

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 19-0040.02 Conrad Imel x2313

HOUSE BILL 19-1142

HOUSE SPONSORSHIP

Ransom and Singer,

SENATE SPONSORSHIP

Moreno and Smallwood,

House Committees

Public Health Care & Human Services
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CREATING AN OPTION FOR PARENTS WHO SEEK TO**
102 **VOLUNTARILY DELEGATE CERTAIN PARENTAL RESPONSIBILITIES**
103 **TO A SAFE FAMILY FOR A LIMITED PERIOD OF TIME WITHOUT**
104 **RELINQUISHING LEGAL CUSTODY OF THEIR CHILD, AND, IN**
105 **CONNECTION 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>.)

Under current law, a parent or guardian of a minor or incapacitated person may delegate to another person power regarding care, custody, or

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 25, 2019

property of the minor or ward for up to 12 months by executing a power of attorney.

The bill permits a parent or guardian to use the assistance of a temporary care assistance program operated by a qualified nonprofit organization to identify an appropriate and safe approved temporary caregiver to whom the parent or guardian can choose to delegate temporary care responsibility of a minor through a power of attorney.

The bill limits the duration of a power of attorney that delegates temporary care responsibility of a minor to an approved temporary caregiver to 6 months, though the parent or guardian can elect to execute subsequent powers of attorney up to the maximum 12 months. The 12-month restriction does not apply to deployed or active duty military members. The bill clarifies that such a power of attorney can be revoked at any time and does not change legal rights or obligations existing pursuant to a court order. The minor must be returned to the custody of the parent or guardian within 48 hours after termination of the power of attorney.

A temporary care assistance program is permitted to approve as a temporary caregiver any person who:

- ! Meets the standards prescribed by the temporary care assistance program;
- ! Satisfactorily completes required criminal and child abuse and neglect background checks and sex offender registration checks; and
- ! Receives training conducted by the temporary care assistance program.

The department of human services may investigate a temporary care assistance program to ensure it is complying with the requirement to conduct background checks on temporary caregivers. The department may assess a fine of \$1,000 for each violation of the requirement. Employees of qualified nonprofit organizations are mandatory reporters of child abuse and neglect.

A power of attorney that delegates temporary care responsibility of a minor to an approved temporary caregiver does not constitute child abuse or neglect, constitute placing the minor into foster care, or relieve parents, guardians, or minors of rights and obligations pursuant to court orders.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 7 to article
3 6 of title 26 as follows:

4 PART 7

1 TEMPORARY CARE ASSISTANCE PROGRAM

2 **26-6-701. Definitions.** AS USED IN THIS PART 7, UNLESS THE
3 CONTEXT OTHERWISE REQUIRES:

4 (1) "APPROVED TEMPORARY CAREGIVER" MEANS A PERSON
5 APPROVED BY A TEMPORARY CARE ASSISTANCE PROGRAM PURSUANT TO
6 THIS PART 7 WHO IS DELEGATED TEMPORARY CARE RESPONSIBILITY OF A
7 MINOR BY A PARENT OR GUARDIAN THROUGH A POWER OF ATTORNEY, AS
8 DESCRIBED IN SECTION 15-14-105.

9
10 (2) "TEMPORARY CARE ASSISTANCE PROGRAM" MEANS A PROGRAM
11 OPERATED BY A CHILD PLACEMENT AGENCY THAT ASSISTS A PARENT OR
12 GUARDIAN WITH RECRUITING AND IDENTIFYING AN APPROPRIATE AND SAFE
13 APPROVED TEMPORARY CAREGIVER TO WHOM THE PARENT OR GUARDIAN
14 CAN CHOOSE TO DELEGATE TEMPORARY CARE RESPONSIBILITY OF A MINOR
15 THROUGH A POWER OF ATTORNEY PURSUANT TO SECTION 15-14-105.

16 **26-6-702. Temporary care assistance program permitted.**

17 (1) A CHILD PLACEMENT AGENCY MAY OPERATE A TEMPORARY CARE
18 ASSISTANCE PROGRAM; EXCEPT THAT, PRIOR TO JULY 1, 2021, ONLY A
19 CHILD PLACEMENT AGENCY THAT IS A NONPROFIT ORGANIZATION, AND
20 THAT OPERATES A PROGRAM SIMILAR TO A TEMPORARY CARE ASSISTANCE
21 PROGRAM IN THIRTY OR MORE STATES, MAY OPERATE A TEMPORARY CARE
22 ASSISTANCE PROGRAM.

23 (2) THE ACTIVITIES OF A TEMPORARY CARE ASSISTANCE PROGRAM
24 PERFORMED PURSUANT TO THIS PART 7 DO NOT CONSTITUTE PLACING A
25 CHILD PURSUANT TO THIS ARTICLE 6.

26 **26-6-703. Temporary care assistance program - limitations on**
27 **duration of delegation - approved temporary caregiver.** (1) (a) (I) A

1 PARENT OR GUARDIAN OF A MINOR MAY USE THE ASSISTANCE OF A
2 TEMPORARY CARE ASSISTANCE PROGRAM TO IDENTIFY AN APPROVED
3 TEMPORARY CAREGIVER TO DELEGATE ANY POWER REGARDING CARE,
4 CUSTODY, OR PROPERTY OF THE MINOR, EXCEPT THE POWER TO CONSENT
5 TO MARRIAGE OR ADOPTION, BY A POWER OF ATTORNEY, AS DESCRIBED IN
6 SECTION 15-14-105.

7 (II) A TEMPORARY CARE ASSISTANCE PROGRAM MUST MAKE
8 DILIGENT EFFORTS TO NOTIFY ANY PARENT OR GUARDIAN IDENTIFIED BY
9 THE DELEGATING PARENT AS HAVING PARENTAL RIGHTS OR LEGAL
10 DECISION-MAKING AUTHORITY REGARDING THE MINOR'S CARE.

11 (III) A PARENT WHO IS NAMED AS A RESPONDENT IN AN OPEN
12 DEPENDENCY AND NEGLECT CASE MAY NOT USE THE ASSISTANCE OF A
13 TEMPORARY CARE ASSISTANCE PROGRAM, AS DESCRIBED IN THIS PART 7.

14 (b) (I) NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, A
15 POWER OF ATTORNEY THAT DELEGATES TEMPORARY CARE RESPONSIBILITY
16 OF A MINOR TO AN APPROVED TEMPORARY CAREGIVER MUST NOT EXCEED
17 SIX MONTHS, EXCEPT AS PROVIDED IN SUBSECTION (1)(b)(II) OF THIS
18 SECTION.

19 (II) A PERSON WHO IS DEPLOYED BY OR CALLED TO ACTIVE DUTY
20 IN THE UNITED STATES MILITARY MAY EXCEED THE TIME LIMIT
21 DESCRIBED IN SUBSECTION (1)(b)(I) OF THIS SECTION; EXCEPT THAT THE
22 TOTAL LENGTH OF A DELEGATION OF POWER MADE TO AN APPROVED
23 TEMPORARY CAREGIVER BY A PERSON WHO IS DEPLOYED BY OR CALLED TO
24 ACTIVE DUTY IN THE UNITED STATES MILITARY MUST NOT BE LONGER
25 THAN THE END OF THE MEMBER'S DEPLOYMENT OR CALL TO ACTIVE DUTY,
26 PLUS THIRTY DAYS.

27 (c) THE PARENT OR GUARDIAN OF THE MINOR HAS THE AUTHORITY

1 TO REVOKE A POWER OF ATTORNEY THAT DELEGATES TEMPORARY CARE
2 RESPONSIBILITY OF A MINOR TO AN APPROVED TEMPORARY CAREGIVER AT
3 ANY TIME. UPON EXPIRATION OR REVOCATION OF THE POWER OF
4 ATTORNEY, THE MINOR MUST BE RETURNED TO THE CUSTODY OF THE
5 PARENT OR GUARDIAN AS SOON AS REASONABLY POSSIBLE, BUT NO LATER
6 THAN FORTY-EIGHT HOURS AFTER SUCH EXPIRATION, REVOCATION, OR
7 OTHER TERMINATION.

8 (d) A POWER OF ATTORNEY THAT DELEGATES TEMPORARY CARE
9 RESPONSIBILITY OF A MINOR TO AN APPROVED TEMPORARY CAREGIVER
10 DOES NOT:

11 (I) CHANGE PARENTAL RIGHTS, LEGAL RIGHTS, OBLIGATIONS, OR
12 OTHER AUTHORITY ESTABLISHED BY AN EXISTING COURT ORDER AND DOES
13 NOT DEPRIVE A PARENT OR GUARDIAN OF RIGHTS, OBLIGATIONS, OR OTHER
14 AUTHORITY RELATING TO THE CUSTODY, VISITATION, OR SUPPORT OF A
15 MINOR;

16 (II) CONSTITUTE CHILD ABUSE OR NEGLECT, AS DEFINED IN
17 SECTION 19-1-103 (1); OR

18 (III) RESULT IN A CHILD BEING NEGLECTED OR DEPENDENT, AS
19 DESCRIBED IN SECTION 19-3-102, UNLESS THE PARENT OR GUARDIAN FAILS
20 TO MAKE CONTACT, EXECUTE A NEW POWER OF ATTORNEY, OR RETAKE
21 CUSTODY WITHIN SEVENTY-TWO HOURS AFTER AN EXPIRED POWER OF
22 ATTORNEY, OR AFTER THE TOTAL TIME LIMIT DESCRIBED IN SUBSECTION
23 (1)(b) OF THIS SECTION HAS ELAPSED.

24 (2) (a) AN APPROVED TEMPORARY CAREGIVER SHALL EXERCISE
25 PARENTAL OR LEGAL AUTHORITY ON A CONTINUOUS BASIS AND WITHOUT
26 COMPENSATION FOR THE INTENDED DURATION OF THE POWER OF
27 ATTORNEY.

1 (b) (I) A MINOR SUBJECT TO THE POWER OF ATTORNEY THAT
2 DELEGATES TEMPORARY CARE RESPONSIBILITY OF THE MINOR TO AN
3 APPROVED TEMPORARY CAREGIVER IS NOT DEEMED PLACED IN A FOSTER
4 CARE HOME, AS DEFINED IN SECTION 26-6-102 (14), AND THE APPROVED
5 TEMPORARY CAREGIVER IS NOT DEEMED TO BE PROVIDING FOSTER CARE
6 NOR BE SUBJECT TO THE LICENSING REQUIREMENTS OF FOSTER CARE.

7 (II) NOTHING IN THIS SECTION DISQUALIFIES AN APPROVED
8 TEMPORARY CAREGIVER FROM BEING OR BECOMING A FOSTER CARE HOME
9 CERTIFIED BY A COUNTY DEPARTMENT OR PRIVATE AGENCY PURSUANT TO
10 SECTION 26-6-106.3.

11 (c) ANY PERIOD OF TIME DURING WHICH A MINOR RESIDES WITH AN
12 APPROVED TEMPORARY CAREGIVER PURSUANT TO AN UNEXPIRED AND
13 VALID POWER OF ATTORNEY IS NOT INCLUDED IN DETERMINING WHETHER
14 THE MINOR HAS RESIDED WITH THE APPROVED TEMPORARY CAREGIVER
15 FOR THE MINIMUM PERIOD REQUIRED FOR A PERSON TO BE CONSIDERED A
16 PERSON OTHER THAN A PARENT WHO HAS HAD THE PHYSICAL CARE OF A
17 CHILD FOR THE PURPOSES OF SECTION 14-10-123.

18 **26-6-704. Approval of temporary caregiver - background**
19 **check - training.** (1) A CHILD PLACEMENT AGENCY OPERATING A
20 TEMPORARY CARE ASSISTANCE PROGRAM MAY APPROVE AS A TEMPORARY
21 CAREGIVER ANY PERSON WHO MEETS THE STANDARDS PRESCRIBED BY THE
22 TEMPORARY CARE ASSISTANCE PROGRAM AND WHO COMPLIES WITH THE
23 REQUIREMENTS ESTABLISHED PURSUANT TO THIS SECTION.

24 (2) (a) A CHILD PLACEMENT AGENCY OPERATING A TEMPORARY
25 CARE ASSISTANCE PROGRAM SHALL REQUIRE AN APPLICANT TO BECOME AN
26 APPROVED TEMPORARY CAREGIVER AND ANY OTHER PERSON WHO RESIDES
27 IN THE APPLICANT'S HOME AND IS EIGHTEEN YEARS OF AGE OR OLDER TO

1 SUBMIT TO THE FOLLOWING BACKGROUND CHECKS:

2 (I) A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
3 THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL
4 BUREAU OF INVESTIGATION IN THE SAME MANNER AS DESCRIBED IN
5 SECTION 26-6-107 (1)(a)(I)(C).

6 (II) A CHILD ABUSE AND NEGLECT BACKGROUND CHECK PURSUANT
7 TO SECTION 19-1-307; AND

8 (III) A CHECK AGAINST THE STATE'S SEX OFFENDER REGISTRY AND
9 AGAINST THE NATIONAL SEX OFFENDER PUBLIC WEBSITE OPERATED BY THE
10 UNITED STATES DEPARTMENT OF JUSTICE THAT CHECKS NAMES AND
11 ADDRESSES IN THE REGISTRIES AND THE INTERACTIVE DATABASE SYSTEM
12 FOR COLORADO TO DETERMINE IF A PERSON IS A REGISTERED SEX
13 OFFENDER.

14 (b) A CHILD PLACEMENT AGENCY OPERATING A TEMPORARY CARE
15 ASSISTANCE PROGRAM IS RESPONSIBLE FOR THE COSTS ARISING FROM ANY
16 BACKGROUND CHECK PERFORMED PURSUANT TO THIS SECTION. THE CHILD
17 PLACEMENT AGENCY MAY COLLECT THE COSTS FROM ANY PERSON
18 SUBJECT TO A BACKGROUND CHECK.


19 (c) THE CHILD PLACEMENT AGENCY OPERATING A TEMPORARY
20 CARE ASSISTANCE PROGRAM SHALL MAINTAIN RECORDS OF A
21 BACKGROUND CHECK PERFORMED PURSUANT TO THIS SECTION, INCLUDING
22 THE FULL TRANSCRIPTS OF THE BACKGROUND CHECK, FOR A PERIOD OF
23 NOT LESS THAN FIVE YEARS. THE CHILD PLACEMENT AGENCY SHALL MAKE
24 THE RECORDS AVAILABLE TO A PARENT OR GUARDIAN EXECUTING A
25 POWER OF ATTORNEY, AND ANY LOCAL, STATE, OR FEDERAL AUTHORITY
26 CONDUCTING AN INVESTIGATION INVOLVING THE APPROVED TEMPORARY
27 CAREGIVER, THE PARENT OR GUARDIAN, OR THE MINOR.

1 (d) A CHILD PLACEMENT AGENCY OPERATING A TEMPORARY CARE
2 ASSISTANCE PROGRAM SHALL NOT APPROVE AN APPLICANT AS AN
3 APPROVED TEMPORARY CAREGIVER IF A BACKGROUND CHECK CONDUCTED
4 PURSUANT TO THIS SECTION DISCLOSES A SUBSTANTIATED ALLEGATION OF
5 CHILD ABUSE, NEGLECT, OR EXPLOITATION, OR ANY CRIME THAT WOULD
6 DISQUALIFY THE APPLICANT OR ANY OTHER PERSON WHO RESIDES IN THE
7 APPLICANT'S HOME AND IS EIGHTEEN YEARS OF AGE OR OLDER FROM
8 BECOMING CERTIFIED OR LICENSED TO OPERATE A FOSTER CARE HOME IN
9 THE STATE.

10 (3) A CHILD PLACEMENT AGENCY OPERATING A TEMPORARY CARE
11 ASSISTANCE PROGRAM SHALL TRAIN AN APPROVED TEMPORARY
12 CAREGIVER IN THE RIGHTS, DUTIES, AND LIMITATIONS ASSOCIATED WITH
13 PROVIDING CARE FOR A MINOR PURSUANT TO THIS PART 7.

14 **26-6-705. Rules.** (1) A TEMPORARY CARE ASSISTANCE PROGRAM
15 AND A TEMPORARY CARE PROVIDER ARE SUBJECT TO ANY RULE
16 PROMULGATED BY THE DEPARTMENT THAT IS APPLICABLE TO
17 NONCERTIFIED KINSHIP CARE, DEFINED IN SECTION 19-1-103 (78.7);
18 EXCEPT THAT A TEMPORARY CARE ASSISTANCE PROGRAM AND A
19 TEMPORARY CARE PROVIDER ARE NOT SUBJECT TO SUCH A RULE THAT IS
20 INCONSISTENT WITH THIS PART 7.

21 (2) EXCEPT AS PROVIDED IN SUBSECTION (1) OF THIS SECTION, A
22 TEMPORARY CARE ASSISTANCE PROGRAM AND A TEMPORARY CAREGIVER
23 ARE NOT SUBJECT TO ANY RULE PROMULGATED BY THE DEPARTMENT FOR
24 AN ACTIVITY PERFORMED PURSUANT TO THIS PART 7.

25 
26 **26-6-706. Application of part.** (1) THIS PART 7 APPLIES ONLY
27 WHEN A PARENT OR GUARDIAN OF A MINOR DELEGATES ANY POWER

1 REGARDING CARE, CUSTODY, OR PROPERTY OF THE MINOR TO AN
2 APPROVED TEMPORARY CAREGIVER WITH THE ASSISTANCE OF A
3 TEMPORARY CARE ASSISTANCE PROGRAM PURSUANT TO THIS PART 7.
4 NOTHING IN THIS PART 7 RESTRICTS, ABRIDGES, OR ALTERS THE RIGHT OF
5 A MINOR'S PARENT OR GUARDIAN TO PROVIDE FOR THE CARE OF THE MINOR
6 BY POWER OF ATTORNEY PURSUANT TO ANY OTHER PROVISION OF LAW.

7 (2) NOTHING IN THIS PART 7:

8 (a) RELIEVES THE PARENT OF ANY OBLIGATION TO SUPPORT THE
9 MINOR AS OTHERWISE PROVIDED BY LAW;

10 (b) LIMITS THE AUTHORITY OF THE COURT TO ORDER A PARENT TO
11 MAKE SUPPORT PAYMENTS OR REIMBURSEMENTS FOR MEDICAL,
12 BEHAVIORAL, HEALTH, OR OTHER CARE OR TREATMENT;

13 (c) ABROGATES THE RIGHT OF THE MINOR TO ANY BENEFITS
14 PROVIDED THROUGH PUBLIC FUNDS FOR WHICH THE MINOR IS OTHERWISE
15 ENTITLED; OR

16 (d) LIMITS OR PREVENTS THE ABILITY OF LAW ENFORCEMENT OR
17 COUNTY CHILD WELFARE AGENCIES TO INVESTIGATE A REPORT OF
18 SUSPECTED ABUSE OR NEGLECT OF A CHILD PURSUANT TO SECTION
19 19-3-308.

20 **SECTION 2.** In Colorado Revised Statutes, 19-1-307, **add**
21 (2)(j.8) as follows:

22 **19-1-307. Dependency and neglect records and information -**
23 **access - fee - rules - records and reports fund - misuse of information**
24 **- penalty - adult protective services data system check. (2) Records**
25 **and reports - access to certain persons - agencies.** Except as otherwise
26 provided in section 19-1-303, only the following persons or agencies shall
27 have access to child abuse or neglect records and reports:

1 (j.8) THE STATE DEPARTMENT OF HUMAN SERVICES INVESTIGATING
2 ANY PERSON REQUIRED TO SUBMIT TO A BACKGROUND CHECK PURSUANT
3 TO SECTION 26-6-704 (2), WHEN THE [REDACTED] PERSON HAS GIVEN WRITTEN
4 AUTHORIZATION TO THE STATE DEPARTMENT OF HUMAN SERVICES TO
5 CHECK RECORDS OR REPORTS OF CHILD ABUSE OR NEGLECT;

6 [REDACTED] [REDACTED]

7 **SECTION 3. Appropriation.** For the 2019-20 state fiscal year,
8 \$14,093 is appropriated to the department of human services for use by
9 the division of child welfare. This appropriation is from the general fund
10 and is based on an assumption that the division will require an additional
11 0.3 FTE. To implement this act, the division may use this appropriation
12 for administration.

13 **SECTION 4. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2020 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.