

**Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0821.01 Lindy Schaible x4215

**HOUSE BILL 26-1298**

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**HOUSE SPONSORSHIP**

**Rydin and Keltie,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**

Health & Human Services  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE AUTHORITY FOR CRIMINAL BACKGROUND CHECKS**

102 **FOR CHILD WELFARE OUT-OF-HOME PLACEMENT PROVIDERS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Under current law, background checks are required for all individuals who provide out-of-home care for child-welfare-involved youth. Current law does not comply with the federal bureau of investigation's (FBI) standards for background checks, and the FBI granted Colorado a temporary grace period to allow Colorado to perform these background checks through the FBI. The temporary grace period

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

ends May 2026.

The bill revises statutory provisions to give counties and the Colorado department of human services the statutory authority needed to conduct the required background checks in accordance with the FBI's standards.

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

**SECTION 1.** In Colorado Revised Statutes, 26-6-903, **amend** (6);  
and **add** (6.5) as follows:

**26-6-903. Definitions.**

As used in this part 9, unless the context otherwise requires:

(6) "Child placement agency" or "agency" means a corporation, partnership, association, firm, agency, institution, or person unrelated to the child being placed, who places, facilitates placement for a fee, or arranges for placement for care of a child under eighteen years of age OLD with a family, person, or institution. A child placement agency may place, facilitate placement, or arrange for the placement of a child for the purpose of adoption, foster care, treatment foster care, or therapeutic foster care. AS A PRIVATE ENTITY, A CHILD PLACEMENT AGENCY IS NOT AUTHORIZED TO RECEIVE CRIMINAL HISTORY RECORD INFORMATION FROM THE FEDERAL BUREAU OF INVESTIGATION. The natural parents or guardian of a child who place the child for care with a facility licensed as a family child care home or child care center, as defined in section 26.5-5-303, are not a child placement agency.

(6.5) "COUNTY DEPARTMENT" MEANS THE COUNTY OR DISTRICT DEPARTMENT OF HUMAN OR SOCIAL SERVICES.

**SECTION 2.** In Colorado Revised Statutes, 26-6-910, **amend** (1), (2), (5) introductory portion, (5)(a) introductory portion, (5)(b), (5)(e), (5.5), (6)(a), (8)(a), and (8)(b) introductory portion; and **add** (5)(f), (5.3),

1 and (8)(c) as follows:

2 **26-6-910. Certification and annual recertification of foster**  
3 **care homes and kinship foster care homes by county departments**  
4 **and licensed child placement agencies - background and reference**  
5 **check requirements - rules - definition.**

6 (1) This section applies to ~~foster care homes~~ A FOSTER CARE  
7 HOME, including ~~kinship foster care homes~~ A KINSHIP FOSTER CARE HOME,  
8 certified by ~~county departments or licensed child placement agencies~~ A  
9 COUNTY DEPARTMENT OR A LICENSED CHILD PLACEMENT AGENCY. Except  
10 as otherwise provided in subsection (4) of this section, this section does  
11 not apply to ~~foster care homes~~ A FOSTER CARE HOME that ~~are~~ IS licensed  
12 by the state department pursuant to the requirements of section 26-6-905  
13 and that ~~do~~ DOES not receive money from ~~the counties or children placed~~  
14 ~~by the counties~~ A COUNTY OR A CHILD OR YOUTH PLACED BY A COUNTY.  
15 A foster care home licensed by the state department must undergo all of  
16 the background checks and requirements set forth in section 26-6-905 or  
17 as otherwise stated in this part 9.

18 (2) A person operating a foster care home or kinship foster care  
19 home shall obtain a certificate to operate the home from a county  
20 department or a child placement agency licensed pursuant to this part 9.  
21 A certificate is considered a license for the purpose of this part 9,  
22 including, but not limited to, the investigation and criminal history  
23 background checks required pursuant to this section, ~~and~~ section  
24 26-6-912, OR SECTION 19-3-406 (5) SPECIFIC TO A KINSHIP FOSTER CARE  
25 HOME. Each certificate must be in the form prescribed and provided by  
26 the state department, certify that the person operating the foster care home  
27 is a suitable person to operate a foster care home or kinship foster care

1 home or provide care for a child OR YOUTH, and contain any other  
2 information that the state department requires. A child placement agency  
3 issuing or renewing ~~any such~~ THE certificate shall notify the state  
4 department about the certification in a method and time frame as set by  
5 rule adopted by the state board.

6 (5) Prior to issuing a certificate ~~or a recertification~~ to an applicant  
7 to operate a foster care home or A kinship foster care home, a county  
8 department or a child placement agency licensed pursuant to the  
9 provisions of this part 9 shall conduct the following background checks  
10 AND FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS for the  
11 applicant for a certificate, a person employed by the applicant, or a person  
12 who resides at the facility or the home:

13 (a) AN INITIAL SUBMISSION OF a fingerprint-based criminal history  
14 record check through the Colorado bureau of investigation FOR A CHECK  
15 OF STATE RECORDS, and THEREAFTER A SUBMISSION TO the federal bureau  
16 of investigation FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK to  
17 determine if the applicant, employee, or a person who resides at the  
18 facility or the FOSTER CARE home has been convicted of:

19 (b) A check of the ICON system at the state judicial department  
20 to determine the status or disposition of any criminal charges brought  
21 against the applicant, the employee, or a person who resides at the facility  
22 or the home that were identified by the fingerprint-based criminal history  
23 record check through the Colorado bureau of investigation. ~~and the~~  
24 ~~federal bureau of investigation;~~

25 (e) When the results of a fingerprint-based criminal history record  
26 check or any other record check performed pursuant to this subsection (5)  
27 reveal a record of arrest without a disposition, the county department,

1 STATE DEPARTMENT, or licensed child placement agency shall require the  
2 person to submit to a name-based judicial record check, as defined in  
3 section 22-2-119.3 (6)(d). RESULTS RECEIVED BY THE STATE DEPARTMENT  
4 FROM THE FEDERAL BUREAU OF INVESTIGATION THAT REQUIRE  
5 ADDITIONAL INVESTIGATION DUE TO A RECORD OF ARREST WITHOUT A  
6 DISPOSITION MUST ONLY BE DISCLOSED TO AND DISCUSSED WITH THE  
7 SUBJECT OF THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.  
8 ALL JUDICIAL RECORD INFORMATION RECEIVED AS A RESULT OF THE  
9 FURTHER INVESTIGATION MUST BE KEPT CONFIDENTIAL AND NOT SHARED  
10 WITH A LICENSED CHILD PLACEMENT AGENCY OR WITH A PERSON NOT  
11 AUTHORIZED TO RECEIVE CRIMINAL JUSTICE INFORMATION. THE CHILD  
12 PLACEMENT AGENCY OR NON-AUTHORIZED PERSON MUST ONLY RECEIVE  
13 INFORMATION PROVIDED IN THE GENERAL INFORMATION LETTER  
14 CONTAINING ELIGIBILITY STATUS.

15 (f) A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK  
16 THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL  
17 BUREAU OF INVESTIGATION TO DETERMINE IF THE APPLICANT, EMPLOYEE,  
18 OR A PERSON WHO RESIDES IN THE KINSHIP FOSTER CARE HOME HAS BEEN  
19 CONVICTED OF ANY OFFENSE DESCRIBED IN SECTION 19-3-406 (5), AS  
20 "CONVICTION" IS DEFINED IN SECTION 19-3-406 (12).

21 (5.3) (a) THE COLORADO BUREAU OF INVESTIGATION SHALL SEND  
22 RECORDS OBTAINED AS A RESULT OF A FINGERPRINT-BASED CRIMINAL  
23 HISTORY RECORD CHECK CONDUCTED PURSUANT TO THIS SECTION ONLY  
24 TO THE COUNTY DEPARTMENT OR STATE DEPARTMENT, AND THE USE AND  
25 HANDLING OF THE INFORMATION MUST COMPLY WITH THE FEDERAL  
26 CRIMINAL JUSTICE INFORMATION SERVICES SECURITY POLICY AND  
27 FEDERAL BUREAU OF INVESTIGATION'S REQUIREMENTS SURROUNDING THE

1 HANDLING OF CRIMINAL HISTORY RECORD CHECK INFORMATION. A  
2 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK CONDUCTED  
3 PURSUANT TO THIS SECTION IS FOR CHILD PLACEMENT ONLY. A PRIVATE  
4 ENTITY IS NEVER AUTHORIZED TO RECEIVE CRIMINAL HISTORY RECORD  
5 CHECK INFORMATION. INFORMATION REGARDING THE RESULT OF THE  
6 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK RECEIVED FROM  
7 THE FEDERAL BUREAU OF INVESTIGATION AND RELEASED TO FACILITY,  
8 AGENCY, OR COUNTY DEPARTMENT STAFF NOT AUTHORIZED TO RECEIVE  
9 CRIMINAL HISTORY RECORD CHECK INFORMATION MUST DISCLOSE ONLY  
10 WHETHER THE APPLICANT IS ELIGIBLE OR INELIGIBLE, OR THAT THE  
11 INVESTIGATION IS INCONCLUSIVE, WITH A FURTHER REQUEST FOR THE  
12 APPLICANT TO CONTACT THE STATE DEPARTMENT TO PROVIDE FURTHER  
13 INFORMATION TO DETERMINE FINAL ELIGIBILITY STATUS.

14 (b) AS A PRIVATE ENTITY, A CHILD PLACEMENT AGENCY IS NOT  
15 AUTHORIZED TO RECEIVE CRIMINAL HISTORY RECORD INFORMATION FROM  
16 THE FEDERAL BUREAU OF INVESTIGATION.

17 (5.5) Prior to issuing a certificate ~~or subsequent certificate~~ to an  
18 applicant to operate a kinship foster care home pursuant to this part 9 and  
19 rules ~~promulgated~~ ADOPTED by the state board, a county department,  
20 STATE DEPARTMENT, or a child placement agency shall conduct a  
21 fingerprint-based criminal history record check through the Colorado  
22 bureau of investigation pursuant to section 19-3-406 or 26-6-910. The  
23 applicant shall pay, unless otherwise paid by a county department OR A  
24 CHILD PLACEMENT AGENCY, the costs associated with the  
25 fingerprint-based criminal history record check to the Colorado bureau of  
26 investigation.

27 (6) A county department or a child placement agency licensed

1 pursuant to this part 9 shall not issue a certificate to operate, or a  
2 recertification to operate, a foster care home or kinship foster care home  
3 and shall revoke or suspend a certificate if the applicant for the  
4 certificate, a person employed by the applicant, or a person who resides  
5 at the facility or home:

6 (a) Has been convicted of any of the crimes listed in subsection  
7 (5)(a) of this section FOR A FOSTER CARE HOME, OR HAS BEEN CONVICTED  
8 OF ANY CRIME LISTED IN SECTION 19-3-406 (5) FOR A KINSHIP FOSTER  
9 CARE HOME, as verified through a fingerprint-based criminal history  
10 record check, a name-based judicial record check, if necessary, and a  
11 check of the ICON system at the state judicial department;

12 (8) (a) The convictions identified in subsections (5)(a) and (6)(a)  
13 of this section, AND IN SECTION 19-3-406 FOR A KINSHIP FOSTER CARE  
14 HOME, must be determined according to the records of the Colorado  
15 bureau of investigation or the federal bureau of investigation and the  
16 ICON system at the state judicial department. The screening request in  
17 Colorado must be made pursuant to section 19-1-307 (2)(k.5), rules  
18 promulgated by the state board pursuant to section 19-3-313.5, and 42  
19 U.S.C. sec. 671 (a)(20). A certified copy of the judgment of a court of  
20 competent jurisdiction of the conviction, deferred judgment and sentence  
21 agreement, deferred prosecution agreement, or deferred adjudication  
22 agreement is prima facie evidence of a conviction or agreement.

23 (b) The county department or licensed child placement agency  
24 shall not issue a certificate to operate a foster care home ~~or a kinship~~  
25 ~~foster care home~~ if the state department or the county department has a  
26 certified court order from another state indicating that the person applying  
27 for the certificate:

1 (c) THE COUNTY DEPARTMENT OR LICENSED CHILD PLACEMENT  
2 AGENCY SHALL NOT ISSUE A CERTIFICATE TO OPERATE A KINSHIP FOSTER  
3 CARE HOME IF THE STATE DEPARTMENT OR COUNTY DEPARTMENT HAS A  
4 CERTIFIED COURT ORDER FROM ANOTHER STATE INDICATING THAT THE  
5 PERSON APPLYING FOR THE CERTIFICATE:

6 (I) HAS BEEN CONVICTED OF FELONY CHILD ABUSE OR ANY  
7 UNLAWFUL SEXUAL OFFENSE AGAINST A CHILD UNDER A LAW OF ANOTHER  
8 STATE OR THE UNITED STATES, THE ELEMENTS OF WHICH ARE  
9 SUBSTANTIALLY SIMILAR TO THE ELEMENTS OF ANY OF THE OFFENSES  
10 DESCRIBED IN SECTION 19-3-406 (5); OR

11 (II) HAS ENTERED INTO A DEFERRED JUDGMENT OR DEFERRED  
12 PROSECUTION AGREEMENT IN ANOTHER STATE AS TO FELONY CHILD ABUSE  
13 OR ANY SEXUAL OFFENSE AGAINST A CHILD, THE ELEMENTS OF WHICH ARE  
14 SUBSTANTIALLY SIMILAR TO THE ELEMENTS OF ANY OF THE OFFENSES  
15 DESCRIBED IN SECTION 19-3-406 (5).

16 **SECTION 3.** In Colorado Revised Statutes, 26-6-912, **amend**  
17 (1)(a)(I)(A), (1)(a)(I)(B), (1)(c)(I) introductory portion, and (1)(c)(I)(A);  
18 and **repeal** (1)(e) as follows:

19 **26-6-912. Investigations and inspections - local authority -**  
20 **reports - rules.**

21 (1) (a) (I) (A) The state department shall investigate and pass on  
22 each application for issuance of a license, each application for a  
23 permanent or time-limited license following the issuance of a  
24 probationary or provisional license, and each application for renewal of  
25 a license to operate a facility or an agency prior to granting the license or  
26 renewal. As part of the investigation, the state department shall require  
27 each individual, including ~~but not limited to~~ the applicant, ~~an owner~~, an

1 employee, a newly hired employee, a licensee, ANY INDIVIDUAL WHO HAS  
2 DIRECT CONTACT WITH A CHILD OR A YOUTH OR IS ASSOCIATED WITH THE  
3 LICENSE, and an adult who is eighteen years ~~of age~~ OLD or older and  
4 resides in the licensed facility, to obtain a fingerprint-based criminal  
5 history record check by reviewing any record that is used to assist the  
6 state department in ascertaining whether the person being investigated has  
7 been convicted of any of the criminal offenses specified in section  
8 26-6-905 (8), SECTION 19-3-406 (5) REGARDING KINSHIP FOSTER CARE  
9 HOMES CERTIFIED PURSUANT TO SECTION 26-6-910, or any other felony.  
10 THE COLORADO BUREAU OF INVESTIGATION SHALL SEND RECORDS  
11 OBTAINED AS A RESULT OF A FINGERPRINT-BASED CRIMINAL HISTORY  
12 RECORD CHECK ONLY TO THE STATE DEPARTMENT, AND THE USE AND  
13 HANDLING OF THE INFORMATION MUST COMPLY WITH THE FEDERAL  
14 CRIMINAL JUSTICE INFORMATION SERVICES SECURITY POLICY.  
15 INFORMATION REGARDING THE RESULT OF THE FINGERPRINT-BASED  
16 CRIMINAL HISTORY RECORD CHECK RECEIVED FROM THE FEDERAL BUREAU  
17 OF INVESTIGATION AND RELEASED TO A FACILITY OR AN AGENCY MUST  
18 DISCLOSE ONLY WHETHER THE APPLICANT IS ELIGIBLE OR INELIGIBLE OR  
19 THAT THE INVESTIGATION IS INCONCLUSIVE, WITH A FURTHER REQUEST  
20 FOR THE APPLICANT TO CONTACT THE STATE DEPARTMENT TO PROVIDE  
21 FURTHER INFORMATION TO DETERMINE FINAL ELIGIBILITY STATUS. The  
22 state board shall ~~promulgate~~ ADOPT rules that define and identify what the  
23 criminal history record check entails.

24 (B) Rules ~~promulgated~~ ADOPTED by the state board pursuant to  
25 this subsection (1)(a)(I) must require the fingerprint-based criminal  
26 history record check in all circumstances, other than those identified in  
27 subsection (1)(a)(I)(C) of this section, to include a fingerprint-based

1 criminal history record check using the records of the Colorado bureau of  
2 investigation and the federal bureau of investigation and to apply to any  
3 ~~new owner~~, new applicant, newly hired employee, new licensee, or  
4 individual who begins residing in the licensed facility. As part of the  
5 investigation, the records and reports of child abuse or neglect maintained  
6 by the state department must be accessed to determine whether the ~~owner~~,  
7 applicant, employee, newly hired employee, licensee, or individual who  
8 resides in the licensed facility being investigated has been found to be  
9 responsible in a confirmed report of child abuse or neglect. Information  
10 is made available pursuant to section 19-1-307 (2)(j) and rules  
11 ~~promulgated~~ ADOPTED by the state board pursuant to section 19-3-313.5  
12 (4). Except as provided in subsection (1)(a)(I)(C) of this section, any  
13 change in ownership of a licensed facility or agency or addition of a new  
14 resident adult or newly hired employee to the licensed facility requires a  
15 new investigation as provided in this section.

16 (c) (I) For all applicants applying to be a foster care home or  
17 kinship foster care home, regardless of reimbursement, the county  
18 department or child placement agency shall require each adult who is  
19 eighteen years ~~of age~~ OLD or older and who resides in the home to obtain  
20 a fingerprint-based criminal history record check through the Colorado  
21 bureau of investigation and the federal bureau of investigation. The  
22 applicant must provide the county department or child placement agency  
23 with the addresses where the applicant and any adult residing in the home  
24 have lived in the preceding five years, including addresses from other  
25 states. The county department or the child placement agency shall  
26 conduct the following background checks of the applicant or an adult  
27 residing in the home:

1 (A) A fingerprint-based criminal history record check to  
2 determine if the applicant or adult residing in the home has been  
3 convicted of any of the crimes listed in section 26-6-910 (5)(a) FOR A  
4 FOSTER CARE HOME OR SECTION 19-3-406 (5) FOR A KINSHIP FOSTER CARE  
5 HOME;

6 (e) ~~Notwithstanding any provision of this part 9 to the contrary,~~  
7 ~~the state department may enter into an interagency agreement or a~~  
8 ~~memorandum of understanding, or both, as necessary to complete the~~  
9 ~~criminal history record checks and other background checks required in~~  
10 ~~this section.~~

11 **SECTION 4.** In Colorado Revised Statutes, 26-6-905, **amend**  
12 (1)(b), (8)(a)(I) introductory portion, (8)(b), and (10) as follows:

13 **26-6-905. Licenses - out-of-state notices and consent -**  
14 **demonstration pilot program - report - rules - definition.**

15 (1) (b) A person operating a foster care home or kinship foster  
16 care home is not required to obtain a license from the state department to  
17 operate the foster care home or kinship foster care home if the person  
18 holds a certificate issued pursuant to section 26-6-910 to operate the  
19 home from a county department or a child placement agency licensed  
20 ~~under~~ PURSUANT TO the provisions of this part 9. A certificate is  
21 considered a license for the purpose of this part 9, including, but not  
22 limited, to the investigation and criminal history background checks  
23 required ~~under~~ PURSUANT TO sections **19-3-406**, 26-6-910, and 26-6-912.

24 (8) (a) (I) The state department shall not issue a license to operate  
25 a residential or day treatment child care facility or a child placement  
26 agency, and any license or certificate issued prior to August 7, 2006, is  
27 revoked or suspended if the applicant for the license or certificate, an

1 affiliate of the applicant, a person employed by the applicant, or a person  
2 who resides with the applicant at the facility has been convicted of ANY  
3 OFFENSE DESCRIBED IN SECTION 19-3-406 (5) OR:

4 (b) (I) The department shall determine the convictions identified  
5 in subsection (8)(a) of this section OR SECTION 19-3-406 FOR A KINSHIP  
6 FOSTER CARE HOME according to the records of the Colorado bureau of  
7 investigation, the ICON system at the state judicial department, or any  
8 other source, as set forth in section 26-6-912 (1)(a)(II). A certified copy  
9 of the judgment of a court of competent jurisdiction of a conviction,  
10 deferred judgment and sentence agreement, deferred prosecution  
11 agreement, or deferred adjudication agreement is prima facie evidence of  
12 the conviction or agreement.

13 (II) A license or certificate to operate a residential or day  
14 treatment child care facility, foster care home, or child placement agency  
15 shall not be issued if the state department has a certified court order from  
16 another state indicating that the person applying for the license or  
17 certificate has been convicted of child abuse or any unlawful sexual  
18 offense against a child under a law of any other state or the United States  
19 or the state department has a certified court order from another state that  
20 the person applying for the license or certificate has entered into a  
21 deferred judgment or deferred prosecution agreement in another state as  
22 to child abuse or any sexual offense against a child.

23 (III) A LICENSE OR CERTIFICATE TO OPERATE A KINSHIP FOSTER  
24 CARE HOME SHALL NOT BE ISSUED IF THE STATE DEPARTMENT HAS A  
25 CERTIFIED COURT ORDER FROM ANOTHER STATE INDICATING THAT THE  
26 PERSON APPLYING FOR THE LICENSE OR CERTIFICATE HAS BEEN CONVICTED  
27 OF FELONY CHILD ABUSE OR ANY UNLAWFUL SEXUAL OFFENSE AGAINST A

1 CHILD UNDER A LAW OF ANY OTHER STATE OR THE UNITED STATES OR THE  
2 STATE DEPARTMENT HAS A CERTIFIED COURT ORDER FROM ANOTHER  
3 STATE THAT THE PERSON APPLYING FOR THE LICENSE OR CERTIFICATE HAS  
4 ENTERED INTO A DEFERRED JUDGMENT OR A DEFERRED PROSECUTION  
5 AGREEMENT IN ANOTHER STATE AS TO FELONY CHILD ABUSE OR ANY  
6 OTHER SEXUAL OFFENSE AGAINST A CHILD.

7 (10) The state department shall not issue a license to operate a  
8 residential or day treatment child care facility, foster care home, KINSHIP  
9 FOSTER CARE HOME, or child placement agency if the person applying for  
10 the license or an affiliate of the applicant, a person employed by the  
11 applicant, or a person who resides with the applicant at the facility has  
12 been determined to be insane or mentally incompetent by a court of  
13 competent jurisdiction and, if the court enters, pursuant to part 3 or part  
14 4 of article 14 of title 15, or section 27-65-110 (4) or 27-65-127, an order  
15 specifically finding that the mental incompetency or insanity is of such a  
16 degree that the applicant is incapable of operating a residential or day  
17 treatment child care facility, foster care home, KINSHIP FOSTER CARE  
18 HOME, or child placement agency, the record of such determination and  
19 entry of such order being conclusive evidence thereof.

20 **SECTION 5. Safety clause.** The general assembly finds,  
21 determines, and declares that this act is necessary for the immediate  
22 preservation of the public peace, health, or safety or for appropriations for  
23 the support and maintenance of the departments of the state and state  
24 institutions.