

RECOMMENDATIONS FOR 2001

FOSTER CARE INTERIM COMMITTEE

**Report to the
Colorado General Assembly**

**Research Publication No. 480
December 2000**

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December 2000

To Members of the Sixty-second General Assembly:

Submitted herewith is the final report of the Foster Care Interim Committee. This committee was created pursuant to an Interim Study Resolution approved by the Executive Committee of the Legislative Council on June 1, 2000. The committee was established to thoroughly examine the foster care system in Colorado and to develop any legislative or regulatory changes necessary to improve the system.

At its meeting on October 16, 2000, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2001 session was approved.

Respectfully submitted,

/s/ Representative Doug Dean
Chairman
Legislative Council

DD/JLC/jh

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FOSTER CARE INTERIM COMMITTEE

Members of the Committee

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EXECUTIVE SUMMARY

Committee Charge

Pursuant to an Interim Study Resolution approved by the Executive Committee of the Legislative Council, the Foster Care Interim Committee was charged with thoroughly examining the foster care system in Colorado and developing any legislative and regulatory changes necessary to improve the system. The resolution is appended in this report as Appendix A.

Committee Activities

The Foster Care Interim Committee met three times to discuss foster care issues raised by a series of *Denver Post* articles. The articles revealed that a number of children have died or been victims of abuse while in foster care. As a result, the committee focused its studies on foster children's safety and the quality of care they receive. Testimony indicated that a majority of foster parents are competent care givers, but some foster parents may not be as fit to properly care for children. The committee found that some foster parents have criminal histories, are mentally ill, or have violated foster care licensing or certification standards. However, foster parents who commit violations of these standards may continue to find work with other child placement agencies (CPAs) or county foster homes because there is a lack of communication between these entities. Other safety issues which were brought to the committee's attention were the lack of training for foster parents and the large number of children who are allowed to reside in one foster home. Currently, the law does not include initial or ongoing training requirements for potential or existing foster parents, and there are no restrictions on the number of children that may reside in each foster home. Additional testimony raised concerns that in some cases children are taken from their homes without just cause and, in other cases children should be placed with other relatives instead of in a foster care home.

Committee members also discussed the authority of the Department of Human Services (DHS) and the respective roles of county departments of social services and CPAs. Colorado is one of a few states that has a state-supervised/county-administered foster care system. Although such a system has increased the county's role in administering foster care, it has also diminished the state's authority to intervene when necessary. For example, the state cannot close a CPA foster home if the CPA or a county disagrees with the state's determination that the home poses a health or safety threat to the children. Only a CPA or a county department of social services has the authority to close a home. Other issues which were brought to the committee's attention included oversight of CPAs, reimbursements to foster homes, and licensing of foster homes. Testimony indicated that CPAs are somewhat self-regulated, able to certify their own foster homes, and allowed broad discretion on how they spend their funding. In addition, concerns exist regarding the differences between the state reimbursement that county foster homes receive versus the amount that CPAs receive.

In general, county foster homes currently receive less money per child than CPA homes. Finally, the state currently issues permanent licenses to foster care homes. Witnesses explained that licensing without periodic renewal makes it difficult to ensure that foster homes are maintaining sufficient standards for the safety and well-being of children in their care.

Committee Recommendations

As a result of committee discussion and deliberation, the committee recommends nine bills for consideration in the 2001 legislative session.

Bill A — Additional Responsibilities of the Child Care Commission to Study Issues Related to Foster Care. Bill A adds the study of foster care issues to duties of the Child Care Commission. The Commission was created in the 2000 legislative session to study the issues impacting child care in Colorado.

Bill B — Procedures Related to Foster Care. Bill B modifies current child abuse reporting procedures to include specific provisions for foster children. A state department or agency, a county department of social services, or a local law enforcement agency that receives a report of abuse of a foster child must prepare a written report within 48 hours. Foster parents and employees of child placement agencies are added to those who are required to report child abuse or neglect.

Bill C — Regulatory Oversight of Foster Care. Bill C requires the Department of Human Services to establish accreditation standards to improve the quality of care in foster homes. Foster care homes will be required to be accredited by counties or by child placement agencies. Child placement agencies are required to have an annual independent performance and financial audit at their own expense. The State Auditor's Office is required to conduct a follow-up audit of the state foster care program by December 1, 2002.

Bill D — Creation of the Position of Family Advocate Within Each County Department of Social Services. Bill D creates a family advocate position within each county department of social services. The family advocate may approve or overrule county department discretionary decisions in dependency and neglect and protective custody cases.

Bill E — Expenses Associated with the Provision of Foster Care Services. Bill E creates requirements to help counties and the state assess the expenditures associated with providing foster care services by CPAs. The counties and the Department of Human Services must evaluate the reported expenses and compare them to county foster care expenditures. Based on this analysis, the State Board of Human Services will promulgate rules that establish guidelines for setting rates for child placement agencies.

Bill F — Limitations on the Number of Children Placed in a Foster Care Home.

Bill F establishes limits on the number of foster children that can reside in a home at any given time. No more than six children, of whom four may be foster children, may reside in a foster home. Sibling groups are excepted from this limit.

Bill G — Provision of Foster Care Services. Bill G contains a number of provisions affecting foster care. Among these are expansion of the list of offenses that disqualify persons from operating a child care agency or facility. In addition, all adults who reside in a foster home must pass a criminal background check. The bill also expands the Department of Human Services' authority to immediately remove a child in danger and allows the Department to deny, suspend, revoke or make probationary the license of any applicant who is the subject of a pending investigation.

Bill H — Periodic Approval of Certain Child Care Entities. Bill H directs the Board of Human Services to promulgate rules requiring the annual recertification or relicensing of foster care homes. Licenses for child placement agencies that certify foster care homes must be renewed annually.

Bill I — Provision of Publicly-funded Services for Children in Out-of-home Placements. Bill I contains a number of provisions affecting foster care including instructing the Department of Human Services to promulgate rules to allow county departments of social services to retain cost savings from child welfare allocations. In addition, the Department must prescribe standards for training foster parents. The Department is also authorized to retain up to two percent of the appropriation for foster care for a grant program to county departments of social services.

AUTHORITY AND RESPONSIBILITIES

The Foster Care Interim Committee was created by an Interim Study Resolution approved by the Executive Committee of the Legislative Council on June 1, 2000. Pursuant to the resolution, the nine member committee was assigned the following duties:

- receive testimony from the Department of Human Services, individuals, private foster care placement agencies, and any other person or entity deemed appropriate by the committee related to the current foster care situation;
- evaluate issues facing children in foster care;
- evaluate issues facing foster care providers, including caretakers for foster children and the companies that provide placement services for these children;
- study and evaluate the overall effectiveness of DHS and county departments of social services as they relate to the foster care system;
- study and evaluate the overall effectiveness of private foster care placement agencies and the regulation thereof; and
- develop any legislative and regulatory changes necessary to improve Colorado's foster care system for the children in foster care, the caretakers of these children, and the placement agencies.

COMMITTEE ACTIVITIES

Background

In May of 2000, the *Denver Post* ran a series of articles that pointed to possible problems with the structure and operation of Colorado's foster care system. In an effort to examine these issues more thoroughly, the Executive Committee of the Legislative Council authorized an interim committee to look at all aspects of the state system and try to come up with any necessary solutions. During the 2000 interim, the Foster Care Interim Committee received testimony addressing child safety, the structure of Colorado's state-supervised and county-administered foster care system, and the oversight and monitoring of child placement agencies.

Child Safety

Scope of issue. Of greatest concern to members of the committee were allegations raised by the *Denver Post*, foster parents, and parents of children in foster care that foster children were at risk for abuse and neglect in their foster home either at the hands of the foster parent or by another resident of the home. In one extreme case, a foster father killed a two-year-old foster child when he threw the child to the floor. In addition, there were concerns for the safety of biological or adopted children in the foster home who might be at risk for abuse by the foster child. The following safety issues were addressed by the committee.

Information sharing. Current law requires an applicant for certification as a foster parent to provide the child placement agency or county department of social services with a list of all prior child placement agencies and counties with which the applicant has been employed. However, the law does not require that such information be shared between entities in the event a home closes and seeks certification somewhere else. In some of the cases, problem foster parents simply moved from one agency to another when concerns about their performance would have otherwise made them ineligible. Bill G will require disclosure to help prevent such "agency hopping."

Certification and licensure. Colorado law gives the state the authority to prescribe and publish standards for licensure and certification of foster homes. In addition, child placement agencies and county departments require 12 hours of precertification training and 20 hours of on-going training including things like first aid and CPR. Current law does not contain language concerning any type of training. Bill C will require the Department of Human Services to develop and implement an accreditation process and training standards for counties and child placement agencies.

Each child placement agency has its own application, but every application must include a place to list all previous certifying authorities. The state Department of Human Services provides counties a standard application which also includes a place to list all

previous certifying authorities. On both applications, applicants must sign a provision that they understand that providing false information is considered perjury.

In 1994 state law changed to allow for "permanent" licenses for all child care facilities, including family foster homes. There were a number of reasons for that change in policy, including discussions with the Audit Committee about how to more effectively utilize a severely understaffed state Child Care Licensing Division. Instead of spending time on licensing renewal inspection on all facilities, the majority of which were in compliance with regulations, the division was directed to focus on the smaller percentage of facilities that were considered a higher risk. Bill H will require annual recertification or relicensing of foster homes as well as annual renewals of CPA licenses.

Background checks. A background check from the Colorado Bureau of Investigation is currently required for all foster parent applicants. For individuals applying to be a county foster home provider, a background check is required for anyone 18 years of age or older living in the home. An FBI check is required for individuals who have not lived in Colorado for the previous 24 months. A check of the Central Registry for Child Protection is also required for all family members and any other persons living in the home. A county is not allowed to place a child in the home until the CBI/FBI check is completed and reviewed. Bill G will require a criminal background check for all individuals over the age of 18 living in CPA certified foster homes.

Colorado law lists convictions that *exclude* individuals from being licensed or certified as child care providers, including family foster homes or kinship homes. Such convictions include a violent crime, child abuse, domestic violence, or unlawful sexual behavior. There are also convictions that *may* be used by the state, county, or child placement agency to deny or revoke a license or certification including any felony, third degree assault, or insanity or mental incompetence. Bill G will also expand the list of offenses that would disqualify a person from operating a child care agency or facility.

Reporting abuse. Some concern was expressed regarding the communication between county departments of social services and local law enforcement in reporting abuse of foster children. Testimony indicated that there was fear that county departments were removing children unnecessarily from their homes in response to allegations of abuse or neglect. Current Colorado law requires reporting of known or suspected child abuse to the county department of social services or local law enforcement, which may or may not result in a child being removed from the home. Bill B will specifically reference foster children in the section of law that currently requires the reporting of child abuse. In addition, Bill D will create a position of family advocate in each county department of social services.

Number of foster children in a home. Current Department of Human Services rules allow up to four foster children to reside in the same home. That number may be exceeded if the foster children are siblings. No more than eight children, including the foster family's biological children, may live in a foster home. There are no guidelines for placement of children with special needs. Bill F will limit the number of children in a foster home to six, of whom four may be foster children.

State-Supervised/County-Administered System

Scope of issue. Colorado is one of only a handful of states with a state-supervised, county-administered foster care system. Many questions were raised regarding oversight and monitoring of both county departments and child placement agencies by the state, and particularly the accountability of the Department of Human Services within such a system. There were concerns that the state had done little or nothing to punish the businesses and families that had abused the system.

The state Department of Human Services is responsible for promulgating rules for licensing of child placement agencies and for CPA's certification of child placement foster homes. The Department is also required to promulgate rules for county department certification of county foster homes and to conduct child specific record reviews and administrative reviews. While CPAs have the ability to take immediate action against a specific foster home provider through terminating a contract, the state and the counties must provide a due process hearing prior to terminating a foster parent's contract. Bill G will expand the state's authority to take more immediate action against problem families, while still protecting the foster family's right to a due process hearing.

Quality of care. Under new federal child welfare rules, all states are now accountable for producing positive outcomes in child safety, permanency, and well being. Part of this oversight will be through the Child and Family Services Reviews, involving comprehensive reviews of state data and site visits. States will be required to meet stringent national standards, to address deficiencies by means of program improvement plans and will be subject to financial penalties for non-compliance. Bill C will require the state to establish accreditation standards and training requirements for counties and CPAs who certify foster homes. Such standards will help the state meet new federal requirements.

Oversight and Monitoring of Child Placement Agencies

Scope of issue. Many questions regarding the safety of children in foster care focused on the oversight and monitoring of child placement agencies. While the state provides minimum standards regarding child health and safety as well as staff qualifications, the committee had concerns about how well such regulations protect foster children. In some instances, there were questions about possible conflicts of interest in the management of CPAs, particularly in cases where family members and paid staff served on the board of directors of the agency. Concerns were also raised about the sometimes high salaries of executive directors of CPAs; and in particular whether the money for those salaries came from moneys earmarked for the care of foster children.

State authority. Child placement agencies are currently required to be licensed by the Colorado Department of Human Services, Division of Child Care. A CPA has the right under state law to be licensed as a business if the agency meets the licensing requirements. Once they have met these requirements, CPAs are authorized to certify foster homes.

The division requires an original licensing investigation for new child placement agencies that includes a review of required policies and procedures, the CPA's pre-licensing training plan and on-going training plan, staff qualifications, and the CPA's budget. CPAs are also subject to annual and bi-annual supervisory visits of county agencies as well as complaint investigations and rapid response investigations by the state. The state does not currently have authority to determine how a child placement agency may be managed or how money is spent. Bill C will require child placement agencies to undergo annual independent performance and financial audits at the CPA's expense. A second proposal, Bill E will allow the Department to promulgate rules to establish guidelines for setting rates for child placement agencies. In addition, Bill G will prohibit licensing of any child placement agency in which a member of the board of directors is either related to or serves as an officer, executive, or employee of the same agency.

SUMMARY OF RECOMMENDATIONS

As a result of the committee's activities, the following bills are recommended to the Colorado General Assembly.

Bill A — Concerning the Additional Responsibilities of the Child Care Commission to Study Issues Related to Foster Care

Bill A creates additional responsibilities of the Child Care Commission to study foster care issues. The duties of the Commission are expanded to include the study of:

- performance standards for foster care homes;
- accreditation standards for CPAs that certify foster care homes;
- the role of CPAs within the foster care system;
- the role of county departments of social services within the foster care system; and
- the needs of foster care children and how to best meet those needs through the foster care system.

Bill B — Concerning Procedures Related to Foster Care

Bill B modifies child abuse reporting procedures to include specific provisions for foster children. A department or agency that receives an oral report of abuse of a foster child must prepare a written report within 48 hours. If the oral report is received by the county department of social services, the department must forward a written report within 48 hours to the district attorney's office and the local law enforcement agency. If the oral report is received by the local law enforcement agency, the agency must forward a written report within 48 hours to the district attorney's office and the county department of social services. Foster parents and officers and employees of CPAs are added to the list of persons who are required to report child abuse or neglect. Local law enforcement agencies are required to coordinate and investigate all reports of child abuse or neglect of a child in foster care.

Bill C — Concerning Regulatory Oversight of Foster Care

Bill C requires foster care providers to adhere to accreditation standards to improve the quality of care in foster homes. The state Board of Human Services is directed to adopt rules establishing accreditation standards. Each county department must enter into an accreditation contract with the state board. Failure of the county to meet the standards, goals, and requirements in the accreditation contract may result in sanctions such as state administration of foster care. Foster care homes must be accredited by either a county department or a licensed CPA. Any foster care home seeking accreditation must submit a

list of all CPAs or county departments which previously certified or accredited the applicant so that a reference check may be performed. Child placement agencies licensed to certify foster care homes are required to have an annual independent performance and financial audit at their own expense. The State Auditor's Office is required to conduct an audit of the state foster care program.

Bill D — Concerning the Creation of the Position of Family Advocate Within Each County Department of Social Services

Bill D creates a family advocate position within each county department of social services. The family advocate is authorized to approve or overrule county department discretionary decisions in dependency and neglect and protective custody cases. The bill provides that in the event of a conflict between the decisions of a county department and the family advocate, the matter be referred to the county department director for resolution.

Bill E — Concerning Expenses Associated with the Provision of Foster Care Services

Bill E creates requirements to help assess the expenditures associated with providing foster care services by CPAs. Any county department of social services that negotiates rates, services, and outcomes with CPAs must include in every contract a requirement that the CPA submit an itemized list of expenses associated with the provision of foster care services. The counties and the state Department of Human Services must evaluate the reported expenses and compare them to county foster care expenditures. Based upon the analysis and other information, the state Board of Human Services will promulgate rules setting forth minimal guidelines which must be used by counties in setting rates for CPAs providing foster care services.

Bill F — Concerning Limitations on the Number of Children Placed in a Foster Care Home

Bill F limits the number of children that can reside in a foster care home at any given time. It specifies that homes cannot care for more than six children; no more than four of which are foster children. Sibling groups are an exception. A foster care home can care for up to five foster children if at least three of them are siblings. Only two children in any foster care home can be under the age of two years.

Bill G — Concerning the Provision of Foster Care Services

Bill G contains a number of provisions affecting foster care. The Department of Human Services must deny or revoke a license sought by or previously issued to a CPA if any officer, executive or employee of the CPA is related to or serves as a member of its board of directors. Adults residing in foster homes are added to the list of individuals who

must meet criminal background check requirements. The bill expands the list of offenses which disqualify persons from obtaining a license or certificate to operate a child care agency or facility. The Department is permitted to immediately remove a child from a foster care home if it finds that the child is subject to an immediate threat to his/her safety and welfare. Complaints involving CPAs must be monitored and tracked by the Department. The Department may deny, suspend, revoke, or make probationary the license of any applicant who is the subject of a pending investigation that may result in a negative licensing action. If a county department has substantiated evidence that a CPA has violated licensing laws or rules, the department must communicate the information to all other county departments and to the state Department.

Bill H — Concerning Periodic Approval of Certain Child Care Entities

Bill H directs the state Board of Human Services to promulgate rules requiring the annual recertification or relicensing of foster care homes. Any CPA or foster care home license or certificate existing prior to July 1, 2002, will expire on that date. Persons who hold a license or certificate and who wish to renew it must file an application for a new license or certificate prior to July 1, 2002. Licenses for CPAs that certify foster care homes must be renewed annually.

Bill I — Concerning the Provision of Publicly Funded Services for Children in Out-of-Home Placements

Bill I contains a number of provisions affecting foster care. The Department of Human Services is authorized to retain up to two percent of the total annual appropriation for foster care to administer a grant program to county departments of social services. The state Department is directed to promulgate rules allowing county departments to retain cost savings from child welfare allocations. Counties are permitted to apply these cost savings toward up to 25 percent of the county share of child welfare costs. The Department is directed to establish standards for the training of foster care parents. These standards must include a minimum of thirty hours of initial training, 12 hours per year of continued training, and 24 additional hours of annual training for therapeutic foster homes. Child placement agencies are permitted to choose to place or arrange for placement of a child in the home of a relative as a preference over placement in a foster care home. The child must be related to the owner or to a tenant of the home, and the relative must pass a criminal background check.

RESOURCE MATERIALS

The resource materials listed below were provided to the committee or developed by Legislative Council staff during the course of the meetings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver. For a limited time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

www.state.co.us/gov_dir/leg_dir/lcsstaff/2000/00interim.

Meeting Summaries	Topics Discussed
June 26, 2000	Foster Children Issues State Supervised/County Administered System County-supervised and CPA-supervised Foster Homes Oversight
July 10, 2000	Oversight Foster Care Parents CPA-Supervised Foster Homes Public Testimony
August 7, 2000	CPAs in Other States DHS Recommendations for Administrative, Regulatory and Legislative Changes Proposed Legislation

Memoranda and Reports

And How are the Children: The Final Report of the Governor's Task Force on Child Welfare, January 2000.

Legislative History of Foster Care - 1990 through 2000, Sunny Kristin, Office of Legislative Legal Services, June, 2000.

Colorado Foster Care Studies, Legislative Council Staff, July, 2000.

Child Welfare - Foster Care, Dave Barba, State Auditor.

Funds Appropriated for Department of Human Services Field Staff, Carolyn Kampman, Joint Budget Committee Staff, August 2000.

Allocation of Funds Appropriated for Child Welfare Services, Carolyn Kampman, Joint Budget Committee Staff, August 2000.

Oversight of Private Child Placement Agencies in Other States, Steve Christian, National Conference of State Legislatures, August, 2000.

Bill A

HOUSE SPONSORSHIP

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Linkhart

A BILL FOR AN ACT

CONCERNING THE ADDITIONAL RESPONSIBILITIES OF THE CHILD CARE
COMMISSION TO STUDY ISSUES RELATED TO FOSTER CARE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Foster Care. Creates an additional responsibility of the child care commission to study issues related to foster care.

Expands the duties of the child care commission to include the study of the following:

- ! Performance standards for foster care homes;
 - ! Accreditation standards for child placement agencies that certify foster care homes;
 - ! The role of child placement agencies within the foster care system;
 - ! The role of county departments of social services within the foster care system; and
 - ! The needs of foster care children and how to best meet those needs through the foster care system.
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Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 26-6-302, Colorado Revised Statutes, is amended to read:

26-6-302. Legislative declaration. (1) (a) The general assembly hereby finds that the future of Colorado children is of primary concern to the citizens of this state and that the quality of care provided to these young children is an integral component in the development of happy, functional, and contributing adults. However, the general assembly has learned that the safety and quality of available child care is at issue in Colorado. Reports ON CHILD CARE LICENSING by the state auditor's office released in April of 1995 and in August of 1998 have identified several areas in which the safety and quality of child care in Colorado has been compromised. IN ADDITION, A REPORT ON CHILD WELFARE BY THE STATE AUDITOR'S OFFICE IN AUGUST OF 1998, IDENTIFIED PROBLEMS WITH THE STATE FOSTER CARE SYSTEM AND INVESTIGATIONS CONDUCTED BY A LOCAL METROPOLITAN NEWSPAPER IN MAY OF 2000, SPECIFICALLY IDENTIFIED SERIOUS THREATS TO CHILDREN'S HEALTH AND SAFETY IN THE COLORADO FOSTER CARE SYSTEM.

(b) The general assembly further finds that, based upon the evidence presented to the interim committee on child care established pursuant to SJR 99-034 AND THE INTERIM COMMITTEE ON FOSTER CARE ESTABLISHED PURSUANT TO THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL INTERIM STUDY RESOLUTION, there are many programs that should be considered, tested, evaluated, or established that may better serve children in this state and help BY HELPING to provide them with high quality, affordable child care AND SAFE FOSTER CARE SERVICES. The general assembly recognizes that the interim ~~committee~~ COMMITTEES on child care AND FOSTER CARE addressed a wide range of issues in proposed legislation but further notes that

many issues were of too great a nature to be thoroughly studied by the ~~committee~~ COMMITTEES in the very limited time available to ~~it~~ THEM.

(c) Accordingly, the general assembly finds that it is appropriate and in the best interests of the citizens of the state of Colorado to establish a commission on child care to continue studying the critical issues impacting child care AND FOSTER CARE SERVICES in the state of Colorado in an effort to improve the quality of ~~child care~~ SUCH SERVICES provided to the youngest citizens of the state.

SECTION 2. 26-6-305 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-6-305. Child care commission - duties. (1) The commission shall have the following duties:

(f.5) TO STUDY AND EVALUATE THE STATE'S FOSTER CARE SYSTEM, INCLUDING BUT NOT LIMITED TO:

(I) PERFORMANCE STANDARDS FOR FOSTER CARE HOMES AND DIFFERENT ACCREDITATION STANDARDS FOR CHILD PLACEMENT AGENCIES THAT CERTIFY FOSTER CARE HOMES;

(II) THE ROLE OF CHILD PLACEMENT AGENCIES WITHIN THE FOSTER CARE SYSTEM, INCLUDING BUT NOT LIMITED TO, THE FOLLOWING SPECIFIC ISSUES:

(A) LICENSURE;

(B) NON-PROFIT STATUS;

(C) ACCREDITATION;

(D) INFORMATION GATHERING AND SHARING WITH RESPECT TO OTHER CHILD PLACEMENT AGENCIES, FOSTER CARE FAMILIES, AND FOSTER CARE CHILDREN;

(E) COSTS AND FUNDING; AND

(F) OVERSIGHT AND ADMINISTRATION;

(III) THE ROLE OF COUNTY DEPARTMENTS OF SOCIAL SERVICES WITHIN THE FOSTER CARE SYSTEM, INCLUDING BUT NOT LIMITED TO, THE FOLLOWING:

(A) FOSTER CARE CASELOADS;

(B) INVOLVEMENT WITH CHILD PLACEMENT AGENCIES;

(C) INFORMATION GATHERING AND SHARING WITH RESPECT TO CHILD PLACEMENT AGENCIES, FOSTER CARE FAMILIES, AND FOSTER CARE CHILDREN;

(D) COSTS AND FUNDING; AND

(E) OVERSIGHT AND ADMINISTRATION;

(IV) THE NEEDS OF FOSTER CARE CHILDREN AND HOW TO BEST MEET THOSE NEEDS THROUGH THE FOSTER CARE SYSTEM; AND

(V) ANY OTHER ISSUES CONCERNING THE FOSTER CARE SYSTEM THAT MAY ARISE DURING THE COURSE OF THE COMMISSION'S STUDY;

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill B

SENATE SPONSORSHIP

Evans and Epps

HOUSE SPONSORSHIP

Johnson, Alexander, and Tochtrop

A BILL FOR AN ACT

CONCERNING PROCEDURES RELATED TO FOSTER CARE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Foster Care. Modifies child abuse reporting procedures to require the department or agency receiving an oral report of abuse of a child in foster care to prepare a written report within 48 hours after receipt of the oral report. Specifies that a written report prepared by the county department of social services ("county department") related to a report of abuse of a child in foster care shall be forwarded within 48 hours after preparation of the report to the district attorney's office and the local law enforcement agency. Further specifies that a copy of a written report prepared by a local law enforcement agency related to a report of abuse of a child in foster care shall be forwarded within 48 hours to the county department and to the district attorney's office. Continues the county department requirement to forward finalized reports of confirmed child abuse or neglect to the central registry within 60 days after receipt.

Adds foster parents and officers and employees of child placement agencies to the list of persons who are required to report child abuse or neglect.

Requires local law enforcement agencies to coordinate and investigate all reports of child abuse or neglect of a child in foster care.

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

SECTION 1. 19-3-307, Colorado Revised Statutes, is amended to read:

19-3-307. Reporting procedures. (1) (a) Reports of known or suspected child abuse or neglect made pursuant to this article shall be made immediately to the county department or the local law enforcement agency and shall be followed promptly by a written report prepared by those persons required to report. The county department shall forward a copy of its own report of confirmed child abuse or neglect within sixty days ~~of~~ AFTER receipt of the report to the central registry on forms supplied by the state department.

(b) ORAL REPORTS OF KNOWN OR SUSPECTED CHILD ABUSE OR NEGLECT OF A CHILD IN FOSTER CARE MADE PURSUANT TO THIS ARTICLE SHALL BE MADE IMMEDIATELY TO THE COUNTY DEPARTMENT OR THE LOCAL LAW ENFORCEMENT AGENCY AND SHALL BE FOLLOWED PROMPTLY BY A WRITTEN REPORT PREPARED BY THOSE PERSONS REQUIRED TO REPORT. THE RECEIVING DEPARTMENT OR AGENCY SHALL PREPARE A WRITTEN REPORT WITHIN FORTY-EIGHT HOURS AFTER RECEIPT OF AN ORAL REPORT. THE COUNTY DEPARTMENT SHALL ALSO FORWARD A COPY OF ITS FINALIZED REPORT OF CONFIRMED CHILD ABUSE OR NEGLECT WITHIN SIXTY DAYS AFTER RECEIPT OF THE REPORT TO THE CENTRAL REGISTRY ON FORMS SUPPLIED BY THE STATE DEPARTMENT.

(2) Such WRITTEN AND CONFIRMED CHILD ABUSE OR NEGLECT reports, when possible, shall include the following information:

(a) The name, address, age, sex, and race of the child;

(b) The name and address of the person responsible for the suspected abuse or neglect;

(c) The nature and extent of the child's injuries, including any evidence of previous cases of known or suspected abuse or neglect of the child or the child's siblings;

(d) The names and addresses of the persons responsible for the suspected abuse or neglect, if known;

(e) The family composition;

(f) The source of the report and the name, address, and occupation of the person making the report;

(g) Any action taken by the reporting source;

(h) Any other information that the person making the report believes may be helpful in furthering the purposes of this part 3.

(2.5) Notwithstanding the requirements set forth in subsection (2) of this section, any officer or employee of a local department of health or state department of public health and environment who makes a report pursuant to section 25-1-122 (4) (d) or 25-4-1404 (1) (d), C.R.S., shall include only the information described in said sections.

(3) (a) A copy of the report of known or suspected child abuse or neglect shall be transmitted immediately by the county department to the district attorney's office and to the local law enforcement agency.

(b) A COPY OF THE WRITTEN REPORT PREPARED BY THE COUNTY DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION SHALL BE TRANSMITTED IMMEDIATELY OR WITHIN FORTY-EIGHT HOURS AFTER RECEIPT OF THE ORAL REPORT OF KNOWN OR SUSPECTED ABUSE, BY THE COUNTY DEPARTMENT TO THE DISTRICT ATTORNEY'S OFFICE AND TO THE LOCAL LAW ENFORCEMENT AGENCY. A COPY OF THE WRITTEN REPORT

PREPARED BY THE LOCAL LAW ENFORCEMENT AGENCY IN ACCORDANCE WITH PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION SHALL BE TRANSMITTED IMMEDIATELY OR WITHIN FORTY-EIGHT HOURS AFTER RECEIPT OF THE ORAL REPORT OF KNOWN OR SUSPECTED CHILD ABUSE TO THE COUNTY DEPARTMENT AND TO THE DISTRICT ATTORNEY'S OFFICE.

(4) A written report from persons or officials required by this part 3 to report known or suspected child abuse or neglect shall be admissible as evidence in any proceeding relating to child abuse, subject to the limitations of section 19-1-307.

SECTION 2. 19-3-304 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

19-3-304. Persons required to report child abuse or neglect.

(2) Persons required to report such abuse or neglect or circumstances or conditions shall include any:

(x) FOSTER PARENTS OPERATING FOSTER CARE HOMES AS THEY ARE DEFINED IN SECTION 26-6-102 (4.5), C.R.S., AND OTHER PERSONS IN A POSITION OF TRUST TO A CHILD, AS POSITION OF TRUST IS DEFINED IN SECTION 18-3-401, C.R.S.;

(y) ANY OFFICER, EXECUTIVE, ADMINISTRATOR, DIRECTOR, EMPLOYEE, OR AFFILIATE, AS THAT TERM IS DEFINED IN SECTION 26-6-102 (1), OF A CHILD PLACEMENT AGENCY LICENSED PURSUANT TO PART 1 OF ARTICLE 6 OF TITLE 26.

SECTION 3. 19-3-308 (5.3), Colorado Revised Statutes, is amended to read:

19-3-308. Action upon report of intrafamilial, institutional, or third-party abuse - child protection team. (5.3) (a) Local law enforcement agencies shall have the responsibility for the coordination and investigation of all reports of third-party abuse or neglect by persons ten years of age or older AND FOR ALL REPORTS OF ABUSE OR NEGLECT OF A CHILD IN FOSTER CARE. Upon receipt of a report, if the local law enforcement agency reasonably believes that the protection and safety of a child is at risk due to an act or omission on the part of persons responsible for the child's care, such agency shall notify the county department of social services for an assessment regarding neglect and dependency. In addition, the local law enforcement agency shall refer to the county department of social services any report of third-party abuse or neglect in which the person allegedly responsible for such abuse or neglect is under age ten. Upon the completion of an investigation, the local law enforcement agency shall forward a copy of its investigative report to the county department of social services. The county department shall review the law enforcement investigative report and shall determine whether the report should be filed with the state central registry in accordance with section 19-3-313 (2) (a), which report, upon such determination, shall be filed with the state central registry within sixty days ~~of~~ AFTER the receipt of the report by the county department.

(b) If, before an investigation is completed, the local law enforcement agency determines that social services are necessary for the child and, if applicable, the child's family, or that assistance from the county department of social services is otherwise required, the agency may request said services or assistance from the county department. The county department shall

immediately respond to a law enforcement agency's request for services or assistance in a manner deemed appropriate by the county department.

(c) When the investigation involves a suspected perpetrator who was acting in his official capacity as an employee of a school district, the local law enforcement agency shall coordinate such investigation with any concurrent abuse investigation being conducted by the department of education or the school district to the extent such coordination is possible and deemed appropriate.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill C

SENATE SPONSORSHIP

Evans, Epps, and Linkhart

HOUSE SPONSORSHIP

Alexander, Johnson, and Tochtrop

A BILL FOR AN ACT

CONCERNING REGULATORY OVERSIGHT OF FOSTER CARE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Foster Care. Requires the state auditor's office to conduct a follow-up audit of the state foster care program by August 1, 2002. Directs the state auditor's office to provide copies of the audit report to the legislative audit committee and to the health, environment, welfare, and institutions committees of the general assembly and to the executive director of the department. Repeals the audit requirement effective December 1, 2002.

Authorizes the department of human services ("department") to establish and enforce standards for accreditation of foster care homes by county departments of social services ("county departments") and by child placement agencies ("CPAs").

Encourages the department to examine the benefits of licensing CPAs that offer specific services and that are able to provide specialized types of foster care.

Directs the state board of human services ("state board") to adopt rules establishing accreditation standards for assessing the quality and performance of foster care in the county departments and in foster care homes accredited either by the county departments or by CPAs. On or after January 1, 2002, requires each county department to enter into an accreditation contract with the state board with respect to the delivery of foster care services in the county. Provides that failure to meet the standards, goals, and requirements in the accreditation contract may result in sanctions, including probation and state

administration of foster care. Sets forth the requirements for operation of foster care homes, including criminal background checks.

On and after January 1, 2002, requires foster care homes to be accredited by either a county department or a licensed child placement agency as meeting the accreditation standards. Directs that the certification of a foster care home certified prior to January 1, 2002, expires automatically on January 1, 2002.

Requires CPAs licensed to certify foster care homes to cause to have an independent performance and financial audit conducted annually at the expense of the CPA. Subjects a CPA to negative licensing action for the failure or refusal to conduct and submit such an audit to the department. Directs the state board to promulgate rules concerning the qualifications of the auditors that may conduct such audits and the time frames within which such audits are to be submitted. Identifies the information the audits shall address.

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

SECTION 1. Part 1 of article 3 of title 2, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

2-3-113. Performance audit of foster care program - repeal.

(1) THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE AND FINANCIAL AUDIT OF THE STATE'S FOSTER CARE PROGRAM ESTABLISHED IN THE DEPARTMENT OF HUMAN SERVICES AND ADMINISTERED BY THE DIVISION OF CHILD WELFARE SERVICES IN THE DEPARTMENT. IN ADDITION TO SUCH OTHER ISSUES AS MAY BE IDENTIFIED BY THE STATE AUDITOR'S OFFICE, SUCH AUDIT SHALL SERVE AS A FOLLOW-UP TO THE AUGUST 1998 REPORT OF THE STATE AUDITOR ON THE DIVISION OF CHILD WELFARE SERVICES IN THE DEPARTMENT OF HUMAN SERVICES.

(2) THE STATE AUDITOR'S OFFICE SHALL SUBMIT ITS FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS IN THE FORM OF A WRITTEN REPORT TO THE MEMBERS OF THE LEGISLATIVE AUDIT COMMITTEE OF THE GENERAL ASSEMBLY AND TO THE MEMBERS OF THE HEALTH, ENVIRONMENT, WELFARE,

AND INSTITUTIONS COMMITTEES OF THE GENERAL ASSEMBLY AND TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES NO LATER THAN AUGUST 1, 2002.

(3) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 1, 2002.

SECTION 2. 26-1-107 (6), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPH to read:

26-1-107. State board of human services. (6) The state board shall:

(h) ESTABLISH AND ENFORCE STANDARDS FOR ACCREDITATION OF FOSTER CARE HOMES BY COUNTY DEPARTMENTS OF SOCIAL SERVICES AND BY CHILD PLACEMENT AGENCIES AS SET FORTH IN SECTION 26-6-117, INCLUDING BUT NOT LIMITED TO RULES OF PROCEDURE AND DUE PROCESS FOR THE REVIEW BY A COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY OF THE DENIAL OF ACCREDITATION OF A FOSTER CARE HOME.

SECTION 3. 26-6-102 (1), (1.3), (4.5), and (5.5), Colorado Revised Statutes, are amended, and the said 26-6-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

(1) "ACCREDITATION" MEANS CERTIFICATION BY THE DEPARTMENT THAT THE COUNTY DEPARTMENTS AND THE FOSTER CARE HOMES IN THE RESPECTIVE COUNTIES MEET THE REQUIREMENTS ESTABLISHED BY SECTION 26-6-117 AND THE RULES PROMULGATED PURSUANT TO SUCH SECTION FOR FOSTER CARE AND INCLUDES THE PROCESS FOR ACCREDITING FOSTER CARE HOMES PURSUANT TO SECTION 26-6-117.

(1.1) "ACCREDITATION CONTRACT" MEANS THE AGREEMENT BETWEEN THE STATE BOARD AND A COUNTY DEPARTMENT THAT BINDS THE COUNTY DEPARTMENT TO MANAGE THE ACCREDITATION OF FOSTER CARE HOMES WITHIN SUCH COUNTY, CONSISTENT WITH THE ACCREDITATION STANDARDS.

~~(1.2)~~ (1.2) "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.

(1.3) (a) PRIOR TO JANUARY 1, 2002, "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.

(b) THIS SUBSECTION (1.3) IS REPEALED EFFECTIVE JANUARY 1, 2002.

(2.3) "CORRECTIVE ACTION CYCLE" MEANS THE CORRECTIVE ACTIONS DESCRIBED IN SECTION 26-6-117 TO WHICH A COUNTY DEPARTMENT SHALL BE SUBJECT IN THE EVENT THAT IT FAILS TO COMPLY WITH PROVISIONS OF THE ACCREDITATION CONTRACT.

(4.5) (a) (I) PRIOR TO JANUARY 1, 2002, "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.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JANUARY 1, 2002.

(b) ON AND AFTER JANUARY 1, 2002, "FOSTER CARE HOME" MEANS A FACILITY THAT IS ACCREDITED 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.

(5.5) (a) (I) PRIOR TO JANUARY 1, 2002, "licensing" means, except as otherwise provided in subsection (4.5) of this section, the process by which the department approves a facility, except foster care homes, for the purpose of conducting business as a child care facility.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JANUARY 1, 2002.

(b) ON AND AFTER JANUARY 1, 2002, "LICENSING" MEANS THE PROCESS BY WHICH THE DEPARTMENT APPROVES A FACILITY FOR THE PURPOSE OF CONDUCTING BUSINESS AS A CHILD CARE FACILITY.

SECTION 4. 26-6-103 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-6-103. Application of part - study. (1) This part 1 shall not apply to:

(i) FOSTER CARE HOMES ON AND AFTER JANUARY 1, 2002, WHICH SHALL BE ACCREDITED BY THE COUNTY DEPARTMENTS OF SOCIAL SERVICES OR BY A CHILD PLACEMENT AGENCY PURSUANT TO ACCREDITATION STANDARDS DEVELOPED BY THE STATE BOARD, AS PROVIDED IN SECTION 26-6-117.

SECTION 5. 26-6-104 (1), Colorado Revised Statutes, is amended, and the said 26-6-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

26-6-104. Licenses - out-of-state

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notices and consent - repeal. (1) (a) (I) 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 department and paying the fee prescribed therefor. Such license issued by the department shall be permanent unless otherwise revoked or suspended pursuant to section 26-6-108; except that the state board of human services shall promulgate rules requiring the recertification of foster care homes every three years and setting forth the procedural requirements associated with such recertification. A person operating a foster care home shall not obtain a license 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. Said certificate shall be in such form as prescribed and provided by the department, shall certify that such person is a suitable person to operate a home, and shall contain such information as the department requires. A placement agency issuing or renewing any such certificate shall transmit a copy or report thereof to the department. No foster care home shall be certified by more than one placement agency or county department. A foster care home, when certified by a placement agency or county department, may receive for care a child from sources other than the certifying agency or county department upon the written consent and approval of the agency or county department as to each such child. All such certificates shall be considered licenses for the purpose of this part 1, including but not limited to the investigation and criminal background checks required under section 26-6-107.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JANUARY 1, 2002.

(b) ON AND AFTER JANUARY 1, 2002, 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 DEPARTMENT AND PAYING THE FEE PRESCRIBED THEREFOR. SUCH LICENSE ISSUED BY THE DEPARTMENT SHALL BE PERMANENT UNLESS OTHERWISE REVOKED OR SUSPENDED PURSUANT TO SECTION 26-6-108. A PERSON OPERATING A FOSTER CARE HOME SHALL NOT OBTAIN A LICENSE IF SUCH PERSON IS ACCREDITED TO OPERATE SUCH HOME BY ANY COUNTY DEPARTMENT OR A CHILD PLACEMENT AGENCY LICENSED UNDER THE PROVISIONS OF THIS PART 1. A FOSTER CARE HOME, WHEN ACCREDITED BY A CHILD PLACEMENT AGENCY OR COUNTY DEPARTMENT, MAY RECEIVE FOR CARE A CHILD FROM SOURCES OTHER THAN THE ACCREDITING 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.

(8) THE DEPARTMENT IS STRONGLY ENCOURAGED TO EXAMINE 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) TREATMENT FOSTER CARE;
 - (II) MEDICAL FOSTER CARE;
 - (III) RESPITE FOSTER CARE; AND
 - (IV) INTENSIVE TREATMENT FOSTER CARE.

SECTION 6. 26-6-105.5 (1) (a) (I) and (2), Colorado Revised Statutes, are amended to read:

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 OR ACCREDITATION 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).

(2) Any person applying for the licensure of a child care facility or the certification OR ACCREDITATION 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.

SECTION 7. 26-6-107 (1) (a.5), Colorado Revised Statutes, is amended to read:

26-6-107. Investigations and inspections - local authority - reports - rules. (1) (a.5) (I) (A) An applicant for certification as a foster care home shall provide the child placement agency or the department of social services from whom the certification is sought with a list of all the prior child placement agencies and county departments of social services that had previously certified the applicant. A child placement agency or county department of social services from whom the certification is sought shall conduct a reference check of the applicant by contacting all of the child placement agencies and county departments of social services identified by the applicant before issuing the certification for that foster care home.

(B) THIS SUBPARAGRAPH (I) IS REPEALED, EFFECTIVE JANUARY 1, 2002.

(II) ON AND AFTER JANUARY 1, 2002, AN APPLICANT FOR ACCREDITATION AS A FOSTER CARE HOME SHALL PROVIDE THE CHILD PLACEMENT AGENCY OR THE COUNTY DEPARTMENT FROM WHOM THE ACCREDITATION IS SOUGHT WITH A LIST OF ALL THE PRIOR CHILD PLACEMENT

AGENCIES AND COUNTY DEPARTMENTS THAT

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HAD PREVIOUSLY CERTIFIED OR ACCREDITED THE APPLICANT. A CHILD PLACEMENT AGENCY OR COUNTY DEPARTMENT FROM WHOM THE ACCREDITATION IS SOUGHT SHALL CONDUCT A REFERENCE CHECK OF THE APPLICANT BY CONTACTING ALL OF THE CHILD PLACEMENT AGENCIES AND COUNTY DEPARTMENTS IDENTIFIED BY THE APPLICANT BEFORE ISSUING THE ACCREDITATION FOR THAT FOSTER CARE HOME.

SECTION 8. 26-6-108 (1) and (2.7), Colorado Revised Statutes, are amended, and the said 26-6-108 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTION, to read:

26-6-108. Denial of original license - suspension - revocation - probation - refusal to renew license - fines. (1) When an application for an original license OR FOR ACCREDITATION has been denied by the department, the department shall notify the applicant in writing of such denial by mailing a notice to him at the address shown on his application. Any applicant ~~believing himself~~ WHO IS aggrieved by such denial may pursue the remedy for review as provided in subsection (3) of this section if he OR SHE, within thirty days after receiving such 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 original 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.

(2.3) (a) ON OR AFTER JANUARY 1, 2002, THE COUNTY DEPARTMENT MAY DENY, SUSPEND, OR REVOKE THE ACCREDITATION OF A FOSTER CARE HOME IF THE PERSON ACCREDITED TO OPERATE A FOSTER CARE HOME OR A

PERSON WHO RESIDES WITH SUCH PERSON AT THE FOSTER CARE HOME IS SUBJECT TO ANY OF THE CONDITIONS SET FORTH IN SECTION 26-6-108 (2) OR FAILS TO COMPLY WITH THE ACCREDITATION CONTRACT WITH THE STATE BOARD AS REQUIRED BY THIS SECTION.

(b) ON OR AFTER JANUARY 1, 2002, A CHILD PLACEMENT AGENCY SHALL DENY, SUSPEND, OR REVOKE ACCREDITATION OF A FOSTER CARE HOME IF THE APPLICANT OR THE OPERATOR HAS BEEN FOUND TO HAVE VIOLATED ANY OF THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION OR PARAGRAPH (a) OF THIS SUBSECTION (2.3).

(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 OR A PERSON CERTIFIED OR ACCREDITED TO OPERATE A FOSTER CARE HOME who willfully and deliberately or consistently violates the standards prescribed and published by the department or the provisions of this part 1.

SECTION 9. 26-6-108 (2) (m), Colorado Revised Statutes, is amended, and the said 26-6-108 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

26-6-108. Denial of original license - suspension - revocation - probation - refusal to renew license - fines. (2) The department may deny, 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:

(m) Be the subject of a negative licensing action; OR

(n) FAIL OR REFUSE TO CONDUCT AND SUBMIT AN ANNUAL INDEPENDENT AUDIT AS REQUIRED BY SECTION 26-6-117.

SECTION 10. 26-6-108 (4), Colorado Revised Statutes, is repealed as follows:

26-6-108. Denial of original license - suspension - revocation - probation - refusal to renew license - fines. (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.~~

SECTION 11. 26-6-111, Colorado Revised Statutes, is amended to read:

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 ACCREDITATION OR a license that is required to be ACCREDITED OR 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 OR SHE obtains ACCREDITATION OR 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.

SECTION 12. Part 6 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

26-6-117. Accreditation standards - accreditation contracts - corrective action cycle - rules. (1) (a) (I) NO LATER THAN OCTOBER 1, 2001, THE STATE BOARD SHALL ESTABLISH BY RULE ACCREDITATION STANDARDS FOR ASSESSING THE QUALITY AND PERFORMANCE OF FOSTER CARE IN THE COUNTY DEPARTMENTS AND FOSTER CARE HOMES IN THE STATE. SUCH STANDARDS SHALL BE BASED UPON ACCREDITATION STANDARDS OF A NATIONALLY RECOGNIZED ACCREDITING BODY OF MENTAL HEALTH AND SOCIAL SERVICE ORGANIZATIONS. THE STATE BOARD MAY ALSO INCLUDE PERFORMANCE STANDARDS FOR THE OPERATION OF FOSTER CARE HOMES.

(II) THE STATE BOARD SHALL ANNUALLY REVIEW THE ACCREDITATION STANDARDS ESTABLISHED PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) AND MAY REVISE SUCH ACCREDITATION STANDARDS AS NECESSARY.

(b) (I) THE STATE BOARD SHALL PROMULGATE RULES CONCERNING HOW THE COUNTY DEPARTMENTS SHALL MEASURE DATA RELATING TO THE ACCREDITATION STANDARDS AND THE FORM IN WHICH THE COUNTY DEPARTMENTS SHALL PROVIDE SUCH DATA TO THE STATE BOARD.

(II) THE RULES SHALL INCLUDE PROCEDURES BY AND THE FORMAT IN WHICH COUNTY DEPARTMENTS SHALL SUBMIT TO THE DEPARTMENT THE

INFORMATION DEMONSTRATING ACHIEVEMENT OF THE ACCREDITATION INDICATORS.

(c) ACHIEVEMENT OF THE ACCREDITATION STANDARDS SHALL BE REPORTED ACCORDING TO RULES PROMULGATED BY THE STATE BOARD.

(2) (a) EACH COUNTY DEPARTMENT SHALL ENTER INTO AN ACCREDITATION CONTRACT WITH THE STATE BOARD WITH RESPECT TO THE DELIVERY OF FOSTER CARE SERVICES IN THE COUNTY. THE ACCREDITATION CONTRACT SHALL DEFINE THE STANDARDS, GOALS, AND REQUIREMENTS TO BE MET BY THE COUNTY DEPARTMENT OVER THE TERM OF THE CONTRACT, INCLUDING ANY STANDARDS, GOALS, AND REQUIREMENTS TO BE MET BY CHILD PLACEMENT AGENCIES WHO CONTRACT WITH THE COUNTY DEPARTMENT TO PROVIDE FOSTER CARE SERVICES. FAILURE TO ACHIEVE THE STANDARDS, GOALS, AND REQUIREMENTS SET FORTH IN THE ACCREDITATION CONTRACT MAY RESULT IN THE SANCTIONS AND CORRECTIVE ACTIONS SET FORTH IN SUBSECTION (3) OF THIS SECTION.

(b) THE ACCREDITATION CONTRACT SHALL CONTAIN, AT A MINIMUM, THE FOLLOWING TERMS:

(I) PROVISIONS RELATING TO THE TERMS OF THE CONTRACT;

(II) ADOPTION OF STANDARDS FOR THE DELIVERY OF FOSTER CARE SERVICES BY FOSTER CARE HOMES ACCREDITED BY THE COUNTY DEPARTMENTS;

(III) ADOPTION OF STANDARDS FOR THE DELIVERY OF FOSTER CARE SERVICES BY FOSTER CARE HOMES THAT ARE ACCREDITED BY A CHILD PLACEMENT AGENCY PURSUANT TO A CONTRACT BETWEEN THE CHILD PLACEMENT AGENCY AND A COUNTY DEPARTMENT;

(IV) A STATEMENT THAT THE COUNTY DEPARTMENT IS RESPONSIBLE FOR ENSURING THAT THE FOSTER CARE HOMES ACCREDITED BY CHILD PLACEMENT AGENCIES MEET THE ACCREDITATION STANDARDS FOR THE DELIVERY OF FOSTER CARE SERVICES;

(V) THE DURATION OF THE ACCREDITATION CONTRACT.

(3) **Corrective action cycle.** (a) **Level one: Notice.** (I) AT ANY TIME DURING THE TERM OF THE ACCREDITATION CONTRACT, IF A COUNTY DEPARTMENT FAILS TO COMPLY WITH ANY OF THE PROVISIONS OF THE ACCREDITATION CONTRACT, THE DEPARTMENT SHALL NOTIFY THE COUNTY DEPARTMENT OF THE NATURE OF THE COUNTY DEPARTMENT'S LACK OF COMPLIANCE. THIS NOTICE SHALL CONSTITUTE LEVEL ONE IN THE CORRECTIVE ACTION CYCLE.

(II) AFTER RECEIPT OF THE NOTICE PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), A COUNTY DEPARTMENT SHALL SUBMIT A PLAN TO REMEDY ITS LACK OF COMPLIANCE TO THE DEPARTMENT. THE PLAN SHALL BE SUBMITTED WITHIN A SPECIFIC TIME PERIOD COMMENCING IMMEDIATELY AFTER THE COUNTY DEPARTMENT'S RECEIPT OF THE NOTICE, WHICH TIME PERIOD SHALL BE ESTABLISHED IN STATE BOARD RULES. THE DEPARTMENT SHALL

APPROVE OR DENY THE COUNTY DEPARTMENT'S PLAN TO REMEDY ITS LACK OF COMPLIANCE WITHIN A TIME PERIOD BEGINNING ON THE DATE OF THE PLAN'S SUBMISSION, WHICH TIME PERIOD SHALL BE ESTABLISHED IN STATE BOARD RULES.

(b) **Level two: Probation.** (I) PURSUANT TO RULES ESTABLISHED BY THE STATE BOARD, THE STATE BOARD SHALL PLACE A COUNTY DEPARTMENT ON PROBATIONARY STATUS IF THE COUNTY DEPARTMENT FAILS TO IMPLEMENT THE PLAN SUBMITTED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (3). PROBATION SHALL CONSTITUTE LEVEL TWO IN THE CORRECTIVE ACTION CYCLE. THE RULES OF THE STATE BOARD SHALL INCLUDE A PROCESS FOR A COUNTY DEPARTMENT'S RIGHT TO A HEARING BEFORE THE STATE BOARD IN ORDER TO DETERMINE WHETHER THE COUNTY DEPARTMENT HAD IMPLEMENTED THE PLAN PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (3).

(II) UPON THE REQUEST OF A COUNTY DEPARTMENT, THE DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE TO A COUNTY DEPARTMENT THAT IS ON PROBATIONARY STATUS.

(c) **Level three: State administration.** PURSUANT TO RULES ESTABLISHED BY THE STATE BOARD, THE DIVISION MAY TAKE OVER THE COUNTY DEPARTMENT'S OPERATION OF FOSTER CARE IF THE COUNTY DEPARTMENT FAILS TO REMEDY ITS LACK OF COMPLIANCE. THE RULES OF THE STATE BOARD SHALL INCLUDE A PROCESS FOR A COUNTY DEPARTMENT'S RIGHT TO A HEARING BEFORE THE STATE BOARD IN ORDER TO DETERMINE WHETHER THE COUNTY DEPARTMENT HAD REMEDIED ITS LACK OF COMPLIANCE. THE COUNTY DEPARTMENT AND THE STATE BOARD MAY ENTER INTO A REMEDIAL

PLAN TO HAVE THE COUNTY DEPARTMENT RESUME OPERATIONS OF FOSTER CARE IN THE COUNTY.

(4) ON AND AFTER JANUARY 1, 2002, NO CHILD PLACEMENT AGENCY SHALL PLACE A CHILD IN A FOSTER CARE HOME UNLESS SUCH HOME HAS BEEN ACCREDITED AS MEETING THE ACCREDITATION STANDARDS ESTABLISHED PURSUANT TO THIS SECTION FOR FOSTER CARE HOMES. A CHILD PLACEMENT AGENCY SHALL ACCREDIT FOSTER CARE HOMES PURSUANT TO THE ACCREDITATION STANDARDS PROMULGATED BY RULE OF THE STATE BOARD AS SET FORTH IN THIS SECTION.

(5) (a) ON AND AFTER JANUARY 1, 2002, FOSTER CARE HOMES SHALL BE ACCREDITED EITHER BY A LICENSED CHILD PLACEMENT AGENCY OR BY THE COUNTY DEPARTMENT OF SOCIAL SERVICES PURSUANT TO THE ACCREDITATION STANDARDS PROMULGATED BY THE STATE BOARD AS SET FORTH IN THIS SECTION. THE CERTIFICATION OF A FOSTER CARE HOME THAT WAS CERTIFIED PRIOR TO JANUARY 1, 2002, SHALL AUTOMATICALLY EXPIRE ON JANUARY 1, 2002. SUCH FOSTER CARE HOME MAY APPLY FOR ACCREDITATION PURSUANT TO THIS SECTION AND THE RULES OF THE STATE BOARD.

(b) ON AND AFTER JANUARY 1, 2002, NO PERSON SHALL OPERATE A FOSTER CARE HOME WITHOUT FIRST BEING ACCREDITED BY A COUNTY DEPARTMENT OR A LICENSED CHILD PLACEMENT AGENCY AS MEETING THE ACCREDITATION STANDARDS PROMULGATED BY THE STATE BOARD AS SET FORTH IN THIS SECTION. SUCH ACCREDITATION SHALL BE VALID FOR THREE YEARS UNLESS OTHERWISE REVOKED OR SUSPENDED PURSUANT TO SECTION 26-6-108 (2.3), AND MAY BE RENEWED EVERY THREE YEARS PURSUANT TO RULES ADOPTED BY THE STATE BOARD. SUCH RULES SHALL SET FORTH THE

PROCEDURAL REQUIREMENTS ASSOCIATED WITH SUCH RENEWAL. A CHILD PLACEMENT AGENCY ISSUING OR RENEWING ANY SUCH ACCREDITATION SHALL TRANSMIT A COPY OR REPORT THEREOF TO THE DEPARTMENT.

(6) THE STATE BOARD SHALL ESTABLISH RULES FOR THE ACCREDITATION OF FOSTER CARE HOMES 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.

(7) NO ACCREDITATION TO OPERATE A FOSTER CARE HOME SHALL BE GRANTED BY A COUNTY DEPARTMENT OR BY A CHILD PLACEMENT AGENCY UNDER THE PROVISIONS OF THIS SECTION IF THE PERSON APPLYING FOR SUCH ACCREDITATION HAS BEEN CONVICTED OF ANY OF THE OFFENSES DESCRIBED IN SECTION 26-6-104 (7) AND AS DETERMINED PURSUANT TO SUCH SUBSECTION.

26-6-118. Annual audits of child placement agencies. (1) AS A CONDITION OF LICENSURE, EVERY CHILD PLACEMENT AGENCY LICENSED TO CERTIFY OR ACCREDIT FOSTER CARE HOMES SHALL CAUSE ANNUALLY TO HAVE CONDUCTED A COMPREHENSIVE INDEPENDENT PERFORMANCE AND FINANCIAL AUDIT BY AN AUDITOR OR FIRM OF AUDITORS AS REQUIRED BY RULE OF THE STATE BOARD. THE COSTS ASSOCIATED WITH SUCH AUDITS SHALL BE BORNE BY THE CHILD PLACEMENT AGENCY. FAILURE TO CONDUCT AND SUBMIT SUCH AN ANNUAL AUDIT AS REQUIRED IN SUBSECTION (2) OF THIS SECTION MAY SUBJECT THE CHILD PLACEMENT AGENCY TO NEGATIVE LICENSING ACTION PURSUANT TO SECTION 26-6-108 (2) (i) OR SECTION 26-6-108 (2) (n).

(2) THE STATE BOARD SHALL PROMULGATE RULES SPECIFYING THE EXPERIENCE, KNOWLEDGE, AND EXPERTISE NECESSARY FOR AN AUDITOR TO BE

QUALIFIED TO CONDUCT THE AUDITS REQUIRED BY SUBSECTION (1) OF THIS SECTION. EACH INDEPENDENT AUDIT SHALL BE CONDUCTED AND SUBMITTED TO THE DEPARTMENT WITHIN THE TIME FRAMES PRESCRIBED BY THE STATE BOARD PURSUANT TO RULE. THE STATE BOARD SHALL PROMULGATE EMERGENCY RULES FOLLOWED BY PERMANENT RULES TO DEFINE THE PERFORMANCE STANDARDS LISTED IN SUBSECTION (3) OF THIS SECTION.

(3) EACH INDEPENDENT AUDIT SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING:

(a) THE NUMBER AND IDENTIFICATION OF COUNTIES WITH WHICH THE CHILD PLACEMENT AGENCY CONTRACTS FOR THE DELIVERY OF FOSTER CARE SERVICES;

(b) AN ITEMIZATION OF EXPENDITURES ASSOCIATED WITH THE PROVISION OF FOSTER CARE SERVICES INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(I) FOOD AND SHELTER COSTS;

(II) SERVICES PROVIDED TO CHILDREN IN FOSTER CARE INCLUDING COUNSELING, MENTAL HEALTH, AND MEDICAL SERVICES;

(III) ISOLATION AND IDENTIFICATION OF COSTS FOR SPECIFIC POPULATIONS OR SERVICES; AND

(IV) ADMINISTRATIVE COSTS, INCLUDING AN ITEMIZATION OF AMOUNTS PAID TO FOSTER CARE HOME PROVIDERS, AMOUNTS PAID FOR ACCOUNTING, AMOUNTS ATTRIBUTABLE TO ANNUAL AUDITS, AMOUNTS ASSOCIATED WITH CONTRACT ADMINISTRATION, AMOUNTS ATTRIBUTABLE TO CASE ADMINISTRATION, AMOUNTS ASSOCIATED WITH MONITORING AND OVERSIGHT OF THE FOSTER CARE HOME PROVIDERS, AMOUNTS ATTRIBUTABLE

TO LICENSING, AND AMOUNTS PAID AS SALARIES TO ADMINISTRATIVE STAFF OF THE CHILD PLACEMENT AGENCY AND THE PERCENTAGE OF EACH TYPE OF SUCH EXPENSES TO THE OVERALL EXPENDITURES ASSOCIATED WITH THE PROVISION OF FOSTER CARE SERVICES;

(c) THE ABILITY OF THE CHILD PLACEMENT AGENCY TO MEASURE THE EFFECTIVENESS OF ITS PERFORMANCE IN THE DELIVERY OF FOSTER CARE SERVICES INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(I) THE SERVICES PROVIDED TO EACH INDIVIDUAL CHILD RECEIVING CARE IN A FOSTER CARE HOME OR HOMES CERTIFIED OR ACCREDITED BY THE CHILD PLACEMENT AGENCY;

(II) THE TIMELINESS WITH WHICH NEEDED SERVICES ARE PROVIDED TO CHILDREN IN THE SYSTEM;

(III) COMPLIANCE WITH REQUIREMENTS FOR MEDICAL OR MENTAL HEALTH TREATMENT OF CHILDREN PLACED IN FOSTER CARE HOMES CERTIFIED OR ACCREDITED BY THE CHILD PLACEMENT AGENCY;

(IV) THE RATE OF RECIDIVISM IN THE FOSTER CARE SYSTEM;

(V) THE NUMBER OF RUNAWAYS FROM FOSTER CARE HOMES EACH YEAR AND THE REASONS THEREFOR;

(VI) THE ACADEMIC PERFORMANCE OF THE CHILDREN IN FOSTER CARE HOMES;

(VII) THE NUMBER OF REFUSALS TO ACCEPT CERTAIN CHILDREN INTO FOSTER CARE HOMES AND THE REASONS THEREFOR;

(VIII) AN EVALUATION OF CUSTOMER SATISFACTION FROM THE PERSPECTIVE OF THE BIRTH PARENTS, GUARDIANS, TEACHERS, COURTS, FOSTER CARE PARENTS, AND OTHER INTERESTED PERSONS;

(IX) THE FREQUENCY WITH WHICH A SINGLE CHILD IS MOVED FROM ONE PLACEMENT TO ANOTHER;

(X) THE NUMBER OF TIMES A CHILD IS MOVED FROM ONE SHORT-TERM EMERGENCY SHELTER TO ANOTHER;

(XI) THE LENGTH OF TIME CHILDREN REMAIN IN SHORT-TERM EMERGENCY SHELTER CARE; AND

(d) THE EFFECTIVENESS OF THE CHILD PLACEMENT AGENCY IN MONITORING AND OVERSEEING THE PROVISION OF SERVICES BY FOSTER CARE HOMES CERTIFIED OR ACCREDITED BY SUCH AGENCY, INCLUDING THE FOLLOWING:

(I) THE NUMBER OF FOSTER CARE HOMES THE CHILD PLACEMENT AGENCY USES AND RECRUITS;

(II) THE STANDARDS USED TO CERTIFY OR ACCREDIT SUCH FOSTER CARE HOMES;

(III) THE SHORTAGE, IF ANY, OF FOSTER CARE HOMES IN EACH COUNTY SERVED BY THE CHILD PLACEMENT AGENCY;

(IV) IDENTIFICATION OF EACH CASE IN WHICH THERE WAS NO AVAILABLE FOSTER CARE HOME IN WHICH TO PLACE A CHILD, INCLUDING WHERE THE CHILD WAS PLACED AND FOR WHAT DURATION;

(V) IDENTIFICATION OF THE NUMBER OF FOSTER CARE HOMES CERTIFIED OR ACCREDITED BY THE CHILD PLACEMENT AGENCY AGAINST WHICH NEGATIVE LICENSING ACTION WAS TAKEN BY THE DEPARTMENT DURING THE COURSE OF THE YEAR, INCLUDING THE TYPE OF NEGATIVE LICENSING ACTION TAKEN, A DESCRIPTION OF WHETHER THE NEGATIVE LICENSING ACTION RESULTED FROM ACTIONS OF THE CHILD PLACEMENT AGENCY AS A RESULT OF

MONITORING AND INSPECTION, THE LENGTH OF TIME IT TOOK TO ACCOMPLISH THE NEGATIVE LICENSING ACTION, AND WHETHER THE FOSTER CARE HOME IS CURRENTLY OPERATIONAL AND, IF SO, WHAT STEPS THE CHILD PLACEMENT AGENCY HAS TAKEN TO MONITOR THE HOME.

(4) THE DEPARTMENT SHALL ENSURE THAT EVERY AUDIT RECEIVED FROM A CHILD PLACEMENT AGENCY PURSUANT TO THIS SECTION SHALL BE REVIEWED AND ANALYZED BY A QUALIFIED INDIVIDUAL WITH APPROPRIATE TRAINING AND EXPERTISE IN THE REVIEW OF PERFORMANCE AND FINANCIAL AUDITS. IN ADDITION, THE DEPARTMENT SHALL ROUTINELY COMPILE AND ANALYZE THE DATA RECEIVED AND REVIEWED TO ASSIST IT IN ASSESSING THE PERFORMANCE OF CHILD PLACEMENT AGENCIES PROVIDING FOSTER CARE SERVICES IN THE STATE AND IN DEVELOPING MEASURES, OBJECTIVES, AND GOALS FOR EVALUATING THE DEPARTMENT'S OWN PERFORMANCE, AT A STATEWIDE LEVEL, IN THE DELIVERY OF SAFE, QUALITY FOSTER CARE SERVICES TO THE CHILDREN OF THE STATE OF COLORADO.

SECTION 13. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill D

SENATE SPONSORSHIP

Evans

HOUSE SPONSORSHIP

A BILL FOR AN ACT

CONCERNING THE CREATION OF THE POSITION OF FAMILY ADVOCATE
WITHIN EACH COUNTY DEPARTMENT OF SOCIAL SERVICES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Foster Care. Creates the position of family advocate within each county department of social services. Lists the duties and functions of the family advocate. Authorizes the family advocate to review and either approve or overrule discretionary decisions by a county department of social services concerning the filing of a dependency and neglect petition and the request for protective custody of a child. Separates the family advocate's role from a county department of social services' statutory duty to refer certain reports directly to the court. Excludes the family advocate from participating in discretionary decisions by law enforcement officers and other appropriate persons concerning the filing of a petition and the request for protective custody.

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

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

26-1-119.5. Family advocate. (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(a) FAMILIES, INCLUDING TRADITIONAL FAMILIES AND FOSTER CARE FAMILIES, PLAY A VITAL ROLE IN A FREE SOCIETY.

(b) GOVERNMENT SHOULD SUPPORT AND REAFFIRM ALL FAMILIES AND NOT UNDERMINE AND BE HOSTILE TO THEM OR MERELY SEND A MESSAGE OF NEUTRALITY.

(c) THE ECONOMIC AND SOCIAL COSTS OF FAMILY BREAKDOWN, INCLUDING INCREASED POVERTY, CRIME, SUBSTANCE ABUSE, ADOLESCENT PROMISCUITY, AND TEEN-AGE PREGNANCIES, ARE SIGNIFICANT. PERSONS WHO ARE RAISED IN LOVING AND NURTURING FAMILY ENVIRONMENTS, WITH BOTH MATERNAL AND PATERNAL ROLE MODELS, HAVE A GREATLY REDUCED RISK OF DROPPING OUT OF SCHOOL, BECOMING JUVENILE DELINQUENTS, AND USING ILLEGAL DRUGS. THESE CHILDREN ALSO HAVE THE BEST CHANCE OF COMPLETING THEIR EDUCATION, FINDING MEANINGFUL EMPLOYMENT, AND ESTABLISHING THEIR OWN STABLE MARRIAGES AND FAMILIES.

(d) GOVERNMENT ACTION SHOULD NOT INTERFERE WITH THE FORMATION AND MAINTENANCE OF HEALTHY, NURTURING FAMILIES, BUT

INSTEAD SHOULD STRENGTHEN AND SUPPORT FAMILIES. IN SO DOING, GOVERNMENT SHOULD GUARD AGAINST PERFORMING PERVASIVE, INTRUSIVE, AND UNNECESSARY ACTION THAT, ALTHOUGH TECHNICALLY AUTHORIZED BY LAW, MIGHT BE DETRIMENTAL TO THE STRUCTURE, DEVELOPMENT, AND LONGEVITY OF FAMILIES.

(e) THE GENERAL ASSEMBLY REAFFIRMS ITS LEGISLATIVE DECLARATION SET FORTH IN SECTION 19-1-102, C.R.S., CONCERNING THE DESIRED BALANCE BETWEEN STRENGTHENING FAMILY TIES AND REMOVAL OF A CHILD FROM THE CUSTODY OF HIS OR HER PARENTS. HOWEVER, THERE HAVE ARISEN OCCASIONS IN WHICH THE REMOVAL OF A CHILD FROM THE CUSTODY OF HIS OR HER PARENTS AND THE INITIATION OF DEPENDENCY AND NEGLECT PROCEEDINGS BY LOCAL AGENCIES HAVE BEEN UNDERTAKEN IN A MECHANICAL FASHION AS A REFLEX REACTION TO A REPORT OF ALLEGED CHILD ABUSE OR NEGLECT. SUCH REPORTS PERIODICALLY ARE UNFOUNDED. ALTHOUGH THE GENERAL ASSEMBLY'S PARAMOUNT

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Bill D

CONCERN IS THE BEST INTERESTS OF THE CHILD, THE GENERAL ASSEMBLY DECLARES THAT UNNECESSARY GOVERNMENT INTRUSION, IF UNDERTAKEN AS A MATTER OF COURSE INTO FAMILY RELATIONSHIPS, AND PARTICULARLY THE CUSTODIAL RELATIONSHIP BETWEEN PARENT AND CHILD, IS UNDESIRABLE.

(f) IT IS IN THE BEST INTERESTS OF COLORADO CHILDREN AND THEIR FAMILIES, INCLUDING FAMILIES WITH BIRTH CHILDREN, ADOPTIVE CHILDREN, AND FOSTER CARE CHILDREN, TO ESTABLISH THE POSITION OF FAMILY ADVOCATE WITHIN EACH COUNTY DEPARTMENT FOR THE PURPOSE OF REVIEWING DISCRETIONARY DECISIONS AND ACTIONS BY A COUNTY DEPARTMENT CONCERNING TEMPORARY CUSTODY OF CHILDREN AND THE INSTITUTION OF DEPENDENCY AND NEGLECT PROCEEDINGS. IT IS THE INTENT OF THE GENERAL ASSEMBLY TO MAINTAIN THE BEST INTERESTS OF THE CHILD, BUT ALSO TO MONITOR GOVERNMENT ACTION THAT, IF NOT MONITORED, RUNS THE RISK OF BECOMING INTRUSIVE AND COUNTERPRODUCTIVE TOWARD THE GOAL OF PRESERVING THE FAMILY'S STRUCTURE, GROWTH, INTEGRITY, AND LONGEVITY.

(2) ON OR BEFORE _____, 2001, THE COUNTY DIRECTOR OF EACH COUNTY DEPARTMENT SHALL APPOINT A PERSON TO THE POSITION OF FAMILY ADVOCATE FOR THE COUNTY DEPARTMENT. THE PERSON APPOINTED TO THE POSITION SHALL REPORT TO THE COUNTY DIRECTOR.

(3) THE FAMILY ADVOCATE, AT A MINIMUM, SHALL HAVE THE FOLLOWING DUTIES AND FUNCTIONS:

(a) (I) TO REVIEW EACH REPORT RECEIVED BY THE COUNTY DEPARTMENT THAT CAUSES THE COUNTY DEPARTMENT, PURSUANT TO SECTION 19-3-308 (4) (b), C.R.S., TO REASONABLY BELIEVE THAT AN INCIDENT OF

INTRAFAMILIAL ABUSE OR NEGLECT HAS OCCURRED AND THAT A PETITION FOR DEPENDENCY AND NEGLECT SHOULD BE FILED, OR THAT THE CHILD SHOULD BE PLACED IN PROTECTIVE CUSTODY, OR BOTH;

(II) TO REVIEW THE DECISION OF THE COUNTY DEPARTMENT, PURSUANT TO SECTION 19-3-308 (4) (b), C.R.S., TO FILE THE PETITION FOR DEPENDENCY AND NEGLECT OR TO PLACE THE CHILD IN PROTECTIVE CUSTODY, OR BOTH, AND TO MAKE A DETERMINATION AS TO THE REASONABLENESS OF THE COUNTY DEPARTMENT'S BELIEF THAT AN INCIDENT OF INTRAFAMILIAL ABUSE OR NEGLECT HAS OCCURRED. THE FAMILY ADVOCATE, BASED ON SUCH DETERMINATION, SHALL PROMPTLY ACCEPT OR OVERRULE THE COUNTY DEPARTMENT'S DECISIONS TO FILE SUCH PETITION OR TO PLACE THE CHILD IN PROTECTIVE CUSTODY.

(III) THE FAMILY ADVOCATE, IN PERFORMING HIS OR HER FUNCTIONS UNDER THIS SECTION, SHALL APPLY AS CRITERIA THE DEFINITIONS OF "ABUSE" AND "CHILD ABUSE OR NEGLECT" THAT ARE SET FORTH IN SECTION 19-1-103 (1) (a), C.R.S.

(b) TO IMMEDIATELY NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY RESPONSIBLE FOR INVESTIGATION OF CRIMINAL CHILD ABUSE IF THE FAMILY ADVOCATE REASONABLY BELIEVES THAT AN INCIDENT OF ABUSE OR NEGLECT HAS OCCURRED AS DESCRIBED IN SECTION 19-3-308 (5.5), C.R.S.;

(c) TO ACTIVELY PARTICIPATE IN THE DEVELOPMENT AND IMPLEMENTATION OF COOPERATIVE AGREEMENTS BETWEEN LAW ENFORCEMENT AGENCIES AND THE COUNTY DEPARTMENT TO COORDINATE DUTIES OF BOTH AGENCIES CONCERNING THE INVESTIGATION OF ALL CHILD ABUSE AND NEGLECT CASES, PURSUANT TO SECTION 19-3-308 (5.5), C.R.S.;

(d) TO REVIEW EACH REQUEST BY THE COUNTY DEPARTMENT FOR A TEMPORARY PROTECTIVE CUSTODY ORDER AND EMERGENCY PROTECTION ORDER UNDER SECTION 19-3-405, C.R.S., TO DETERMINE IF THERE IS JUSTIFICATION TO REASONABLY BELIEVE THAT GROUNDS EXIST TO REQUEST SUCH ORDERS AND, BASED ON SUCH DETERMINATION, TO APPROVE OR DENY THE DEPARTMENT'S REQUEST FOR SUCH ORDERS;

(e) TO REVIEW THE DECISION BY THE COUNTY DEPARTMENT, PURSUANT TO SECTION 19-3-501, C.R.S., TO REFER A CHILD MATTER TO THE APPROPRIATE COURT, TO MAKE A DETERMINATION IF SUCH DECISION IS JUSTIFIED, AND TO ACCEPT OR OVERRULE THE COUNTY DEPARTMENT'S DECISION.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE DUTY OF A COUNTY DEPARTMENT, PURSUANT TO SECTION 19-3-312, C.R.S., TO REFER REPORTS IT RECEIVES UNDER SECTIONS 19-3-304 AND 19-3-305, C.R.S., TO THE APPROPRIATE COURT WITH JUVENILE JURISDICTION. SUCH REPORTS SHALL NOT BE CONSIDERED OR EVALUATED BY THE FAMILY ADVOCATE.

(5) IN THE EVENT THAT A CONFLICT ARISES BETWEEN THE COUNTY DEPARTMENT AND THE FAMILY ADVOCATE CONCERNING A DETERMINATION MADE BY THE FAMILY ADVOCATE UNDER THIS SECTION THAT AN ACTION BY A COUNTY DEPARTMENT SHOULD NOT BE PERFORMED, THE COUNTY DEPARTMENT SHALL PROMPTLY REFER THE MATTER TO THE COUNTY DIRECTOR FOR RESOLUTION. UPON RECEIPT OF THE MATTER, THE COUNTY DIRECTOR SHALL IMMEDIATELY RESOLVE THE MATTER AND SHALL EITHER DIRECT THE COUNTY DEPARTMENT TO PERFORM AN ACTION AUTHORIZED BY LAW OR UPHOLD THE FAMILY ADVOCATE'S DETERMINATION THAT THE COUNTY DEPARTMENT'S

ACTION SHOULD NOT BE PERFORMED. IN THE EVENT THE COUNTY DIRECTOR IS NOT AVAILABLE TO RESOLVE THE MATTER, THE COUNTY DEPARTMENT SHALL PROMPTLY REFER THE MATTER TO THE COUNTY DIRECTOR'S DESIGNEE WHO SHALL IMMEDIATELY RESOLVE THE MATTER IN ACCORDANCE WITH THIS SUBSECTION (5).

SECTION 2. 19-3-308 (4) (b) and (5.5), Colorado Revised Statutes, are amended to read:

19-3-308. Action upon report of intrafamilial, institutional, or third-party abuse - child protection team. (4) (b) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH (b), upon the receipt of a report, if the county department reasonably believes that an incident of intrafamilial abuse or neglect has occurred, it shall immediately offer social services to the child who is the subject of the report and ~~his~~ THE CHILD'S family. IF THE COUNTY DEPARTMENT DETERMINES THAT THE FILING OF ~~and may file~~ a petition in the juvenile court or the district court with juvenile jurisdiction on behalf of such child IS APPROPRIATE, THE COUNTY DEPARTMENT SHALL PROMPTLY REFER THE REPORT AND THE COUNTY DEPARTMENT'S DECISION TO THE FAMILY ADVOCATE WITHIN THE COUNTY DEPARTMENT. THE FAMILY ADVOCATE, PURSUANT TO SECTION 26-1-119.5 (3) (a), C.R.S., SHALL REVIEW THE REPORT AND DECISION AND PROMPTLY ACCEPT OR OVERRULE THE COUNTY DEPARTMENT'S DECISION TO FILE A PETITION. NOTHING IN THIS SECTION OR SECTION 26-1-119.5, C.R.S., SHALL BE CONSTRUED TO PREVENT A COUNTY DEPARTMENT FROM CONDUCTING FURTHER INVESTIGATION ON THE REPORT AND RESUBMITTING THE COUNTY DEPARTMENT'S DECISION TO FILE A PETITION

TO THE FAMILY ADVOCATE IN THE MANNER PROVIDED BY THIS SUBPARAGRAPH (I).

(II) If, before the investigation is completed, the opinion of the investigators is that assistance of the local law enforcement agency is necessary for the protection of the child or other children under the same care, the local law enforcement agency shall be notified.

(III) If A COUNTY DEPARTMENT DETERMINES THAT immediate removal is necessary to protect the child or other children under the same care from further abuse, THE COUNTY DEPARTMENT SHALL SUBMIT ITS DETERMINATION TO THE FAMILY ADVOCATE. THE FAMILY ADVOCATE, PURSUANT TO SECTION 26-1-119.5, C.R.S., SHALL IMMEDIATELY REVIEW THE COUNTY DEPARTMENT'S DETERMINATION AND APPROVE OR REJECT IT. IF THE FAMILY ADVOCATE APPROVES THE DETERMINATION, OR IF THE FAMILY ADVOCATE IS NOT AVAILABLE FOR IMMEDIATE REVIEW OF THE COUNTY DEPARTMENT'S DETERMINATION, the child or children may be placed in protective custody in accordance with sections 19-3-401 (1) (a) and 19-3-405.

(IV) NOTHING IN THIS PARAGRAPH (b) SHALL BE CONSTRUED TO LIMIT THE DUTY OF A COUNTY DEPARTMENT, PURSUANT TO SECTION 19-3-312, TO REFER REPORTS IT RECEIVES UNDER SECTIONS 19-3-304 AND 19-3-305 TO THE APPROPRIATE COURT WITH JUVENILE JURISDICTION. SUCH REPORTS SHALL NOT BE CONSIDERED OR EVALUATED BY THE FAMILY ADVOCATE.

(V) NOTHING IN THIS PARAGRAPH (b) SHALL BE CONSTRUED TO LIMIT THE DISCRETION OF A LAW ENFORCEMENT OFFICER OR OTHER APPROPRIATE PERSON TO SEEK PROTECTIVE CUSTODY OF A CHILD UNDER THIS SECTION OR SECTIONS 19-3-401 OR 19-3-405.

(5.5) Upon the receipt of a report, if the county department OR FAMILY ADVOCATE reasonably believes that an incident of abuse or neglect has occurred, ~~it~~ THE COUNTY DEPARTMENT OR FAMILY ADVOCATE shall immediately notify the local law enforcement agency responsible for investigation of violations of criminal child abuse laws. The local law enforcement agency may conduct an investigation to determine if a violation of any criminal child abuse law has occurred. It is the general assembly's intent that, in each county of the state, law enforcement agencies, ~~and~~ the respective county departments of social services, AND THE FAMILY ADVOCATE, shall develop and implement cooperative agreements to coordinate duties of both agencies in connection with the investigation of all child abuse or neglect cases and that the focus of such agreements shall be to ensure the best protection for the child. The said agreements shall provide for special requests by one agency for assistance from the other agency and for joint investigations by both agencies.

SECTION 3. 19-3-405 (2) and (3), Colorado Revised Statutes, are amended, and the said 19-3-405 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-3-405. Temporary protective custody. (2) (a) Temporary protective custody orders may be requested by the county department of social services PURSUANT TO SUBSECTION (2.5) OF THIS SECTION, a law enforcement officer, an administrator of a hospital in which a child reasonably believed to have been neglected or abused is being treated, or any physician who has before him or her a child he or she reasonably believes has been abused or neglected, whether or not additional medical treatment is required, if such person or

department believes that the circumstances or conditions of the child are such that continuing the child's place of residence or in the care and custody of the person responsible for the child's care and custody would present a danger to that child's life or health in the reasonably foreseeable future.

(b) Emergency protection orders may be requested by the county department of social services PURSUANT TO SUBSECTION (2.5) OF THIS SECTION, a law enforcement officer, an administrator of a hospital in which a child reasonably believed to have been neglected or abused is being treated, or any physician who has before him or her a child the physician reasonably believes has been abused or neglected, whether or not additional medical treatment is required, if such person or department believes that the child is able to remain safely in the child's place of residence or in the care and custody of the person responsible for the child's care and custody only if certain emergency protection orders are entered. An emergency protection order may include but is not limited to:

- (I) Restraining a person from threatening, molesting, or injuring the child;
- (II) Restraining a person from interfering with the supervision of the child; or
- (III) Restraining a person from having contact with the child or the child's residence.

(2.5) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2.5), IF A COUNTY DEPARTMENT OF SOCIAL SERVICES DETERMINES THAT THE CIRCUMSTANCES AND CONDITIONS OF THE CHILD'S CARE AND CUSTODY JUSTIFY A REQUEST FOR A TEMPORARY PROTECTIVE CUSTODY ORDER

OR AN EMERGENCY PROTECTION ORDER PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE COUNTY DEPARTMENT OF SOCIAL SERVICES SHALL PROMPTLY NOTIFY THE FAMILY ADVOCATE FOR THAT COUNTY. THE FAMILY ADVOCATE SHALL IMMEDIATELY REVIEW THE COUNTY DEPARTMENT'S DETERMINATION AND APPROVE OR REJECT IT. IF THE FAMILY ADVOCATE APPROVES THE DETERMINATION, OR IF THE FAMILY ADVOCATE IS NOT AVAILABLE FOR IMMEDIATE REVIEW OF THE COUNTY DEPARTMENT'S DETERMINATION, THE COUNTY DEPARTMENT OF SOCIAL SERVICES MAY PROCEED WITH ITS REQUEST FOR A TEMPORARY PROTECTIVE CUSTODY ORDER OR AN EMERGENCY PROTECTION ORDER PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(b) NOTHING IN THIS SUBSECTION (2.5) SHALL BE CONSTRUED TO LIMIT THE DUTY OF A COUNTY DEPARTMENT OF SOCIAL SERVICES, PURSUANT TO SECTION 19-3-312, TO REFER REPORTS IT RECEIVES UNDER SECTIONS 19-3-304 AND 19-3-305 TO THE APPROPRIATE COURT WITH JUVENILE JURISDICTION. SUCH REPORTS SHALL NOT BE CONSIDERED OR EVALUATED BY THE FAMILY ADVOCATE.

(c) NOTHING IN THIS SUBSECTION (2.5) SHALL BE CONSTRUED TO LIMIT THE DISCRETION OF A LAW ENFORCEMENT OFFICER, AN ADMINISTRATOR OF A HOSPITAL, OR A PHYSICIAN TO REQUEST ORDERS FOR TEMPORARY PROTECTIVE CUSTODY OR EMERGENCY PROTECTION PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(3) The county department of social services AND THE FAMILY ADVOCATE shall be notified of such action immediately by the court-appointed official in order that child protection proceedings may be initiated.

SECTION 4. 19-3-501 (1), Colorado Revised Statutes, is amended, and the said 19-3-501 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-3-501. Petition initiation - preliminary investigation - informal adjustment. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1.5) OF THIS SECTION, whenever it appears to a law enforcement officer, A COUNTY DEPARTMENT OF SOCIAL SERVICES, or other person that a child is or appears to be within the court's jurisdiction, as provided in this article, the law enforcement officer, COUNTY DEPARTMENT OF SOCIAL SERVICES, or other person may refer the matter to the court, which shall have a preliminary investigation made to determine whether the interests of the child or of the community require that further action be taken, which investigation shall be made by the probation department, county department of social services, or any other agency designated by the court. On the basis of the preliminary investigation, the court may:

(a) Decide that no further action is required, either in the interests of the public or of the child;

(b) Authorize a petition to be filed; or

(c) (I) Make whatever informal adjustment is practicable without a petition if:

(A) The child and ~~his~~ THE CHILD'S parents, guardian, or other legal custodian were informed of their constitutional and legal rights, including being represented by counsel at every stage of the proceedings;

(B) The facts are admitted and establish prima facie jurisdiction; except that such admission shall not be used in evidence if a petition is filed; and

(C) Written consent is obtained from the parents, guardian, or other legal custodian and also from the child, if of sufficient age and understanding.

(II) Efforts to effect informal adjustment may extend no longer than six months.

(1.5) THE DECISION BY A COUNTY DEPARTMENT OF SOCIAL SERVICES TO REFER A MATTER TO THE COURT UNDER THIS SECTION SHALL BE FORWARDED BY SUCH DEPARTMENT TO, AND REVIEWED BY, THE FAMILY ADVOCATE FOR THE COUNTY IN THE MANNER SET FORTH IN SECTION 19-3-308

(4) (b). NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE DUTY OF A COUNTY DEPARTMENT OF SOCIAL SERVICES, PURSUANT TO SECTION 19-3-312, TO REFER REPORTS IT RECEIVES UNDER SECTIONS 19-3-304 AND 19-3-305 TO THE APPROPRIATE COURT WITH JUVENILE JURISDICTION. SUCH REPORTS SHALL NOT BE CONSIDERED OR EVALUATED BY THE FAMILY ADVOCATE.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill E

HOUSE SPONSORSHIP

Alexander and Chavez

SENATE SPONSORSHIP

A BILL FOR AN ACT

CONCERNING EXPENSES ASSOCIATED WITH THE PROVISION OF FOSTER CARE SERVICES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Foster Care. Directs county departments of social services ("counties") that negotiate rates, services, and outcomes with child placement agencies ("CPAs") to meet the following requirements:

Inclusion in each contract with a CPA of a requirement that the CPA submit an itemized list of expenses associated with the provision of foster care services; and

Compliance with all child placement agency rate-setting guidelines established by rule of the state board of human services ("state board").

Directs the counties and the department of human services to analyze and evaluate the expenditures reported by the CPAs and to use such information in determining reasonable and appropriate rates for foster care services. Requires the state board to promulgate rules setting forth minimum formal guidelines to be followed by counties in setting reasonable and appropriate rates for CPAs providing foster care services.

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

SECTION 1. 26-5-104 (6), Colorado Revised Statutes, is amended to read:

26-5-104. Funding of child welfare services.

(6) (a) SUBJECT TO THE REQUIREMENTS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (6), on and after July 1, 1997, 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) (I) IN ORDER TO ASSESS THE EXPENDITURES ASSOCIATED WITH THE PROVISION OF FOSTER CARE SERVICES BY CHILD PLACEMENT AGENCIES, AS THAT TERM IS DEFINED IN SECTION 26-6-102 (2), ANY COUNTY THAT NEGOTIATES RATES, SERVICES, AND OUTCOMES WITH CHILD PLACEMENT AGENCIES LICENSED TO CERTIFY FOSTER CARE HOMES SHALL BE SUBJECT TO THE FOLLOWING REQUIREMENTS:

(A) THE COUNTY SHALL INCLUDE IN EVERY CONTRACT ENTERED INTO WITH A CHILD PLACEMENT AGENCY A REQUIREMENT THAT THE CHILD PLACEMENT AGENCY SHALL REPORT ANNUALLY TO THE CONTRACTING COUNTY, AND DIRECTLY TO THE STATE DEPARTMENT, CONCERNING THE EXPENDITURES ASSOCIATED WITH THE PROVISION OF FOSTER CARE SERVICES. SUCH REPORT SHALL PROVIDE AN ITEMIZATION OF THE FOLLOWING EXPENDITURES INCLUDING, BUT NOT LIMITED TO: THE VALUE OF THE SALARIES AND

OTHER REMUNERATION PAID TO EACH ADMINISTRATOR AND EMPLOYEE OF THE CHILD PLACEMENT AGENCY; THE AMOUNTS ATTRIBUTABLE TO THE PROCESS OF CONTRACTING WITH COUNTIES; THE AMOUNTS ATTRIBUTABLE TO RECRUITING FOSTER CARE HOMES; THE AMOUNTS ATTRIBUTABLE TO EACH STEP IN CERTIFYING FOSTER CARE HOMES; THE AMOUNTS ATTRIBUTABLE TO PAYMENTS TO FOSTER CARE HOMES FOR THE PROVISION OF FOOD AND SHELTER; THE AMOUNTS ATTRIBUTABLE TO PAYMENTS TO FOSTER CARE HOMES FOR EACH TYPE OF SERVICE PROVIDED TO CHILDREN IN FOSTER CARE SUCH AS COUNSELING, MENTAL HEALTH SERVICES, AND MEDICAL SERVICES; AND THE AMOUNTS ATTRIBUTABLE TO THE MONITORING AND OVERSEEING OF FOSTER CARE HOMES; AND

(B) THE COUNTY ENTERING INTO A CONTRACT WITH A CHILD PLACEMENT AGENCY TO PROVIDE FOSTER CARE SERVICES SHALL COMPLY WITH ANY CHILD PLACEMENT AGENCY RATE-SETTING GUIDELINES ESTABLISHED BY THE STATE DEPARTMENT THROUGH RULES OF THE STATE BOARD.

(II) THE COUNTIES AND THE STATE DEPARTMENT SHALL ANALYZE AND EVALUATE THE EXPENDITURES AS REPORTED BY CHILD PLACEMENT AGENCIES PURSUANT TO SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) EACH YEAR AND COMPARE SUCH EXPENDITURES TO COUNTY EXPENDITURES FOR THE PROVISION OF FOSTER CARE SERVICES. THE COUNTIES AND THE STATE DEPARTMENT SHALL USE SUCH INFORMATION IN DETERMINING REASONABLE AND APPROPRIATE RATES FOR FOSTER CARE SERVICES. BASED UPON THE ANALYSIS OF SUCH INFORMATION AND SUCH OTHER CRITERIA AS IT DEEMS APPROPRIATE, THE STATE BOARD SHALL PROMULGATE RULES SETTING FORTH MINIMUM FORMAL GUIDELINES TO BE USED BY COUNTIES IN SETTING

REASONABLE AND APPROPRIATE RATES FOR CHILD PLACEMENT AGENCIES PROVIDING FOSTER CARE SERVICES.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill F

HOUSE SPONSORSHIP

Tochtrop and Alexander

SENATE SPONSORSHIP

Linkhart and Epps

A BILL FOR AN ACT

CONCERNING LIMITATIONS ON THE NUMBER OF CHILDREN PLACED IN A FOSTER CARE HOME.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Foster Care. Specifies the maximum number of children, including both foster care children and other children, that may reside in a foster care home at any given time. Further specifies the maximum number of foster care children that a foster care home can be certified to receive for care, and provides an exception to this limit to accommodate sibling foster care children. Limits the number of children under a certain age that can reside in a foster care home at any given time.

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

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

26-6-106.5. Children placed in foster care home - limit. (1) NO FOSTER CARE HOME SHALL PROVIDE CARE FOR MORE THAN SIX CHILDREN AT A GIVEN TIME AND NO MORE THAN FOUR OF SAID CHILDREN MAY BE FOSTER CARE CHILDREN.

(2) NO FOSTER CARE HOME SHALL PROVIDE CARE FOR MORE THAN TWO CHILDREN UNDER TWO YEARS OF AGE AT ANY GIVEN TIME.

(3) NOTWITHSTANDING ANY LIMITATIONS SPECIFIED IN THIS SECTION, A FOSTER CARE HOME MAY PROVIDE CARE FOR UP TO FIVE FOSTER CHILDREN IF AT LEAST THREE OF SUCH FOSTER CHILDREN ARE SIBLINGS.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill G

HOUSE SPONSORSHIP

Alexander, Johnson, and Tochtrop

SENATE SPONSORSHIP

Epps, Evans, and Linkhart

A BILL FOR AN ACT

CONCERNING THE PROVISION OF FOSTER CARE SERVICES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Foster Care. Clarifies the definition of "affiliate" by including executives, officers, board members, and employees of a licensee.

States that requirements for foster care home certificates are to be at least as stringent for those homes certified by a child placement agency ("CPA") as are the requirements for homes certified by county departments of social services ("county departments"). Adds resident adults to those individuals who are required to meet criminal background check requirements of those operating foster care homes or other child care facilities.

Requires the state board of human services ("state board") to promulgate rules for the annual recertification of foster care homes. Allows a foster care home to seek recertification from its own CPA, another CPA, or a county department without penalty or restriction.

Changes licenses issued to CPAs that certify foster care homes from permanent licenses against which negative licensing action may be taken to annual licenses that must be renewed each year. Specifies that licenses previously issued as permanent licenses shall expire on July 1, 2002.

Adds felonies committed within the last 10 years to the list of offenses, the conviction for which shall result in the denial of a license or certificate to operate a child care agency or facility.

Directs that no license or certificate to operate a child care agency or facility shall be issued to any person:

- Who has been determined to be insane or mentally incompetent; or
- Who has a pattern of committing misdemeanors in the previous 10 years, as defined by rule of the state board.

Requires the state department of human services ("state department") to deny or revoke a license sought by or previously issued to a CPA that places children in foster care if any officer, executive, or employee of the CPA is related to or serves as any member of the board of directors of the CPA.

Clarifies provisions relating to fees for relicensing.

Authorizes the state board to promulgate rules setting forth training requirements for providers of foster care services, including orientation and prelicensing training for child placement agencies.

Permits the state department to act immediately to remove a child from a foster care home, and to deny reimbursement of public funds for placement of other children in such home, if the state department finds that:

- The child is subject to an immediate and direct threat to his or her safety and welfare; or
- A substantial violation of a fundamental standard of care warrants immediate action.

Requires the state department to monitor and track complaints involving CPAs and to investigate meritorious complaints. Directs county departments to report complaints involving CPAs to the state department. Requires county departments to consult with the state department prior to referring a child to a CPA to determine whether the CPA is the subject of a pending investigation. Requires the county department to suspend the referral while an investigation is pending. Mandates that a CPA must first obtain approval for the placement of a child from the county department when a background check indicates that an adult residing in a proposed foster care home has been charged or convicted of any felony or misdemeanor.

Permits any county department to act immediately to revoke the certification of a foster care home under certain circumstances. Requires a due process hearing within 5 days after the revocation of certification and requires the application to include notice information.

Changes the standard applied by the state department in:

- Denying, suspending, revoking, or making probationary the license of a CPA; or
- Assessing fines against a CPA or its employee for violating licensing laws.

Specifies that the state department may deny, suspend, revoke, or make probationary the license of any applicant or affiliate that is the subject of a pending investigation by the state department that may result in a negative licensing action.

Specifies the circumstances under which a foster care home license or certificate may be denied, suspended, revoked, or made probationary. Makes insanity and mental illness reasons for automatic denial or revocation of license or certificate.

Authorizes the state department to make probationary a license of a foster care facility by an informal and expedited hearing process. States that the licensee is not entitled to a right to cure any of the charges.

Requires the state department to immediately suspend or revoke a CPA license when violations of standards are deemed excessive by the state department, as determined by rule of the state board.

Requires the state department to create a risk-based classification system for CPAs that certify foster care homes. Permits the state department, on and after January 1, 2003, to implement a schedule of CPA relicensing based on risk factors.

Directs a county department with substantiated evidence that a CPA has violated licensing laws or rules to communicate such information to all other county departments and to the state department electronically. Requires the county department to identify whether it is requesting an investigation by the state department and directs the state department to conduct such an investigation of a CPA upon request and to report its findings. Requires the state department to make available to county departments the results of any such investigation of a CPA or of any negative licensing action.

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

SECTION 1. 26-6-102 (1) and (3), Colorado Revised Statutes, are amended to read:

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.

(3) "Department" OR "STATE DEPARTMENT" means the STATE department of human services.

SECTION 2. 26-6-104 (1) and (7), Colorado Revised Statutes, are amended, and the said 26-6-104 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

26-6-104. Licenses - out-of-state notices and consent. (1) (a) 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. Such license issued by the STATE department shall be permanent unless otherwise revoked or suspended pursuant to section 26-6-108. ~~except that the state board of human services shall promulgate rules requiring the recertification of foster care homes every three years and setting forth the procedural requirements associated with such recertification.~~

(b) (I) A person operating a foster care home shall not obtain a license 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 BACKGROUND CHECKS REQUIRED UNDER SECTION 26-6-107. ~~Said~~ EACH certificate shall be in such form as prescribed and provided by the STATE department, shall certify that such person is a suitable person AND ANY OTHER ADULTS RESIDING IN THE HOME 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. REQUIREMENTS FOR CERTIFICATION OF A FOSTER CARE HOME BY A CHILD PLACEMENT AGENCY SHALL BE AT LEAST AS STRINGENT AS THE REQUIREMENTS FOR CERTIFICATION BY A COUNTY DEPARTMENT. A CHILD placement agency issuing or renewing any such certificate shall transmit a copy or report thereof to the STATE department.

(II) 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 QUALITATIVE ASSESSMENTS OF THE FOSTER CARE HOME. No foster care home shall be certified 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. ~~All such certificates shall be considered licenses for the purpose of this part 1, including but not limited to the investigation and criminal background checks required under section 26-6-107.~~

(IV) AT THE CONCLUSION OF THE CERTIFICATION PERIOD, A FOSTER CARE HOME THAT IS CERTIFIED BY A CHILD PLACEMENT AGENCY MAY SEEK RECERTIFICATION FROM THE SAME CHILD PLACEMENT AGENCY, ANOTHER CHILD PLACEMENT AGENCY, OR A COUNTY DEPARTMENT WITHOUT PENALTY OR RESTRICTION.

(c) (I) CHILD PLACEMENT AGENCIES THAT CERTIFY FOSTER CARE HOMES SHALL BE LICENSED ANNUALLY. 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 QUALITATIVE ASSESSMENTS OF THE CHILD PLACEMENT AGENCY.

(II) ANY PERMANENT LICENSES ISSUED TO A CHILD PLACEMENT AGENCY PRIOR TO JULY 1, 2001, SHALL EXPIRE AUTOMATICALLY ON JULY 1, 2002. SUCH LICENSES MAY BE RENEWED PURSUANT TO THE RULES OF THE STATE BOARD.

(7) (a) (I) 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 by the STATE department, a county department, or a child placement agency licensed under the provisions of this part 1 if the person applying for such a license or certificate OR, IN THE CASE OF A FOSTER CARE HOME, ANY ADULT RESIDENT OF THE HOME has been convicted of:

(A) Felony child abuse, as specified in section 18-6-401, C.R.S.;

(B) A crime of violence, as defined in section 16-11-309, C.R.S.;

(C) Any felony offenses involving unlawful sexual behavior, as defined in section 18-3-412.5, 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 WITHIN THE TEN YEARS IMMEDIATELY PRECEDING THE SUBMISSION OF THE APPLICATION FOR A LICENSE OR CERTIFICATE OR RENEWAL; OR

(E) Any felony 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 (D)~~ SUB-SUBPARAGRAPHS (A) TO (D.5) 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 or any other source. 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 OR, IN THE CASE OF A FOSTER CARE HOME, ANY ADULT RESIDENT OF THE HOME has been convicted of felony 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 OR, IN THE CASE OF A FOSTER CARE HOME, ANY ADULT RESIDENT OF THE HOME has entered into a deferred judgment or deferred prosecution agreement in another state as to felony child abuse or any sexual offense against a child.

(8) NO LICENSE OR CERTIFICATE TO OPERATE ANY AGENCY OR FACILITY DEFINED IN THIS PART 1 SHALL BE ISSUED BY THE STATE DEPARTMENT, A COUNTY DEPARTMENT, OR A CHILD PLACEMENT AGENCY IF THE PERSON APPLYING FOR SUCH A LICENSE OR CERTIFICATE:

(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 27-10-109 (4) OR 27-10-125, C.R.S., AN ORDER SPECIFICALLY FINDING THAT THE MENTAL INCOMPETENCY OR INSANITY IS OF SUCH A DEGREE THAT THE APPLICANT 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

(b) HAS A PATTERN OF COMMITTING MISDEMEANORS WITHIN THE TEN YEARS IMMEDIATELY PRECEDING SUBMISSION OF THE APPLICATION. SUCH

PATTERN OF COMMITTING MISDEMEANORS SHALL BE DEFINED BY RULE OF THE STATE BOARD.

(9) NO LICENSE TO OPERATE A CHILD PLACEMENT AGENCY SHALL BE ISSUED BY THE STATE DEPARTMENT IF IT IS FOUND THAT ANY MEMBER OF THE BOARD OF DIRECTORS OF ANY CHILD PLACEMENT AGENCY THAT PLACES OR ARRANGES FOR PLACEMENT OF A CHILD IN FOSTER CARE IS EITHER RELATED TO OR SERVES SIMULTANEOUSLY AS AN OFFICER, EXECUTIVE, OR EMPLOYEE OF THE SAME CHILD PLACEMENT AGENCY. FOR PURPOSES OF THIS SUBSECTION (9), "RELATED" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 26-6-102 (7).

SECTION 3. The introductory portion to 26-6-105 (1) (a) and 26-6-105 (2) (a) and (2) (b) (II), Colorado Revised Statutes, are amended to read:

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 ~~and regulations~~ promulgated by the state board of human services, full and provisional license fees and fees for continuation OR RENEWAL of a full license for the following types of child care arrangements:

(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 ~~which~~ 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 full licenses shall continue in force until revoked or surrendered, OR EXPIRED, AS IN THE CASE OF ANNUAL CHILD PLACEMENT AGENCY LICENSES.

(b) (II) A reapplication and fee shall be required and received by the STATE department in the manner specified in rules ~~and regulations~~ promulgated by the state board. ~~of human services~~. AN INDIVIDUAL, PARTNERSHIP, CORPORATION, OR ASSOCIATION SEEKING TO RENEW AN ANNUAL CHILD PLACEMENT AGENCY LICENSE SHALL SUBMIT A REAPPLICATION AND FEE TO THE STATE DEPARTMENT AS SPECIFIED IN RULES PROMULGATED BY THE STATE BOARD.

SECTION 4. 26-6-105.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-6-105.5. Application forms - criminal sanctions for perjury. (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 OTHER NEGATIVE LICENSING ACTION AS SET FORTH IN THIS SECTION, SECTION 26-6-107.7, AND AS DESCRIBED BY RULE OF THE STATE BOARD.

SECTION 5. 26-6-106 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-6-106. Standards for facilities and agencies. (2) Standards prescribed by such rules shall be restricted to:

(q) 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.

SECTION 6. 26-6-107 (1) (a) (I), (1) (a.5), (1) (b), and (2), Colorado Revised Statutes, are amended to read:

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 RENEWAL, and each application for a permanent license following the issuance of a probationary or provisional license, to operate a facility or an agency prior to granting such license. As part of such investigation, the STATE department shall require each applicant, owner, employee, newly hired employee, licensee, and any adult who resides in the licensed facility to obtain a criminal ~~record~~ BACKGROUND 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 ~~of human services~~ shall promulgate rules that define and identify what the criminal background check shall entail.

(B) ~~Such~~ Rules PROMULGATED BY THE STATE BOARD PURSUANT TO THIS SUBPARAGRAPH (I) shall allow an exemption from the criminal background investigation and the state central registry of child protection investigation for those out-of-state employees working in Colorado at a children's resident camp in a temporary capacity for fewer than ninety days. Each person so exempted from fingerprinting and the state central registry of child protection investigation 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) ~~The~~ Rules PROMULGATED BY THE STATE BOARD PURSUANT TO THIS SUBPARAGRAPH (I) shall require the criminal background check in all ~~other~~ circumstances OTHER THAN THOSE IDENTIFIED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I) to include a fingerprint check through the Colorado bureau of investigation. As part of said investigation, the state central registry of child protection shall be accessed to determine whether the owner, applicant, employee, newly hired employee, licensee, or individual who resides in the licensed facility being investigated is the subject of a report of known or suspected child abuse. Pursuant to section 19-1-307 (2) (j), C.R.S., information shall be made available if a person's name is on the central registry of child protection, or has been designated as "status pending" pursuant to section 19-3-313, C.R.S. Any change in ownership of a licensed facility or the addition of a new resident adult or newly hired employee to the licensed facility shall require a new investigation as provided for in this section.

(D) The state board ~~of human services~~ shall promulgate rules to implement this subparagraph (I).

(a.5) An applicant for certification as a foster care home shall provide the child placement agency or the COUNTY department ~~of social services~~ from whom the certification is sought with a list of all the prior child placement agencies and county departments ~~of social services~~ that had previously certified the applicant. A child placement agency or county

department ~~of social services~~ from whom the certification is sought shall conduct a reference check of the applicant AND ANY ADULT RESIDENT OF THE FOSTER CARE HOME by contacting all of the child placement agencies and county departments ~~of social services~~ identified by the applicant before issuing the certification for that foster care home.

(b) (I) When the STATE department, county department, or child placement agency is satisfied 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. EXCEPT AS OTHERWISE PROVIDED IN SECTION 26-6-108 (5) (b), 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. ~~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 child care center facilities and family child care home facilities post their licenses and information regarding the procedures for filing a complaint under this part 1~~

~~directly with the 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.~~ 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 OR A SUBSTANTIAL VIOLATION OF A FUNDAMENTAL STANDARD OF CARE WARRANTS IMMEDIATE ACTION, THE STATE DEPARTMENT MAY IMMEDIATELY ACT TO REMOVE SUCH CHILD FROM THE FOSTER CARE HOME AND DENY THE REIMBURSEMENT OF PUBLIC FUNDS FOR THE PLACEMENT OF ANY

OTHER CHILDREN IN SUCH FOSTER CARE HOME, PENDING A HEARING ON THE MATTER WITHIN FIVE DAYS AFTER REMOVAL OF THE CHILD, WHICH HEARING SHALL BE CONDUCTED PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.

(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 CHILD CARE CENTER FACILITIES AND FAMILY CHILD CARE HOME FACILITIES 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.

(III) (A) THE STATE DEPARTMENT SHALL MONITOR AND TRACK COMPLAINTS INVOLVING CHILD PLACEMENT AGENCIES AND SHALL INVESTIGATE SUCH COMPLAINTS THAT, IN THE DETERMINATION OF THE STATE DEPARTMENT, ARE MERITORIOUS. COUNTY DEPARTMENTS SHALL REPORT ALL KNOWN COMPLAINTS INVOLVING CHILD PLACEMENT AGENCIES DIRECTLY TO THE STATE DEPARTMENT. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO COUNTY DEPARTMENT OR ANY OF ITS EMPLOYEES OR AGENTS SHALL BE LIABLE IN ANY CIVIL ACTION FOR DAMAGES TO A FOSTER CARE HOME, A CHILD PLACEMENT AGENCY, ANY EMPLOYEES THEREOF, OR ANY OTHER PERSON FOR THE CONTENTS OF ANY REPORTS SUBMITTED TO THE STATE DEPARTMENT PURSUANT TO THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (A).

COUNTY DEPARTMENTS SHALL CONSULT WITH THE STATE DEPARTMENT PRIOR TO REFERRING A CHILD TO A CHILD PLACEMENT AGENCY FOR PLACEMENT IN ORDER TO ASCERTAIN WHETHER SUCH CHILD PLACEMENT AGENCY IS THE SUBJECT OF A PENDING INVESTIGATION BY THE STATE DEPARTMENT DUE TO COMPLAINTS BROUGHT BY OTHER COUNTIES OR ANY OTHER PERSON. THE COUNTY DEPARTMENT SHALL SUSPEND THE REFERRAL OF SUCH CHILD WHILE SUCH INVESTIGATION IS PENDING.

(B) A CHILD PLACEMENT AGENCY, PRIOR TO PLACING OR ARRANGING THE PLACEMENT OF A CHILD IN A FOSTER CARE HOME, SHALL OBTAIN THE APPROVAL OF THE COUNTY DEPARTMENT OF THE COUNTY IN WHICH SUCH FOSTER CARE HOME IS LOCATED WHEN THE BACKGROUND CHECK CONDUCTED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (1) INDICATES THAT ANY ADULT RESIDING IN THE FOSTER CARE HOME HAS BEEN CHARGED OR CONVICTED OF ANY FELONY OR MISDEMEANOR UNDER THE LAWS OF THIS OR ANY OTHER JURISDICTION.

~~(H)~~ (IV) 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.

(2) The STATE department may authorize or contract with any county department, ~~of social services~~, 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 ~~probation~~ 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 the facilities to be inspected. 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.

SECTION 7. Part 1 of article 6 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

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 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.

SECTION 8. 26-6-108 (1), the introductory portion to (2), 26-6-108 (2) (b), (2) (i), and (2) (m), the introductory portion to (2.5) (a), 26-6-108 (2.7), (3), and (4), Colorado Revised Statutes, are amended, and the said 26-6-108 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

26-6-108. Denial of original license - suspension - revocation - probation - refusal to renew license - fines. (1) When an application for an original OR RENEWAL license has been denied by the STATE department, the STATE department shall notify the applicant in writing of such denial by mailing a notice to ~~him~~ THE APPLICANT at the address shown on ~~his~~ THE application. Any applicant believing himself OR HERSELF TO BE aggrieved by such denial may pursue the remedy for review as provided in subsection (3) of this section if he OR SHE, within thirty days after receiving such notice, petitions the STATE department to set a date and place for hearing, affording ~~him~~ THE APPLICANT an opportunity to be heard in person or by counsel. All hearings on the denial of original OR RENEWAL 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 STATE department may deny, suspend, revoke, or make probationary the license of any facility regulated and licensed under this part 1, OTHER THAN A FOSTER CARE HOME LICENSE OR CERTIFICATE, 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:

(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 27-10-109 (4) or 27-10-125, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the 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~~

(i) Willfully or deliberately violate any of the provisions of this part 1; EXCEPT THAT A KNOWING VIOLATION OF THE PROVISIONS OF THIS PART 1 SHALL BE SUFFICIENT FOR THE STATE DEPARTMENT TO TAKE ACTION AGAINST A CHILD PLACEMENT AGENCY; or

(m) Be the subject of a PREVIOUS negative licensing action OR BE THE SUBJECT OF A PENDING INVESTIGATION BY THE STATE DEPARTMENT THAT MAY RESULT IN A NEGATIVE LICENSING ACTION.

(2.5) (a) The STATE department shall deny a license, OTHER THAN A FOSTER CARE HOME LICENSE OR CERTIFICATE, under the circumstances described in section 26-6-104 (7). The STATE department shall revoke a license previously issued if:

(2.6) (a) THE STATE DEPARTMENT MAY DENY, SUSPEND, REVOKE, OR MAKE PROBATIONARY THE LICENSE OR CERTIFICATE OF ANY FOSTER CARE HOME FACILITY REGULATED AND LICENSED OR CERTIFIED UNDER THIS PART 1 OR ASSESS A FINE AGAINST THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER PURSUANT TO SECTION 26-6-114, AND THE COUNTY DEPARTMENT OR A CHILD PLACEMENT AGENCY MAY DENY CERTIFICATION, SHOULD THE CERTIFIED FOSTER CARE PROVIDER, AN AFFILIATE OF THE PROVIDER, A PERSON EMPLOYED BY THE PROVIDER, OR A PERSON WHO RESIDES WITH THE PROVIDER AT THE FACILITY:

(I) 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 STATE DEPARTMENT HAVE A CERTIFIED COURT ORDER FROM ANOTHER STATE INDICATING THAT THE APPLICANT, LICENSEE, CERTIFIED FOSTER CARE PROVIDER, PERSON EMPLOYED BY THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, OR ANY PERSON RESIDING WITH THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER 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

(II) 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 RESTRAINING 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); OR

(III) USE ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S., 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, TO THE EXTENT SUCH USE OR CONSUMPTION IMPAIRS THE LICENSEE'S OR CERTIFIED FOSTER CARE PROVIDER'S ABILITY TO PROPERLY CARE FOR CHILDREN; OR

(IV) 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 18-18-405, C.R.S., OR UNLAWFUL OFFENSES RELATING TO MARIHUANA OR MARIHUANA CONCENTRATE AS SPECIFIED IN SECTION 18-18-406, C.R.S.; OR

(V) CONSISTENTLY FAIL TO MAINTAIN STANDARDS PRESCRIBED AND PUBLISHED BY THE STATE DEPARTMENT; OR

(VI) FURNISH OR MAKE ANY MISLEADING OR ANY FALSE STATEMENT OR REPORT TO THE STATE DEPARTMENT, COUNTY DEPARTMENT, OR CHILD PLACEMENT AGENCY; OR

(VII) REFUSE TO SUBMIT TO THE STATE DEPARTMENT ANY REPORTS OR REFUSE TO MAKE AVAILABLE TO THE STATE DEPARTMENT ANY RECORDS REQUIRED BY IT IN MAKING AN INVESTIGATION OF THE FACILITY FOR LICENSING OR CERTIFICATION PURPOSES; OR

(VIII) FAIL OR REFUSE TO SUBMIT TO AN INVESTIGATION OR INSPECTION BY THE STATE DEPARTMENT OR TO ADMIT AUTHORIZED REPRESENTATIVES OF THE STATE DEPARTMENT AT ANY REASONABLE TIME FOR THE PURPOSE OF INVESTIGATION OR INSPECTION; OR

(IX) 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 STATE DEPARTMENT OR BY ORDINANCES OR REGULATIONS APPLICABLE TO THE LOCATION OF SUCH FACILITY; OR

(X) WILLFULLY OR DELIBERATELY VIOLATE ANY OF THE PROVISIONS OF THIS PART 1; OR

(XI) 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

(XII) 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:

(A) SUCH INDIVIDUAL HAS ADMITTED COMMITTING THE ACT OR OFFENSE AND THE ADMISSION IS DOCUMENTED OR UNCONTROVERTED; OR

(B) THE ADMINISTRATIVE LAW JUDGE FINDS THAT SUCH CHARGE IS SUPPORTED BY SUBSTANTIAL EVIDENCE; OR

(XIII) ADMIT TO AN ACT OF CHILD ABUSE OR IF SUBSTANTIAL EVIDENCE IS FOUND THAT THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, PERSON EMPLOYED BY THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, OR PERSON WHO RESIDES WITH THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER IN THE LICENSED OR CERTIFIED FACILITY HAS COMMITTED AN ACT OF CHILD ABUSE. FOR THE PURPOSES OF THIS SUBPARAGRAPH (XIII), "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

(XIV) BE THE SUBJECT OF A NEGATIVE LICENSING ACTION.

(b) (I) THE STATE DEPARTMENT, COUNTY DEPARTMENT, OR A CHILD PLACEMENT AGENCY SHALL DENY A FOSTER CARE HOME LICENSE OR CERTIFICATION IF THE APPLICANT, A PERSON EMPLOYED BY THE APPLICANT, OR A PERSON WHO RESIDES WITH THE APPLICANT AT THE FACILITY IS:

(A) 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 27-10-109 (4) OR 27-10-125, C.R.S., AN ORDER SPECIFICALLY FINDING THAT THE MENTAL INCOMPETENCY OR INSANITY IS OF SUCH A DEGREE THAT THE

LICENSEE OR CERTIFIED FOSTER CARE PROVIDER IS INCAPABLE OF OPERATING A FOSTER CARE HOME, THE RECORD OF SUCH DETERMINATION AND ENTRY OF SUCH ORDER BEING CONCLUSIVE EVIDENCE THEREOF; OR

(B) CONVICTED OF ANY OFFENSE DESCRIBED IN SECTION 26-6-104 (7).

(II) THE STATE DEPARTMENT SHALL REVOKE A LICENSE OR CERTIFICATE PREVIOUSLY ISSUED TO A FOSTER CARE HOME IF:

(A) THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, PERSON EMPLOYED BY THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, OR PERSON RESIDING WITH THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER IS 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 27-10-109 (4) OR 27-10-125, C.R.S., AN ORDER SPECIFICALLY FINDING THAT THE MENTAL INCOMPETENCY OR INSANITY IS OF SUCH A DEGREE THAT THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER IS INCAPABLE OF OPERATING A FOSTER CARE HOME, THE RECORD OF SUCH DETERMINATION AND ENTRY OF SUCH ORDER BEING CONCLUSIVE EVIDENCE THEREOF; OR

(B) THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, PERSON EMPLOYED BY THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, OR PERSON RESIDING WITH THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER IS THEREAFTER CONVICTED OR IF IT IS LATER DISCOVERED THAT THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, PERSON EMPLOYED BY THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, OR PERSON RESIDING WITH THE LICENSEE

OR CERTIFIED FOSTER CARE PROVIDER HAD PREVIOUSLY BEEN CONVICTED OF ANY OF THE CRIMINAL OFFENSES SET FORTH IN SECTION 26-6-104 (7); OR

(C) THE STATE DEPARTMENT HAS A CERTIFIED COURT ORDER FROM ANOTHER STATE INDICATING THAT THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, PERSON EMPLOYED BY THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, OR PERSON RESIDING WITH THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER IS THEREAFTER CONVICTED OF, OR IF IT IS LATER DISCOVERED THAT THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, PERSON EMPLOYED BY THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER, OR PERSON RESIDING WITH THE LICENSEE OR CERTIFIED FOSTER CARE PROVIDER 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).

(c) 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.

(d) FOR PURPOSES OF THIS SUBSECTION (2.6), "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.

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(2.7) The STATE 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 STATE department or the provisions of this part 1. THE STATE DEPARTMENT MAY ASSESS FINES, PURSUANT TO THE PROVISIONS OF SECTION 26-6-114, AGAINST A CHILD PLACEMENT AGENCY OR A PERSON EMPLOYED BY THE CHILD PLACEMENT AGENCY WHO KNOWINGLY OR CONSISTENTLY VIOLATES THE STANDARDS PRESCRIBED AND PUBLISHED BY THE STATE DEPARTMENT OR THE PROVISIONS OF THIS PART 1.

(3) (a) The STATE 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 STATE department who shall render his or her recommendation to the executive director of the STATE department of human services who shall render the final decision of the STATE department, and no licensee shall be entitled to a right to cure any of the charges described in paragraph (a), (b), PARAGRAPH (a), (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.

(b) (I) THE STATE DEPARTMENT MAY MAKE PROBATIONARY THE LICENSE OF ANY FOSTER CARE HOME, RESIDENTIAL CHILD CARE FACILITY, SECURE RESIDENTIAL CHILD CARE FACILITY, OR CHILD PLACEMENT AGENCY IN CONFORMITY WITH INFORMAL PROVISIONS AND EXPEDITED HEARING PROCESS.

THE STATE BOARD SHALL SPECIFY BY RULE SUCH PROVISIONS AND HEARING PROCESS, WHICH RULES SHALL PROVIDE:

(A) THAT THE HEARING OFFICER FOR SUCH HEARING SHALL NOT BE DIRECTLY INVOLVED IN CHILD CARE LICENSING;

(B) THAT SUCH HEARING OFFICER SHALL RENDER HIS OR HER RECOMMENDATION TO THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT WHO SHALL RENDER THE FINAL DECISION OF THE STATE DEPARTMENT; AND

(C) THAT NO LICENSEE SHALL BE ENTITLED TO A RIGHT TO CURE ANY OF THE CHARGES DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

(II) 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) (a) THE STATE DEPARTMENT SHALL IMMEDIATELY SUSPEND OR REVOKE THE LICENSE OF A CHILD PLACEMENT AGENCY WHEN ONE OR MORE VIOLATIONS OF STANDARDS PRESCRIBED AND PUBLISHED BY THE STATE DEPARTMENT OR ONE OR MORE VIOLATIONS OF THE PROVISIONS OF THIS PART 1 COMMITTED BY THE CHILD PLACEMENT AGENCY ARE DEEMED EXCESSIVE BY THE STATE DEPARTMENT. THE STATE BOARD SHALL PROMULGATE RULES THAT

SET FORTH THE NUMBER AND NATURE OF VIOLATIONS THAT WARRANT IMMEDIATE SUSPENSION OR REVOCATION OF A CHILD PLACEMENT AGENCY LICENSE. IN ADOPTING SAID RULES, THE STATE BOARD SHALL ENSURE THAT THE NUMBER AND NATURE OF VIOLATIONS ARE COMPARABLE TO THE NUMBER AND NATURE OF VIOLATIONS THAT WARRANT IMMEDIATE LICENSE SUSPENSION OR REVOCATION IN A MAJORITY OF JURISDICTIONS.

(b) (I) PRIOR TO JANUARY 1, 2003, 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.

(II) ON AND AFTER JANUARY 1, 2003, 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.

(6) (a) A CHILD PLACEMENT AGENCY LICENSED PURSUANT TO THIS PART 1 THAT PLACES OR ARRANGES FOR PLACEMENT OF A CHILD IN FOSTER CARE MAY CHOOSE, AS A MATTER OF POLICY, TO PLACE OR CAUSE TO BE PLACED A CHILD IN THE HOME OF A RELATIVE OF THE CHILD PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (6) AS A PREFERENCE OVER PLACEMENT IN A FOSTER CARE HOME.

(b) A CHILD PLACEMENT AGENCY MAY PLACE OR CAUSE TO BE PLACED A CHILD IN THE HOME OF A RELATIVE OF THE CHILD PURSUANT TO THIS SUBSECTION (6) ONLY WHEN:

(I) THE OWNER OR LESSEE OF THE RESIDENCE OR THAT PERSON'S SPOUSE IS RELATED TO SUCH CHILD; AND

(II) A CRIMINAL BACKGROUND CHECK OBTAINED BY SUCH CHILD PLACEMENT AGENCY INDICATES THAT SUCH PERSON RELATED TO THE CHILD HAS NOT BEEN CONVICTED OF ANY OF THE OFFENSES LISTED IN SECTION 26-6-104 (7) (a).

(7) THE STATE DEPARTMENT SHALL DENY OR REVOKE A LICENSE PREVIOUSLY ISSUED TO ANY CHILD PLACEMENT AGENCY THAT PLACES OR ARRANGES FOR PLACEMENT OF A CHILD IN FOSTER CARE IF IT IS FOUND THAT ANY MEMBER OF THE BOARD OF DIRECTORS OF SUCH CHILD PLACEMENT AGENCY IS EITHER RELATED TO OR SERVES SIMULTANEOUSLY AS AN OFFICER, EXECUTIVE, OR EMPLOYEE OF THE SAME CHILD PLACEMENT AGENCY. FOR PURPOSES OF THIS SUBSECTION (7), "RELATED" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 26-6-102 (7).

SECTION 9. 26-6-108 (2.5) (a) is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

26-6-108. Denial of original license - suspension - revocation - probation - refusal to renew license - fines.

(2.5) (a) The STATE department shall deny a license under the circumstances described in section 26-6-104 (7). The STATE department shall revoke a license previously issued if:

(II.5) 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 27-10-109 (4) OR 27-10-125, C.R.S., AN ORDER SPECIFICALLY FINDING THAT THE MENTAL INCOMPETENCY OR INSANITY IS OF SUCH A DEGREE THAT THE 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

SECTION 10. Part 1 of article 6 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-6-117. Child placement agencies - information sharing - investigations by state department. (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 ALL OTHER COUNTY DEPARTMENTS IN THE STATE AND TO THE STATE DEPARTMENT ELECTRONICALLY THROUGH THE INTERNET OR THROUGH SUCH OTHER ELECTRONIC AND IMMEDIATE MEANS OF COMMUNICATION THAT MAY BE AVAILABLE TO THE COUNTY 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 DESIGNATE WHETHER THE REPRESENTATIVE OF THE DIVISION OF CHILD WELFARE OR THE REPRESENTATIVE OF THE DIVISION OF CHILD CARE IN THE STATE DEPARTMENT SHALL SERVE AS THE LEAD DIVISION OF THE MONITORING TEAM PRIOR TO COMMENCING SUCH INVESTIGATION.

(3) THE STATE DEPARTMENT SHALL PROVIDE DIRECT ACCESS TO INFORMATION CONCERNING THE RESULTS OF ANY INVESTIGATION OR NEGATIVE LICENSING ACTION TAKEN AGAINST A CHILD PLACEMENT AGENCY LICENSED TO PROVIDE FOSTER CARE SERVICES IN COLORADO. SUCH INFORMATION SHALL BE AVAILABLE TO COUNTY DEPARTMENTS ON THE STATE DEPARTMENT'S WEBSITE ON THE INTERNET AND BY MEANS OF A HARD COPY AVAILABLE UPON THE REQUEST OF A COUNTY DEPARTMENT.

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill H

HOUSE SPONSORSHIP

Tochtrop

SENATE SPONSORSHIP

Epps

A BILL FOR AN ACT

CONCERNING PERIODIC APPROVAL OF CERTAIN CHILD CARE ENTITIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Foster Care. Directs the state board of human services to promulgate rules requiring the annual recertification or relicensing of foster care homes.

Directs that any child placement agency or foster care home license or any foster care home certificate existing prior to the effective date of this act shall expire on the effective date of this act. Requires any person holding such a license or certificate and seeking to renew such license or certificate to file an application for a new license or certificate prior to such date.

Specifies that licenses for child placement agencies require annual renewal, and permits such renewal upon the filing and approval of an application. Specifies that the fee for renewal is to be set by rule of the state board of human services.

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

SECTION 1. 26-6-104 (1), Colorado Revised Statutes, is amended, and the said 26-6-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

26-6-104. Licenses - out-of-state notices and consent. (1) (a) 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 department and paying the fee prescribed therefor. Such license issued by the department shall be permanent unless otherwise revoked or suspended pursuant to section 26-6-108 OR UNLESS ALLOWED TO EXPIRE, IN THE CASE OF A CHILD PLACEMENT AGENCY OR A FOSTER CARE HOME. ~~except that the state board of human services shall promulgate rules requiring the recertification of foster care homes every three years and setting forth the procedural requirements associated with such recertification.~~

(b) (I) A person operating a foster care home shall not obtain a license 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. THE STATE BOARD SHALL PROMULGATE RULES REQUIRING THE ANNUAL RECERTIFICATION OR RELICENSING OF FOSTER CARE HOMES AND SETTING FORTH THE PROCEDURAL REQUIREMENTS ASSOCIATED WITH SUCH RECERTIFICATION OR RELICENSING. ~~Said certificate~~ A CERTIFICATE TO OPERATE A FOSTER CARE HOME shall be in such form as prescribed and provided by the department, shall certify that such person is a suitable person to operate a home, and shall contain such information as the department requires. A CHILD placement agency issuing or renewing any such certificate shall transmit a copy or report thereof to the department. No foster care home shall be certified by more than one CHILD placement agency or county department. 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

agency or county department upon the written consent and approval of the agency or county department as to each such child. All such certificates shall be considered licenses for the purpose of this part 1, including but not limited to the investigation and criminal background checks required under section 26-6-107.

(II) (A) CHILD PLACEMENT AGENCIES THAT CERTIFY FOSTER CARE HOMES SHALL BE LICENSED ANNUALLY. THE STATE BOARD OF HUMAN SERVICES SHALL PROMULGATE RULES SPECIFYING THE PROCEDURAL REQUIREMENTS ASSOCIATED WITH THE RENEWAL OF SUCH CHILD PLACEMENT AGENCY LICENSES.

(B) ANY PERMANENT LICENSES ISSUED TO A CHILD PLACEMENT AGENCY PRIOR TO JULY 1, 2001, SHALL EXPIRE AUTOMATICALLY ON JULY 1, 2002. SUCH LICENSES MAY BE RENEWED PURSUANT TO THE RULES OF THE STATE BOARD OF HUMAN SERVICES.

(8) ANY VALID LICENSE TO OPERATE A CHILD PLACEMENT AGENCY OR A FOSTER CARE HOME OR ANY VALID CERTIFICATE TO OPERATE A FOSTER CARE HOME ISSUED AS OF JULY 1, 2001, SHALL EXPIRE ON JULY 1, 2002. ANY PERSON HOLDING SUCH A LICENSE OR CERTIFICATE AND SEEKING TO RENEW SUCH LICENSE OR CERTIFICATE MUST FILE AN APPLICATION FOR A NEW LICENSE OR CERTIFICATE PRIOR TO SUCH EXPIRATION DATE.

SECTION 2. The introductory portion to 26-6-105 (1) (a) and 26-6-105 (2) (a) and (2) (b) (II), Colorado Revised Statutes, are amended to read:

26-6-105. Fees - when original applications and reapplications for licensure are required - creation of child care licensing cash fund.

(1) (a) The department is hereby authorized to establish, pursuant to rules ~~and regulations~~ promulgated by the state board, ~~of human services~~, full and provisional license fees and fees for continuation OR RENEWAL of a full license for the following types of child care arrangements:

(2) (a) The fees specified in subsection (1) of this section shall be paid when application is made for any license OR FOR RENEWAL OF A CHILD PLACEMENT AGENCY OR FOSTER CARE HOME LICENSE and shall not be subject to refund. Applications for licenses shall be required in the situations ~~which~~ THAT are set forth in paragraph (b) of this subsection (2) and shall be made on forms prescribed by the department. Each completed application shall set forth such information as required by the department. All full licenses shall continue in force until revoked or surrendered OR ALLOWED TO EXPIRE, AS IN THE CASE OF ANNUAL CHILD PLACEMENT AGENCY LICENSES, FOSTER CARE HOME CERTIFICATES, OR FOSTER CARE HOME LICENSES.

SECTION 3. 26-6-107 (1) (a) (I), Colorado Revised Statutes, is amended to read:

26-6-107. Investigations and inspections - local authority - reports - rules. (1) (a) (I) The department shall investigate and pass on each original application for a license, EACH APPLICATION FOR RENEWAL OF A LICENSE, and each application for a ~~permanent~~ license following the issuance of a probationary or provisional license, to operate a facility or an agency prior to granting such license. As part of such investigation, the department shall

require each applicant, owner, employee, newly hired employee, licensee, and any adult who resides in the licensed facility to obtain a criminal record check by reviewing any record that shall be used to assist the 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 of ~~human services~~ shall promulgate rules that define and identify what the criminal background check shall entail. Such rules shall allow an exemption from the criminal background investigation and the state central registry of child protection investigation for those out-of-state employees working in Colorado at a children's resident camp in a temporary capacity for fewer than ninety days. Each person so exempted from fingerprinting and the state central registry of child protection investigation 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. The rules shall require the criminal background check in all other circumstances to include a fingerprint check through the Colorado bureau of investigation. As part of said investigation, the state central registry of child protection shall be accessed to determine whether the owner, applicant, employee, newly hired employee, licensee, or individual who resides in the licensed facility being investigated is the subject of a report of known or suspected child abuse. Pursuant to section 19-1-307 (2) (j), C.R.S., information shall be made available if a person's name is on the central registry

of child protection, or has been designated as "status pending" pursuant to section 19-3-313, C.R.S. Any change in ownership of a licensed facility or the addition of a new resident adult or newly hired employee to the licensed facility shall require a new investigation as provided for in this section. The state board of ~~human services~~ shall promulgate rules to implement this subparagraph (I).

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill I

SENATE SPONSORSHIP

Linkhart

HOUSE SPONSORSHIP

Chavez

A BILL FOR AN ACT

CONCERNING THE PROVISION OF PUBLICLY FUNDED SERVICES FOR CHILDREN
IN OUT-OF-HOME PLACEMENTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Foster Care. Authorizes the state department of human services ("state department") to retain up to 2% of the total annual appropriation for foster care to administer a grant program to county departments of social services ("county departments"). Permits the state department to award grants to:

- Enhance family preservation programs;
- Create case management teams; and
- Expedite permanency planning for children in out-of-home placement.

Directs the state department, in consultation with the child welfare allocation committee, to promulgate rules allowing county departments to retain cost savings from child welfare allocations. Permits counties to apply such cost savings toward up to 25% of the county share of child welfare costs. Prohibits a county from retaining such cost savings and from retaining some cost savings under the existing pilot program.

Directs the state department to prescribe standards on the training of foster care parents and to set specific hours for initial training, continuing training, and training for therapeutic placements.

Permits a CPA to choose to place or arrange for placement of a child in a home of a relative as a preference over placement in a foster care home. Requires the child to be related to the owner or to a tenant of the home and requires that the relative pass a criminal background check.

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

SECTION 1. 19-1-116 (1), Colorado Revised Statutes, is amended to read:

19-1-116. Funding - alternatives to placement out of the home. (1) The state department of human services shall reimburse allowable expenses to county departments of social services for foster care. The state department's budget request for foster care shall be based upon the actual aggregate expenditure of federal, state, and local funds of all counties during the preceding twenty-four months on foster care. Special purpose funds, not to exceed five percent of the total appropriation for foster care, shall be retained by the department of human services for purposes of meeting emergencies and contingencies in individual counties. THE STATE DEPARTMENT OF HUMAN SERVICES SHALL ALSO RETAIN AN AMOUNT NOT TO EXCEED TWO PERCENT OF THE TOTAL APPROPRIATION FOR FOSTER CARE FOR THE PURPOSES SET FORTH IN SECTION 19-1-125. The amount thus reimbursed to each county shall represent the total expenditure by an individual county for foster care and for alternative services provided in conformance with the plan prepared and approved pursuant to paragraph (b) of subsection (2) and subsection (4) of this section.

SECTION 2. Part 1 of article 1 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

19-1-125. Foster care grant program - applications by counties.

(1) SUBJECT TO AVAILABLE APPROPRIATIONS, AS DESCRIBED IN SECTION 19-1-116 (1), THERE IS HEREBY CREATED A GRANT PROGRAM THAT SHALL BE ADMINISTERED BY THE STATE DEPARTMENT. THE PURPOSE OF THE GRANT PROGRAM IS TO ASSIST COUNTY DEPARTMENTS TO:

- (a) ENHANCE FAMILY PRESERVATION PROGRAMS AS SET FORTH IN ARTICLE 5.5 OF TITLE 26, C.R.S.;
- (b) CREATE CASE MANAGEMENT TEAMS, AS DEFINED IN 19-1-103 (16.7); AND
- (c) EXPEDITE PERMANENCY PLANNING FOR CHILDREN IN OUT-OF-HOME PLACEMENT, AS DESCRIBED IN THIS TITLE.

(2) THE STATE DEPARTMENT SHALL PROMULGATE RULES FOR THE IMPLEMENTATION OF THE GRANT PROGRAM THAT SHALL INCLUDE BUT SHALL NOT BE LIMITED TO:

- (a) PROCEDURES FOR APPLYING FOR A GRANT UNDER THIS SECTION;
- (b) METHODS FOR THE EVALUATION OF APPLICATIONS FOR GRANTS UNDER THIS SECTION AND AWARD OF GRANTS UNDER THIS SECTION; AND
- (c) METHODS FOR EVALUATING THE GRANT PROGRAM.

SECTION 3. 19-1-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-1-103. Definitions. As used in this title or in the specified portion of this title, unless the context otherwise requires:

(16.7) "CASE MANAGEMENT TEAMS", AS USED IN SECTION 19-1-125, MEANS TEAMS THAT INCLUDE, BUT MAY NOT BE LIMITED TO:

(a) THE PARENT OR GUARDIAN OF A CHILD IN AN OUT-OF-HOME PLACEMENT WHOSE RIGHTS HAVE NOT BEEN VOLUNTARILY OR INVOLUNTARILY TERMINATED BY A COURT OR OTHERWISE;

(b) A FOSTER PARENT, A RELATIVE OF THE CHILD PROVIDING TWENTY-FOUR HOUR CARE, OR AN OTHER CARE PROVIDER;

(c) EACH CASEWORKER OR SOCIAL WORKER ASSIGNED TO THE CHILD, IF ANY;

(d) EACH PROFESSIONAL COUNSELOR OR THERAPIST WORKING WITH THE CHILD, IF ANY;

(e) THE GUARDIAN AD LITEM FOR THE CHILD, IF ANY; AND

(f) EACH PERSON LICENSED AS A PROFESSIONAL EDUCATOR AND EACH LICENSED HEALTH PERSONNEL WITH SUBSTANTIAL AND ONGOING EXPERIENCE WITH THE CHILD, IF ANY.

SECTION 4. 26-5-104 (1) and (7), Colorado Revised Statutes, are amended to read:

26-5-104. Funding of child welfare services. (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 RETENTION OF COST SAVINGS DESCRIBED IN PARAGRAPH (f) OF SUBSECTION (4) OF THIS SECTION OR THE close-out process described in subsection (7) of this section.

(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 PARAGRAPH (f) OF SUBSECTION (4) OF THIS SECTION AND 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.

SECTION 5. 26-5-104 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

(3) **Allocation formula.** (e) A COUNTY'S ELECTION TO RETAIN COST SAVINGS PURSUANT TO PARAGRAPH (f) OF SUBSECTION (4) OF THIS SECTION 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.

SECTION 6. 26-5-104 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

(4) **Allocations.** (f) ANY COUNTY THAT UNDERSPENDS THE GENERAL FUND PORTION OF ITS CAPPED OR TARGETED ALLOCATION MAY USE THOSE FUNDS TO EITHER REDUCE ITS COUNTY SHARE BY THE AMOUNT OF THE UNDEREXPENDITURE UP TO AN AMOUNT EQUAL TO HALF OF THE COUNTY SHARE 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. THE STATE BOARD, IN CONSULTATION WITH THE CHILD WELFARE ALLOCATIONS COMMITTEE, SHALL ADOPT RULES AS NECESSARY TO IMPLEMENT THIS SUBSECTION (4). THE RULES SHALL PROVIDE THAT IN NO EVENT MAY A COUNTY ELECT TO RETAIN COST SAVINGS PURSUANT TO THIS PARAGRAPH (f) AND PURSUANT TO SECTION 26-5-105.5 (3).

SECTION 7. 26-6-106 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-6-106. Standards for facilities and agencies. (2) Standards prescribed by such rules shall be restricted to:

(q) STANDARDS FOR THE TRAINING OF FOSTER CARE PARENTS, WHICH SHALL INCLUDE, AT A MINIMUM, THIRTY HOURS OF INITIAL TRAINING, TWELVE HOURS PER YEAR OF CONTINUING TRAINING, AND TWENTY-FOUR ADDITIONAL HOURS PER YEAR FOR FOSTER CARE HOMES PROVIDING THERAPEUTIC SERVICES. 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.

SECTION 8. 26-6-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

(6) (a) A CHILD PLACEMENT AGENCY LICENSED PURSUANT TO THIS PART 1 THAT PLACES OR ARRANGES FOR PLACEMENT OF A CHILD IN FOSTER CARE MAY CHOOSE , AS A MATTER OF POLICY, TO PLACE OR CAUSE TO BE PLACED A CHILD IN THE HOME OF A RELATIVE OF THE CHILD PURSUANT TO

PARAGRAPH (b) OF THIS SUBSECTION (6) AS
A PREFERENCE OVER PLACEMENT IN A FOSTER CARE HOME.

(b) A CHILD PLACEMENT AGENCY MAY PLACE OR CAUSE TO BE
PLACED A CHILD IN THE HOME OF A RELATIVE OF THE CHILD ONLY WHEN:

(I) THE OWNER OR LESSEE OF THE RESIDENCE OR THAT PERSON'S
SPOUSE IS RELATED TO SUCH CHILD; AND

(II) A CRIMINAL BACKGROUND CHECK OBTAINED BY THE CHILD
PLACEMENT AGENCY INDICATES THAT SUCH PERSON RELATED TO THE CHILD
HAS NOT BEEN CONVICTED OF ANY OF THE OFFENSES LISTED IN SECTION
26-6-104 (7) (a).

SECTION 9. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, and safety.