amended notice of review to challenge the results of any subsequent review. The grounds for the challenge shall be limited to the issue of mathematical or factual error in the calculation of the monthly support obligation.

(1.9) (a) If the review indicates that a change to the monthly support obligation is appropriate and the review is not challenged or all challenges have been addressed, the delegate child support enforcement unit shall file the notice of financial responsibility, the order of financial responsibility accompanied by the guideline worksheet, and the supporting financial documentation with the court. When the order of financial responsibility is filed with the court, it shall be provided to the parties and shall contain an advisement that the parties have fifteen days from the date of filing to file a written objection to the order of financial responsibility with the court.

(b) If the delegate child support enforcement unit has filed an order of financial responsibility modifying the monthly support obligation and an objection has not been received by the court within fifteen days after the order is filed with the court, the order of financial responsibility shall become final. If an objection is received within the fifteen-day period, the court may affirm the order of financial responsibility as submitted, issue an order revising the monthly support obligation, or set the matter for a hearing. If a hearing is necessary, the court shall hold a hearing within forty-five days after the filing of the order of financial responsibility, and the court shall decide only the issues of child support and medical support. Any documentary evidence provided by the obligee or the obligor or by the delegate child support enforcement unit may be admitted into evidence by the court without the necessity of laying a foundation for its admissibility, and the court may determine the relative weight or credibility to give any such documentation.

(2) A request for modification made pursuant to this section shall not stay the delegate child support enforcement unit from enforcing and collecting upon the existing order pending the modification proceeding.

(3) Only payments accruing subsequent to the request for modification may be modified. Modification shall be based upon the standard set forth in section 14-10-122, C.R.S.

26-13.5-113. Rules and regulations. The state board shall adopt rules and

regulations establishing uniform forms and procedures to implement the administrative process set forth in this article and may adopt rules and regulations as may be necessary to carry out the provisions of this article.

26-13.5-114. Applicability of administrative procedure act. Except for the promulgation of rules and regulations as authorized in section 26-13.5-113, the provisions of this article shall not be subject to the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

26-13.5-115. Additional remedies. The remedies created by this article are in addition to and not in substitution for any other existing remedies authorized by law to establish and enforce the duty of support.

ARTICLE 15

Reform Act for the Provision of
Health Care for
the Medically Indigent

26-15-101 to 26-15-206. (Repealed)

ARTICLE 16

Program of All-inclusive Care for the Elderly

26-16-101 to 26-16-109. (Repealed)

ARTICLE 17

Children's Health Plan

26-17-101 to 26-17-115. (Repealed)

ARTICLE 18

Family Resource Center Program

26-18-101. Legislative declaration. (1) The general assembly hereby declares that Colorado needs healthy and cohesive families at all income levels in order for the state to be economically viable. A number of families in communities throughout Colorado temporarily may not have access to the basic necessities of life or to resources or services designed to promote individual development and family growth.

(2) The general assembly further declares that many of Colorado's vulnerable families, individuals, children, and youth do not necessarily live in at-risk neighborhoods. Such persons may not have appropriate resources or sufficient income for adequate housing, health care, or child care because the primary wage earners are unemployed, underemployed, or work at jobs that pay minimum wage or less. Further, many such persons not only live in poverty, but also experience divorce, domestic violence, or are single parents. Children and youth who are raised in vulnerable families experience an increased risk of being abused, being illiterate, being undereducated, dropping out of school, becoming teen parents, abusing drugs, and engaging in at-risk behaviors, including but not limited to criminal activities. Such children and youth are often influenced by and are likely to repeat behaviors that began with their parents.

(3) Therefore, the general assembly finds that it is appropriate to establish a program to provide family resource centers in communities to serve as a single point of entry for providing comprehensive, intensive, integrated, and collaborative state and community-based services to vulnerable families, individuals, children, and youth.

26-18-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "At-risk neighborhood" means an urban or rural neighborhood or community in which there are incidences of poverty, unemployment and underemployment, substance abuse, crime, school dropouts, illiteracy, teen pregnancies and teen parents, domestic violence, or other conditions that put families at risk.

(2) "Case management" means the process whereby a family advocate for the family resource center assesses a family's need for services in accordance with section 26-18-104 (2).

(3) "Community applicant" means any local entity interested and willing to commit private and public resources to establish a family resource center and which applies for a family resource center grant pursuant to section 26-18-105. "Community

applicant" includes, but is not limited to, any state or local governmental agency or governing body, a local private nonprofit agency, a local board of education on a cost-shared basis, a local recreational center, or a local child care agency.

(3.5) Repealed.

(4) "Family resource center" means a unified single point of entry where vulnerable families, individuals, children, and youth in communities or within at-risk neighborhoods or participants in Colorado works, pursuant to part 7 of article 2 of this title, can obtain information, assessment of needs, and referral to delivery of family services described in section 26-18-104 (2) and for which a grant is awarded to a community applicant in accordance with section 26-18-105.

(4.5) "Family support and parent education" means a program or service that promotes a family's positive and meaningful engagement in its children's lives by providing an experiential and supportive adult learning environment through which a primary caregiver can learn how to create a safe, stable, and supportive family unit.

(5) "Local advisory council" means the body that oversees the operation of the family resource center and which is described in section 26-18-105 (1) (b).

(6) Repealed.

(7) "State department" means the department of human services created in section 26-1-105.

26-18-103. State council created - powers and duties - report. (Repealed)

26-18-104. Program created. (1) (a) There is established in the prevention services division in the department of public health and environment a family resource center program. The purposes of the program are to provide grants to community applicants for the creation of family resource centers or to provide grants to family resource centers for the continued operation of the centers through which services for vulnerable families, individuals, children, and youth who live in communities or in at-risk neighborhoods are accessible and coordinated through a single point of entry.

(a.5) On July 1, 2013, the family resource center program is transferred to the department of human services. All program grants in existence as of July 1, 2013, shall continue to be valid through June 30, 2015, and may be continued after said date.

(b) The state department shall operate the family resource center program in accordance with the provisions of this article. In addition, the state department may establish any other procedures necessary to implement the program, including establishing the procedure for submitting grant applications by community applicants seeking to establish a family resource center or by a family resource center applying for a grant for continued operation of a family resource center.

(c) (I) The family resource center program may receive direct appropriations from the state general fund.

(II) Any moneys received by family resource centers pursuant to the temporary assistance for needy families block grant or from the family issues cash fund created in section 26-5.3-106 shall be from funds directly disbursed by a county at the discretion of the county.

(III) The state department may accept and expend any grants from any public or private source for the purpose of making grants to community applicants for the establishment or continued operation of family resource centers and for the purpose of evaluating the effectiveness of the family resource center program. This article does not prohibit a family resource center from accepting and expending funds received through an authorized contract, grants, or donations from public or private sources.

(2) (a) Services provided by a family resource center shall be coordinated and services should reflect the needs of the community and the resources available to support such programs and services. Services may be delivered directly to a family at the center by center staff or by providers who contract with or have provider agreements with the center. Any family resource center that provides direct services shall comply with applicable state and federal laws and regulations regarding the delivery of such services, unless required waivers or exemptions have been granted by the appropriate governing body.

(b) Each family resource center shall provide case management by a family advocate who screens and assesses a family's needs and strengths. The family advocate shall then assist the family with setting its own goals and, together with the family, develop a written plan to pursue the family's goals in working toward a greater level of self-reliance or in attaining self-sufficiency. The plan shall provide for the following:

(I) A negotiated agreement that includes reciprocal responsibilities of the individual or family members and the personnel of each human service agency providing services to the family;

(II) A commitment of resources as available and necessary to meet the family's plan;

(III) The delivery of applicable services to the individual or family, if feasible, or referral to an appropriate service provider;

(IV) The coordination of services;

(V) The monitoring of the progress of the family toward greater self-reliance or self-sufficiency and an evaluation of services provided; and

(VI) Assistance to the individual or family in applying for the children's basic health plan, medical assistance benefits, or other benefits.

(c) In addition to services required by paragraph (b) of this subsection (2), the family resource center may provide for the direct delivery of or referral to a provider of the following six services:

(I) Early childhood care and education, including programs that contribute to school readiness;

(II) Family support and parent education;

(III) Well child check-ups and basic health services;

(IV) Early intervention for identifying infants, toddlers, and preschoolers who are developmentally disabled in order to provide necessary services to such children;

(V) Before and after school care;

(VI) Programs for children and youth.

(d) A family resource center may also provide services, including, but not limited to, the following:

(I) Additional educational programs, such as mentoring programs for students in elementary, junior, and senior high schools; adult education and family literacy programs; and educational programs that link families with local schools and alternative educational programs, including links with boards of cooperative services;

(II) Job skills training and self-sufficiency programs for adults and youth;

(III) Social, health, mental health, and child welfare services and housing, homeless, food and nutrition, domestic violence support, recreation, and substance abuse services;

(IV) Outreach, education, and support programs, including programs aimed at preventing teen pregnancies and school dropouts and programs providing parent support and advocacy;

(V) Transportation services to obtain other services provided pursuant to this subsection (2).

(e) (Deleted by amendment, L. 2000, p. 583, § 4, effective May 18, 2000.)

26-18-105. Selection of centers - grants. (1) The state department may award a grant for the purpose of establishing a family resource center based on a plan submitted to the state department by the applicant or for the continued operation of a family resource center. The plan shall meet specific criteria which the state department is hereby authorized to set, but the criteria shall include at least the following provisions:

(a) That members of the community will participate in the development and implementation of the family resource center;

(b) That the center shall be governed by a local advisory council comprised of community representatives such as:

(I) Families living in the community;

(II) Local public or private service provider agencies;

(III) Local job skills training programs, if any;

(IV) Local governing bodies;

(V) Local businesses serving families in the community; and

(VI) Local professionals serving families in the community;

(c) That the advisory council shall establish rules concerning the operation of the family resource center, including provisions for staffing;

(d) That services provided by the family resource center shall be coordinated and tailored to the specific needs of individuals and families who live in the community;

(e) That the family resource center will:

(I) Promote and support, not supplant, successful individual and family functioning and increase the recognition of the importance of successful individuals and families in the community;

(II) Contribute to the strength of family ties;

(III) Establish programs that focus on the needs of family members, such as preschool programs, family preservation programs, and teenage pregnancy prevention programs, and assist the individual or family in moving toward greater self-sufficiency;

(IV) Recognize the diversity of families within the community;

(V) Support family stability and unity;

(VI) Treat families as partners in providing services;

(VII) Encourage intergovernmental cooperation and a community-based alliance between government and the private sector. Such cooperation may include but not be limited to the pooling of public and private funds available to state agencies upon appropriation or transfer by the general assembly.

(VIII) Provide programs that reduce institutional barriers related to categorical funding and eligibility requirements;

(IX) Make information regarding available resources and services readily accessible to individuals and families;

(X) Coordinate efforts of public and private entities to connect families to services and supports that encourage the development of early childhood and other family support systems; and

(f) That the family resource center shall coordinate the provision of services and shall pool the resources of providers of services to aid in funding and operating the center.

(2) Repealed.

(3) If the state department determines, from any report submitted by a local advisory council or any other source, that the operation of a family resource center is not in compliance with this article or any rule adopted pursuant to the provisions of this article, the state department may impose sanctions, including termination of the grant.

26-18-106. Repeal of article. (Repealed)

ARTICLE 19

Children's Basic Health Plan

26-19-101 to 26-19-113. (Repealed)

ARTICLE 20

Protection of Persons from Restraint

26-20-101. Short title. This article shall be known and may be cited as the "Protection of Persons from Restraint Act".

26-20-102. Definitions. As used in this article, unless the context otherwise requires:

(1) (a) "Agency" means:

(I) Any one of the principal departments of state government created in article 1 of title 24, C.R.S., or any division, section, unit, office, or agency within one of such principal departments of state government, except as excluded in paragraph (b) of this subsection (1);

(II) Any county, city and county, municipality, school district, or other political subdivision of the state or any department, division, section, unit, office, or agency of such county, city and county, municipality, school district, or other political subdivision of the state;

(III) Any public or private entity that has entered into a contract for services with an entity described in subparagraph (I) or (II) of this paragraph (a);

(IV) Any public or private entity licensed or certified by one of the entities described in subparagraph (I) or (II) of this paragraph (a);

(V) A person regulated pursuant to article 43 of title 12, C.R.S.

(b) "Agency" does not include:

(I) The department of corrections or any public or private entity that has entered into a contract for services with such department;

(II) Any law enforcement agency of the state or of a political subdivision of the state;

(III) A juvenile probation department or division authorized pursuant to section 19-2-204, C.R.S.;

(IV) Any county department of social services when engaged in performance of duties pursuant to part 3 of article 3 of title 19, C.R.S.

(2) "Chemical restraint" means giving an individual medication involuntarily for the purpose of restraining that individual; except that "chemical restraint" does not include the involuntary administration of medication pursuant to section 27-65-111 (5), C.R.S., or administration of medication for voluntary or life-saving medical procedures.

(3) "Emergency" means a serious, probable, imminent threat of bodily harm to self or others where there is the present ability to effect such bodily harm.

(4) "Mechanical restraint" means a physical device used to involuntarily restrict the movement of an individual or the movement or normal function of a portion of his or her body.

(5) "Physical restraint" means the use of bodily, physical force to involuntarily limit an individual's freedom of movement; except that "physical restraint" does not include the holding of a child by one adult for the purposes of calming or comforting the child.

(6) "Restraint" means any method or device used to involuntarily limit freedom of movement, including but not limited to bodily physical force, mechanical devices, or chemicals. "Restraint" includes a chemical restraint, a mechanical restraint, a physical restraint, and seclusion. "Restraint" does not include:

(a) The use of any form of restraint in a licensed or certified hospital when such use:

(I) Is in the context of providing medical or dental services that are provided with the consent of the individual or the individual's guardian; and

(II) Is in compliance with industry standards adopted by a nationally recognized accrediting body or the conditions of participation adopted for federal medicare and medicaid programs;

(b) The use of protective devices or adaptive devices for providing physical support, prevention of injury, or voluntary or life-saving medical procedures;

(c) The holding of an individual for less than five minutes by a staff person for protection of the individual or other persons;

(d) Placement of an inpatient or resident in his or her room for the night; or

(e) The use of time-out as may be defined by written policies, rules, or procedures of an agency.

(7) "Seclusion" means the placement of a person alone in a room from which egress is involuntarily prevented.

26-20-103. Basis for use of restraint. (1) Subject to the provisions of this article, an agency may only use restraint:

(a) In cases of emergency; and

(b) (I) After the failure of less restrictive alternatives; or

(II) After a determination that such alternatives would be inappropriate or ineffective under the circumstances.

(2) An agency that uses restraint pursuant to the provisions of subsection (1) of this section shall use such restraint:

(a) For the purpose of preventing the continuation or renewal of an emergency;

(b) For the period of time necessary to accomplish its purpose; and

(c) In the case of physical restraint, using no more force than is necessary to limit the individual's freedom of movement.

(3) In addition to the circumstances described in subsection (1) of this section, a facility, as defined in section 27-65-102 (7), C.R.S., that is designated by the executive director of the department of human services to provide treatment pursuant to section 27-65-105, 27-65-106, 27-65-107, or 27-65-109, C.R.S., to a person with mental illness, as defined in section 27-65-102 (14), C.R.S., may use seclusion to restrain a person with a mental illness when the seclusion is necessary to eliminate a continuous and serious disruption of the treatment environment.

(4) (a) The general assembly recognizes that skilled nursing and nursing care facilities that participate in federal medicaid programs are subject to federal statutes and regulations concerning the use of restraint in such facilities that afford protections from restraint in a manner consistent with the purposes and policies set forth in this article.

(b) If the use of restraint in skilled nursing and nursing care facilities licensed under state law is in accordance with the federal statutes and regulations governing the medicare program set forth in 42 U.S.C. sec. 1395i-3(c) and 42 CFR part 483, subpart B and the medicaid program set forth in 42 U.S.C. sec. 1396r(c) and 42 CFR part 483, subpart B and with the rules of the department of public health and environment relating to the licensing of these facilities, there shall be a conclusive presumption that such use of restraint is in accordance with the provisions of this article.

(5) (a) The general assembly recognizes that article 10.5 of title 27, C.R.S., and the rules promulgated pursuant to the authority set forth in that article, address the use of restraint on a person with a developmental disability.

(b) If any provision of this article concerning the use of restraint conflicts with any provision concerning the use of restraint stated in article 10.5 of title 27, C.R.S., or any regulation adopted pursuant thereto, the provision of article 10.5 of title 27, C.R.S., or the regulation adopted pursuant thereto shall prevail.

(6) The provisions of this article shall not apply to any agency while engaged in transporting a person from one facility or location to another facility or location when it is within the scope of that agency's powers and authority to effect such transportation.

26-20-104. Duties relating to use of restraint. (1) Notwithstanding the

provisions of section 26-20-103, an agency that uses restraint shall ensure that:

(a) At least every fifteen minutes, staff shall monitor any individual held in mechanical restraints to assure that the individual is properly positioned, that the individual's blood circulation is not restricted, that the individual's airway is not obstructed, and that the individual's other physical needs are met;

(b) No physical or mechanical restraint of an individual shall place excess pressure on the chest or back of that individual or inhibit or impede the individual's ability to breathe;

(c) During physical restraint of an individual, an agent or employee of the agency shall check to ensure that the breathing of the individual in such physical restraint is not compromised;

(d) A chemical restraint shall be given only on the order of a physician or an advanced practice nurse with prescriptive authority who has determined, either while present during the course of the emergency justifying the use of the chemical restraint or after telephone consultation with a registered nurse, licensed physician assistant, or other authorized staff person who is present at the time and site of the emergency and who has participated in the evaluation of the individual, that such form of restraint is the least restrictive, most appropriate alternative available. Nothing in this subsection (1) shall modify the requirements of section 26-20-102 (2) or 26-20-103 (3).

(e) An order for a chemical restraint, along with the reasons for its issuance, shall be recorded in writing at the time of its issuance;

(f) An order for a chemical restraint shall be signed at the time of its issuance by such physician if present at the time of the emergency;

(g) An order for a chemical restraint, if authorized by telephone, shall be transcribed and signed at the time of its issuance by an individual with the authority to accept telephone medication orders who is present at the time of the emergency;

(h) Staff trained in the administration of medication shall make notations in the record of the individual as to the effect of the chemical restraint and the individual's response to the chemical restraint.

(2) For individuals in mechanical restraints, agency staff shall provide relief periods, except when the individual is sleeping, of at least ten minutes as often as every two hours, so long as relief from the mechanical restraint is determined to be safe. During such relief periods, the staff shall ensure proper positioning of the individual and provide movement of limbs, as necessary. In addition, during such relief periods, staff shall provide assistance for use of appropriate toiletting methods, as necessary. The individual's dignity and safety shall be maintained during relief periods. Staff shall note in the record of the individual being restrained the relief periods granted.

(3) Relief periods from seclusion shall be provided for reasonable access to toilet facilities.

(4) An individual in physical restraint shall be released from such restraint within

fifteen minutes after the initiation of physical restraint, except when precluded for safety reasons.

26-20-105. Staff training. (1) All agencies shall ensure that staff utilizing restraint in facilities or programs are trained in the appropriate use of restraint.

(2) All agencies shall ensure that staff are trained to explain, where possible, the use of restraint to the individual who is to be restrained and to the individual's family if appropriate.

26-20-106. Documentation requirements. Each agency shall ensure that an appropriate notation of the use of restraint is documented in the record of the individual restrained. Each agency that is authorized to promulgate rules or adopt ordinances shall promulgate rules or adopt ordinances applicable to the agencies within their respective jurisdictions specifying the documentation requirements for purposes of this section.

26-20-107. Review of the use of restraint. Each agency shall ensure that a review process is established for the appropriate use of restraint.

26-20-108. Rules. Each agency that is authorized to promulgate rules or adopt ordinances shall promulgate rules or adopt ordinances applicable to the agencies within their respective jurisdictions that establish procedures for the use of restraint consistent with the provisions of this article. Any agency that has rules or ordinances in existence on April 22, 1999, is not required to promulgate additional rules or adopt additional ordinances unless that agency's existing rules or ordinances do not meet the minimum requirements of this article.

26-20-109. Limitations. (1) Nothing in this article shall be deemed to form an independent basis of statutory authority for the use of restraint.

(2) Nothing in this article shall be deemed to authorize an agency to implement policies, procedures, or standards or promulgate rules or adopt ordinances that would limit, decrease, or adversely impact any policies, procedures, standards, rules, or ordinances in effect on April 22, 1999, that provided greater protection concerning the use of restraint than is set forth in this article.

ARTICLE 21

Colorado Commission for the
Deaf and Hard of Hearing

26-21-101. Short title. This article shall be known and may be cited as the "Colorado Commission for the Deaf and Hard of Hearing Act".

26-21-102. Legislative declaration. The general assembly hereby finds, determines, and declares that a commission for the deaf and hard of hearing would facilitate the provision of general governmental services to the deaf and hard of hearing community while making government more efficient. Under the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101, Colorado has a duty to provide to the deaf and hard of hearing equivalent access to governmental services. This duty requires state departments and agencies to provide auxiliary services, telecommunications equipment, and other resources in order to enable access for the deaf and hard of hearing community. Centralizing and unifying such resources under a commission has the potential to create cost savings for both the state and the deaf and hard of hearing community. In addition, such consolidation of resources will facilitate quality control, and thus increase the quality of governmental services while increasing access by the deaf and hard of hearing community to those services.

26-21-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Administrator" means the person who is responsible for the overall management and development of the commission office and of programs included in the commission's statutory duties.

(2) "Auxiliary services" means qualified interpreters, communication access realtime translation providers, assistive listening devices or systems, and other effective methods of making spoken or written information available to deaf or hard of hearing individuals.

(3) "Commission" means the Colorado commission for the deaf and hard of hearing.

(4) "Fund" means the Colorado commission for the deaf and hard of hearing cash fund created in section 26-21-107.

(5) "Grant program" means the Colorado commission for the deaf and hard of hearing grant program created in section 26-21-107.5.

(6) "Late deafened" means a person whose hearing loss began in late childhood, adolescence, or adulthood, after the person acquired oral language skills.

(7) "State court system" means the system of courts, or any part thereof, established pursuant to articles 1 to 9 of title 13, C.R.S., and article VI of the state constitution. "State court system" shall not include the municipal courts or any part thereof.

(8) "Telecommunications" means the science and technology of transmitting voice, audio, facsimile, image, video, computer data, and multimedia information over significant distances by the use of electromagnetic energy in the form of electricity, radio, or fiber optics.

26-21-104. Commission created - appointments. (1) Effective July 1, 2000, there is hereby created the Colorado commission for the deaf and hard of hearing in the department of human services. The Colorado commission for the deaf and hard of hearing shall exercise its powers, duties, and functions under the department of human services as if it were transferred to said department by a **type 2** transfer under the provisions of the "Administrative Organization Act of 1968".

(2) The commission shall consist of seven members as follows:

(a) One member who is deaf;

(b) One member who is hard of hearing;

(c) One member who is a professional in the field of deafness;

(d) One member who is a parent of a deaf or hard of hearing person;

(e) One member who is late deafened;

(f) One member who is an interpreter for the deaf or hard of hearing and who is qualified to use at least one of the titles listed in section 6-1-707 (1) (e), C.R.S.; and

(g) One member who is a member of the public.

(3) (a) The governor, with the consent of the senate, shall appoint the commission members referenced in subsection (2) of this section. Beginning July 1, 2000, four of these commission members shall serve initial terms of four years, and three shall serve initial terms of six years. After the initial appointments of the commission members referenced in subsection (2) of this section, all subsequent appointees shall serve terms of four years.

(b) The governor shall appoint a qualified person to fill any vacancy on the commission for the remainder of any unexpired term.

(4) At least ninety days prior to the expiration of a member's term of office, the commission shall create a list of nominees. The nominees' names shall be submitted to the governor at least forty-five days prior to the expiration of the preceding term for which the nominees are being considered. If the governor approves the nominees, the governor shall appoint one of the nominees for each open position within ninety days after the date of each vacancy; otherwise, the governor shall appoint qualified persons in consultation with the commission.

26-21-105. Procedures of the commission. (1) The executive director of the department of human services or his or her designee shall appoint the administrator of the

Colorado commission for the deaf and hard of hearing. The members of the commission may interview candidates for administrator and provide comment and input to the executive director on the hiring of a candidate.

(2) (a) The commission shall convene for its first meeting no later than September 1, 2000. At the first meeting, a chair shall be elected by the commission.

(b) The commission may adopt such policies as are necessary to facilitate orderly conduct of its business.

(c) The commission shall meet at least quarterly. Meetings shall also be held on call of the chair or at the request of at least three members of the commission.

(d) The commission shall adopt no official position, recommendation, or action except by the concurrence of a majority of the members.

(e) The commission shall encourage development and coordination of public and private agencies that provide assistance to deaf and hard of hearing citizens.

(3) and (4) (Deleted by amendment, L. 2009, (SB 09-144), ch. 219, p. 987, § 4, effective August 5, 2009.)

26-21-106. Powers, functions, and duties of the commission - equipment distribution program. (1) The powers, functions, and duties of the commission shall include, but not be limited to, the following:

(a) The commission shall serve as a liaison between the deaf and hard of hearing community and the general assembly, governor, and Colorado departments and agencies.

(b) The commission shall serve as an informational resource to the state, the deaf and hard of hearing community, private agencies, and other entities.

(c) The commission shall serve as a referral agency for the deaf and hard of hearing community to the state agencies and institutions providing services to the community, local agencies of government, private agencies, and other entities.

(d) The commission shall assess how technology has affected the needs of the deaf and hard of hearing community. The commission shall assess the type and amount of equipment needed by low-income deaf and hard of hearing persons in order to reasonably interact with society.

(e) The commission shall assess the needs of the deaf and hard of hearing community and recommend to the general assembly any legislation that may facilitate and streamline the provision of general governmental services to the deaf and hard of hearing community. The commission shall consider the following:

(I) Implementing the commission as a statewide coordinating agency that advocates for deaf and hard of hearing citizens of Colorado;

(II) Any methods, programs, or policies that may improve communication accessibility and quality of existing services, promote or deliver necessary new services, and assist state agencies in the delivery of services to the deaf and hard of hearing;

(III) Any methods, programs, or policies that may make providing access to governmental services more efficient;

(IV) Any methods, programs, or policies that may improve implementation of state policies affecting the deaf and hard of hearing community and their relationship with the general public, industry, health care, and educational institutions.

(2) The commission shall consider the findings of any study authorized under this section and may approve, disapprove, or amend such findings. Upon approval of the findings, the commission shall submit a report with recommendations including proposed legislation, if necessary, to the governor and to the general assembly.

(3) The commission shall establish a telecommunications equipment distribution program that is consistent with the findings of subsection (1) of this section to obtain and distribute interactive telecommunications equipment needed by deaf and hard of hearing persons.

(4) The commission, in collaboration with the judicial department, shall arrange for auxiliary services for the state court system, and establish, monitor, coordinate, and publish a list of available resources regarding communication accessibility for persons who are deaf or hard of hearing.

(5) Arranging auxiliary services for the state court system includes, but is not limited to:

(a) Coordinating statewide and day-to-day scheduling of auxiliary services for the proceedings as defined by statute;

(b) Creating and managing a process by which requests from the state court system for auxiliary services may be filled;

(c) Identifying, coordinating, and placing the appropriate auxiliary services with all concerned parties;

(d) Coordinating the purchase, shipment, and receipt of assistive listening devices and systems pursuant to applicable state rules;

(e) Creating and managing efficient and consistent processes through which auxiliary service providers may submit required documentation and receive payment for services; and

(f) Communicating among auxiliary service users and providers and the state court system to resolve any issues that may arise.

(6) The commission shall establish and maintain an active system navigator specialist for technical assistance to improve and ensure equivalent access to auxiliary services by critical state and local government agencies, private agencies, and other entities and to increase awareness of the programs for and rights of deaf and hard of hearing individuals from moneys appropriated by the general assembly from the Colorado disabled telephone users fund established pursuant to section 40-17-104, C.R.S.

(7) The system navigator specialist for technical assistance shall perform the following duties:

(a) Respond to and assist individuals who have encountered barriers in obtaining accommodation and access in their efforts to receive necessary auxiliary services;

(b) Assist individuals in understanding and accessing auxiliary services that may be available to them;

(c) Ensure that state agencies and private entities are equipped to provide accommodations to deaf and hard of hearing individuals;

(d) Increase public awareness of the needs and issues facing deaf and hard of hearing individuals; and

(e) Develop and maintain a comprehensive resource directory of auxiliary services and programs that may be of use to deaf and hard of hearing citizens and to agencies that serve them.

26-21-107. Colorado commission for the deaf and hard of hearing cash fund - creation - gifts, grants, and donations - reimbursement. (1) There is hereby created in the state treasury the Colorado commission for the deaf and hard of hearing cash fund, and all moneys credited to the fund shall be used exclusively for the administration and discharge of this article. All moneys credited to the fund and any interest earned on the fund shall remain in the fund and shall not revert to the general fund or any other fund at the end of any fiscal year.

(2) The commission, subject to spending authority granted by the general assembly, is authorized to receive and expend gifts, grants, and donations from individuals, private organizations, foundations, or any governmental unit; except that no gift, grant, or donation may be accepted by the commission if it is subject to conditions that are inconsistent with this article or any other law of this state.

(3) Commission members shall be reimbursed for actual and necessary expenses incurred in the discharge of their official duties, including an allowance for mileage as provided in section 24-9-104 (2), C.R.S. The commission may establish a standardized per diem designed to cover the actual expenses of the members pursuant to this subsection (3).

26-21-107.5. Colorado commission for the deaf and hard of hearing grant program - creation - standards - applications - definitions. (1) The Colorado commission for the deaf and hard of hearing grant program is hereby established to provide funding for entities to address the needs of Colorado's deaf and hard of hearing community.

(2) (a) The Colorado commission for the deaf and hard of hearing grant program subcommittee appointed pursuant to section 26-21-107.7 shall administer the grant program as provided in section 26-21-107.7.

(b) The commission shall pay the grants awarded through the grant program from moneys appropriated by the general assembly.

(c) Beginning in the 2009-10 fiscal year, and for each fiscal year thereafter subject to available moneys, the general assembly shall appropriate to the commission no more than fifty thousand dollars annually to administer the grant program.

(3) The state department shall adopt rules addressing timelines and guidelines for the grant program and establishing criteria for approving or disapproving grant applications.

(4) An entity seeking to provide services to deaf or hard of hearing persons or to enhance existing deaf or hard of hearing programs may apply for a grant through the grant program.

(5) For purposes of this section, "entity" means a local government, state agency, state-operated program, or private nonprofit or not-for-profit community-based organization.

(6) Grants shall be awarded as provided in section 26-21-107.7 (3) and in compliance with applicable state rules.

(7) Grantees shall comply with reporting requirements established by the commission.

26-21-107.7. Colorado commission for the deaf and hard of hearing grant program subcommittee - members - duties - fund - creation. (1) (a) There is hereby created the Colorado commission for the deaf and hard of hearing grant program subcommittee, referred to in this section as the "subcommittee", consisting of five members, for the purpose of recommending to the commission approval or disapproval of applications for the grant program. The commission shall appoint four members to the subcommittee as follows:

(I) One person who has knowledge and awareness of the issues faced by deaf persons;

(II) One person who has knowledge and awareness of the issues faced by hard of hearing persons; and

(III) Two representatives from the deaf and hard of hearing community.

(b) In addition to the appointed subcommittee members, the administrator of the commission shall serve as an ex-officio member of the subcommittee.

(c) In appointing members to the subcommittee, the commission shall choose persons who have knowledge and awareness of innovative strategies that address challenges faced by the deaf and hard of hearing community.

(d) The appointed members of the subcommittee shall serve three-year terms; except that, of the members first appointed, one of the members shall serve a two-year term and two of the members shall serve one-year terms. The commission shall choose

those members who shall serve the initial shortened terms. If a vacancy arises in one of the appointed positions, the commission shall fill the vacancy and appoint a replacement to fill the vacancy for the remainder of the term.

(e) Members of the subcommittee shall serve without compensation but shall be reimbursed out of available appropriations for all actual and necessary expenses incurred in the performance of their duties.

(f) The subcommittee may meet via telecommunications when necessary.

(2) The subcommittee shall review all applications received pursuant to section 26-21-107.5. Based on criteria established by the commission, the subcommittee shall recommend to the commission those applications to approve, with recommended grant amounts, and those to disapprove.

(3) The commission shall review and may follow the recommendations of the subcommittee for approval or disapproval of applications for the grant program and for grant amounts. If the commission disagrees with the recommendations of the subcommittee, the executive director of the department shall have final decision-making authority to approve or disapprove the applications and to set the grant amounts.

26-21-108. Repeal of article - sunset review. (1) This article is repealed, effective July 1, 2015.

(2) Prior to such repeal, the commission shall be reviewed as provided for in section 24-34-104, C.R.S.

ARTICLE 22

Integrated System of Care
Family Advocacy Demonstration Programs for
Mental Health Juvenile Justice Populations

26-22-101 to 26-22-106. (Repealed)