

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-0749.03 Jane Ritter x4342

HOUSE BILL 18-1376

HOUSE SPONSORSHIP

Pabon,

SENATE SPONSORSHIP

Aguilar,

House Committees

Public Health Care & Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF INDIVIDUAL RESIDENTIAL SERVICES**
102 **AND SUPPORTS PROVIDERS FOR PERSONS WITH INTELLECTUAL**
103 **AND DEVELOPMENTAL DISABILITIES, AND, IN CONNECTION**
104 **THEREWITH, MAKING AN APPROPRIATION.**

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>.)

The bill defines in statute an "individual residential services and supports provider" (individual provider) as an individual who provides residential services and supports in his or her home to one or more

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

HOUSE
Amended 2nd Reading
April 30, 2018

persons with intellectual and developmental disabilities who receive comprehensive services and who are not related to the individual provider. The bill grants authority to the department of health care policy and financing to promulgate rules and adopt the federal department of housing and urban development housing quality standards for individual providers. The bill also grants the department of health care policy and financing, together with the division of housing, the authority to inspect individual providers for compliance with standards, as well as permissible corrective actions.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-10-202, **add**
3 (18.5), (18.6), (18.7), (22.7), and (22.8) as follows:

4 **25.5-10-202. Definitions.** As used in this article 10, unless the
5 context otherwise requires:

6 (18.5) "HOST HOME" HAS THE SAME MEANING AS SET FORTH IN
7 SECTION 13-21-117.5 (2).

8 (18.6) "HOST HOME PROVIDER" MEANS AN INDIVIDUAL OR
9 INDIVIDUALS PROVIDING RESIDENTIAL SERVICES AND SUPPORTS, AS
10 DESCRIBED IN SECTION 25.5-10-206 (1)(e), IN HIS OR HER HOME TO UP TO
11 THREE PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
12 WHO ARE NOT FAMILY MEMBERS, AS DEFINED IN SUBSECTION (16) OF THIS
13 SECTION, AND PROVIDES THOSE SERVICES AS AN INDEPENDENT
14 CONTRACTOR OF A COMMUNITY-CENTERED BOARD OR SERVICE AGENCY.

15 (18.7) "HOUSING QUALITY STANDARDS" MEANS APPLICABLE
16 FEDERAL HOUSING QUALITY STANDARDS ESTABLISHED BY THE UNITED
17 STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, 24 CFR
18 982.401.

19 (22.7) "INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS
20 PROVIDER" MEANS A HOST HOME PROVIDER, FAMILY CAREGIVER, OR

1 SERVICE AGENCY THAT PROVIDES RESIDENTIAL SERVICES AND SUPPORTS
2 IN AN INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS RESIDENCE TO
3 THREE OR FEWER PERSONS WHO:

4 [REDACTED]
5 (a) HAVE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY;
6 AND

7 (b) RECEIVE HOME- AND COMMUNITY-BASED SERVICES [REDACTED]
8 ADMINISTERED BY THE STATE DEPARTMENT PURSUANT TO PART 4 OF
9 ARTICLE 6 OF THIS TITLE 25.5.

10 (22.8) "INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS
11 RESIDENCE" MEANS A PRIVATE RESIDENCE THAT HOUSES UP TO THREE
12 INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
13 AND WHOSE OWNER OR RENTER PROVIDES RESIDENTIAL SERVICES AND
14 SUPPORTS AS DESCRIBED IN SECTION 25.5-10-206 (1)(e), AS A SERVICE
15 AGENCY, HOST HOME PROVIDER, OR FAMILY CAREGIVER.

16 SECTION 2. In Colorado Revised Statutes, add 25.5-10-214.5
17 as follows:

18 25.5-10-214.5. Individual residential services and supports
19 providers and residences - standards - rules - report - fees - cash fund
20 - definition. (1) THE STATE DEPARTMENT OF HEALTH CARE POLICY AND
21 FINANCING, [REDACTED] SHALL IMPLEMENT A SYSTEM OF OVERSIGHT OF
22 INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS PROVIDERS AND
23 RESIDENCES. INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS
24 PROVIDERS ARE NOT REQUIRED TO BE LICENSED BY THE STATE
25 DEPARTMENT BUT ARE REQUIRED TO FOLLOW APPLICABLE LAWS AND
26 ADMINISTRATIVE RULES.

27 (2) (a) PRIOR TO BEGINNING OPERATIONS, A HOST HOME PROVIDER

1 SHALL NOTIFY THE STATE DEPARTMENT OF HIS OR HER INTENT TO PROVIDE
2 RESIDENTIAL SERVICES AND SUPPORTS IN THE MANNER SPECIFIED BY THE
3 STATE DEPARTMENT. A HOST HOME PROVIDER SHALL NOT BEGIN
4 PROVIDING RESIDENTIAL SERVICES AND SUPPORTS UNTIL SUCH PROVIDER
5 HAS NOTIFIED THE STATE DEPARTMENT PURSUANT TO THIS SUBSECTION
6 (2).

7 (b) THE HOST HOME MUST MEET APPLICABLE HOUSING QUALITY
8 STANDARDS, AS WELL AS ANY REQUIREMENTS ESTABLISHED IN RULE BY
9 THE STATE DEPARTMENT PURSUANT TO SUBSECTION (3)(b) OF THIS
10 SECTION.

11 (3) (a) THE STATE DEPARTMENT SHALL DEVELOP MINIMUM
12 STANDARDS AND REQUIREMENTS FOR INDIVIDUAL RESIDENTIAL SERVICES
13 AND SUPPORTS PROVIDERS AND RESIDENCES. THE MINIMUM STANDARDS
14 MUST INCLUDE A REQUIREMENT FOR COMPLIANCE WITH HOUSING QUALITY
15 STANDARDS, INCLUDING NECESSARY INGRESS AND EGRESS FROM SLEEPING
16 ROOMS, FUNCTIONING FIRE EXTINGUISHERS, CARBON MONOXIDE
17 DETECTORS, AND SMOKE ALARMS.

18
19 (b) THE STATE DEPARTMENT SHALL PROMULGATE RULES,
20 PURSUANT TO THE PROVISIONS OF ARTICLE 4 OF TITLE 24, TO REQUIRE
21 INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS PROVIDERS AND
22 RESIDENCES TO OPERATE ACCORDING TO MINIMUM HOUSING QUALITY
23 STANDARDS, USING THE STANDARDS AND REQUIREMENTS DEVELOPED
24 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION. THE STATE
25 DEPARTMENT'S RULES PROMULGATION PROCESS MUST INCLUDE CLEAR
26 REPRESENTATION FROM THE DIVERSE INDIVIDUAL RESIDENTIAL SERVICES
27 AND SUPPORTS PROVIDERS AND DISABILITY COMMUNITIES, INCLUDING

1 INDEPENDENT ADVOCACY ORGANIZATIONS, ██████ INDIVIDUALS WITH
2 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO RECEIVE
3 RESIDENTIAL SERVICES AND SUPPORTS, AS DESCRIBED IN SECTION
4 25.5-10-206 (1)(e), AND THEIR FAMILY MEMBERS, CASE MANAGEMENT
5 AGENCIES, COMMUNITY-CENTERED BOARDS, AND SERVICE AGENCIES. THE
6 RULES MUST INCLUDE:

7 (I) STANDARDS CONCERNING THE HEALTH, WELFARE, AND SAFETY
8 OF PERSONS RECEIVING SERVICES OR SUPPORTS RESIDING IN AN
9 INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS RESIDENCE. THESE
10 STANDARDS MUST INCLUDE:

11 (A) A REQUIREMENT THAT, IF ██████ A HOST HOME HOUSES A PERSON
12 WHO NEEDS ASSISTANCE TO SELF-EVACUATE IN THE CASE OF AN
13 EMERGENCY, AS DEFINED IN SUBSECTION (3)(c) OF THIS SECTION, THE
14 HOST HOME PROVIDER SHALL NOTIFY THE LOCAL FIRE JURISDICTION OF THE
15 ADDRESS AND LOCATION OF ANY ROOM WHERE SUCH A PERSON SLEEPS;

16 (B) A REQUIREMENT THAT THE DIVISION OF HOUSING OF THE
17 DEPARTMENT OF LOCAL AFFAIRS CONDUCT AN ON-SITE SURVEY OF HOST
18 HOMES TO ENSURE COMPLIANCE WITH THE MINIMUM HOUSING QUALITY
19 STANDARDS EVERY TWO YEARS;

20 (C) A REQUIREMENT THAT HOST HOMES THAT BEGIN OPERATIONS
21 AFTER THE EFFECTIVE DATE OF RULES PROMULGATED PURSUANT TO THIS
22 SUBSECTION (3)(b) HAVE SIXTY DAYS FROM THE DATE AN INDIVIDUAL
23 WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES MOVES INTO THE
24 HOST HOME TO REQUEST AN ON-SITE SURVEY REQUIRED BY THIS
25 SUBSECTION (3)(b)(I)(C);

26 (D) A REQUIREMENT THAT HOST HOMES THAT ARE IN OPERATION
27 ON THE EFFECTIVE DATE OF RULES PROMULGATED PURSUANT TO THIS

1 SUBSECTION (3)(b) HAVE ONE YEAR FROM SUCH EFFECTIVE DATE TO
2 REQUEST AN ON-SITE SURVEY REQUIRED BY SUBSECTION (3)(b)(I)(C) OF
3 THIS SECTION;

4 (E) A REQUIREMENT THAT THE DIVISION OF HOUSING OF THE
5 DEPARTMENT OF LOCAL AFFAIRS HAS SIXTY DAYS OR LESS FROM THE DATE
6 OF REQUEST TO CONDUCT AN ON-SITE SURVEY REQUIRED BY SUBSECTION
7 (3)(b)(I)(C) OF THIS SECTION;

8 (F) A REQUIREMENT THAT A HOST HOME MAY CONTINUE TO
9 OPERATE WHILE AWAITING THE COMPLETION OF THE ON-SITE SURVEY
10 REQUIRED BY SUBSECTION (3)(b)(I)(C) OF THIS SECTION;

11 (G) A REQUIREMENT THAT IF A HOST HOME PROVIDER REFUSES A
12 FIRE INSPECTION REQUEST IN BETWEEN A NORMALLY SCHEDULED ON-SITE
13 SURVEY, THE STATE DEPARTMENT SHALL ARBITRATE THE DISPUTE; AND

14 (H) A PROVISION THAT A HOST HOME IS NOT REQUIRED TO
15 COMPLETE AN ON-SITE SURVEY REQUIRED BY SUBSECTION (3)(b)(I)(C) OF
16 THIS SECTION MORE FREQUENTLY THAN EVERY TWO YEARS, REGARDLESS
17 OF WHO RESIDES IN THE HOST HOME.

18 (II) THE STATE DEPARTMENT SHALL DETERMINE, BY RULE, OTHER
19 STANDARDS FOR INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS
20 PROVIDERS AND RESIDENCES. INSPECTIONS MADE PURSUANT TO THIS
21 SUBSECTION (3)(b)(II) MUST INCLUDE CERTIFICATION OF COMPLIANCE
22 WITH FUNCTIONING SMOKE DETECTORS AND UNBLOCKED EGRESS FOR
23 INDIVIDUALS WITH DISABILITIES.

24 (III) PROVISIONS RELATED TO CORRECTIVE ACTIONS THAT THE
25 STATE DEPARTMENT MAY TAKE IF THE RULES FOR INDIVIDUAL
26 RESIDENTIAL SERVICES AND SUPPORTS PROVIDERS AND RESIDENCES ARE
27 NOT MET; AND

1 (IV) THE AUTHORITY OF THE STATE DEPARTMENT TO ENFORCE THE
2 RULES PROMULGATED PURSUANT TO THIS SECTION, INCLUDING BUT NOT
3 LIMITED TO REQUIRING THE CLOSURE OF AN INDIVIDUAL RESIDENTIAL
4 SERVICES AND SUPPORTS RESIDENCE.

5 (c) FOR THE PURPOSES OF THIS SUBSECTION (3), "PERSON WHO
6 NEEDS SPECIAL ASSISTANCE TO SELF-EVACUATE" MEANS A PERSON WHO,
7 DUE TO HIS OR HER DISABILITY AND BASED ON AN INDIVIDUAL
8 ASSESSMENT, CANNOT IMMEDIATELY AND INDEPENDENTLY
9 SELF-EVACUATE THE RESIDENCE WITHOUT ASSISTANCE FROM ANOTHER
10 PERSON.

11
12 (4) ON OR BEFORE SEPTEMBER 30, 2018, THE STATE HOUSING
13 BOARD, CREATED IN SECTION 24-32-706, SHALL ESTABLISH THE AMOUNT
14 OF A FEE TO BE CHARGED TO A HOST HOME PROVIDER OR AN INDIVIDUAL
15 RESIDENTIAL SERVICES AND SUPPORTS PROVIDER TO COVER THE DIRECT
16 AND INDIRECT COSTS INCURRED BY THE DIVISION OF HOUSING IN
17 PERFORMING INSPECTIONS PURSUANT TO THIS SECTION. THE DIVISION OF
18 HOUSING SHALL CHARGE THE FEE FOR EACH INSPECTION THAT IS
19 PERFORMED. THE STATE HOUSING BOARD IS AUTHORIZED TO ADJUST THE
20 FEE ANNUALLY TO REFLECT CHANGES IN THE COSTS ASSOCIATED WITH
21 INSPECTIONS. MONEY COLLECTED FROM THE FEES SHALL BE DEPOSITED IN
22 THE INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS PROVIDERS
23 INSPECTIONS CASH FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

24 (5) (a) THE INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS
25 PROVIDERS INSPECTIONS CASH FUND, REFERRED TO IN THIS SECTION AS
26 THE "FUND", IS HEREBY CREATED IN THE STATE TREASURY. THE FUND
27 CONSISTS OF MONEY FROM FEES COLLECTED PURSUANT TO SUBSECTION (4)

1 OF THIS SECTION AND CREDITED TO THE FUND PURSUANT TO SUBSECTION
2 (4) OF THIS SECTION AND ANY OTHER MONEY THAT THE GENERAL
3 ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

4 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
5 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
6 FUND TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEY
7 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN
8 THE FUND.

9 (c) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
10 DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS, WHICH MAY
11 EXPEND MONEY FROM THE FUND FOR THE DIRECT AND INDIRECT COSTS
12 ASSOCIATED WITH RESIDENTIAL INSPECTIONS PERFORMED PURSUANT TO
13 THIS SECTION.

14 (6) ON OR BEFORE JULY 1, 2020, THE DEPARTMENT SHALL SUBMIT
15 A REPORT TO THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE
16 OF THE HOUSE OF REPRESENTATIVES AND THE HEALTH AND HUMAN
17 SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES,
18 THAT INCLUDES A DETAILED DESCRIPTION OF THE RULES PROMULGATED
19 CONCERNING INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS
20 PROVIDERS AND RESIDENCES PURSUANT TO THIS SECTION.

21 (7) THE DEPARTMENT SHALL NOT HIRE STAFF FOR THE
22 IMPLEMENTATION OF THIS SECTION BEFORE MARCH 1, 2019.

23 **SECTION 3. Appropriation.** (1) For the 2018-19 state fiscal
24 year, \$17,215 is appropriated to the department of health care policy and
25 financing. This appropriation is from the general fund. To implement this
26 act, the department may use this appropriation as follows:

27 (a) \$8,563 for use by the office of community living for personal

1 services, which amount is based on an assumption that the office will
2 require an additional 0.3 FTE;

3 (b) \$2,352 for use by the office of community living for operating
4 expenses; and

5 (c) \$6,300 for use by the executive director's office for general
6 professional services and special projects.

7 (2) For the 2018-19 state fiscal year, the general assembly
8 anticipates that the department of health care policy and financing will
9 receive \$17,214 in federal funds to implement this act, which amount is
10 included for informational purposes only. The appropriation in subsection
11 (1) of this section is based on the assumption that the department will
12 receive this amount of federal funds to be used as follows:

13 (a) \$8,563 for use by the office of community living for personal
14 services;

15 (b) \$2,351 for use by the office of community living for operating
16 expenses; and

17 (c) \$6,300 for use by the executive director's office for general
18 professional services and special projects.

19 (3) For the 2018-19 state fiscal year, \$1,066 is appropriated to the
20 department of law. This appropriation is from cash funds received from
21 the department of local affairs. To implement this act, the department of
22 law may use this appropriation to provide legal services for the
23 department of local affairs.

24 **SECTION 4. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly (August
27 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part will not take effect
4 unless approved by the people at the general election to be held in
5 November 2018 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.