

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

PREAMENDED

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

LLS NO. 19-0941.01 Michael Dohr x4347

SENATE BILL 19-177

SENATE SPONSORSHIP

Ginal and Hisey,

HOUSE SPONSORSHIP

Singer,

Senate Committees

State, Veterans, & Military Affairs
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING MATTERS RELATED TO BACKGROUND CHECKS FOR**
102 **PERSONS WHO HAVE CONTACT WITH CHILDREN.**

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>.)

Current law specifies what entities and agencies have access to child abuse or neglect records and reports. The bill adds to that list the department of human services, when requested in writing by an individual to check records or reports of child abuse or neglect for the purpose of screening that individual when such individual's responsibilities include supervision of children or unsupervised contact with children.

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.

The bill requires a fingerprint-based criminal history record check for the following:

- ! Child care center employees under 18 years of age;
- ! Out-of-state employees working at a child care center in a temporary capacity; and
- ! All owners, employees, volunteers, and adults residing in a family child care home.

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

SECTION 1. In Colorado Revised Statutes, 19-1-307, **amend** (2)(w) and (2.5); and **add** (2)(x) as follows:

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

(w) The designated authorities at the military base of assignment or installation for a member of the armed forces or a spouse, or a significant other or family member residing in the home of the member of the armed forces who is the individual responsible for the abused or neglected child. The authorities may be designated in a memorandum of understanding as described and authorized in section 19-1-303 (2.6); AND

(x) THE STATE DEPARTMENT OF HUMAN SERVICES, WHEN REQUESTED IN WRITING BY AN INDIVIDUAL TO CHECK RECORDS OR REPORTS OF CHILD ABUSE OR NEGLECT FOR THE PURPOSE OF SCREENING THAT INDIVIDUAL WHEN SUCH INDIVIDUAL'S RESPONSIBILITIES INCLUDE CARE OF CHILDREN, TREATMENT OF CHILDREN, SUPERVISION OF CHILDREN, OR UNSUPERVISED CONTACT WITH CHILDREN.

(2.5) (a) **Fee - rules - records and reports fund.** Any person or

1 agency provided information from the state department of human services
2 pursuant to subsections (2)(i), (2)(k) to (2)(o), ~~and~~ (2)(t), AND (2)(x) of
3 this section and any child placement agency ~~shall~~ MUST be assessed a fee
4 that ~~shall be~~ IS established and collected by the state department of human
5 services pursuant to parameters set forth in rule established by the state
6 board of human services. At a minimum, the rules ~~shall~~ MUST include a
7 provision requiring the state department of human services to provide
8 notice of the fee to interested persons and the maximum fee amount that
9 the department shall not exceed without the express approval of the state
10 board of human services. The fee established ~~shall~~ MUST not exceed the
11 direct and indirect costs of administering subsections (2)(i), (2)(k) to
12 (2)(o), ~~and~~ (2)(t), AND (2)(x) of this section and the direct and indirect
13 costs of administering section 19-3-313.5 (3) and (4).

14 (b) All fees collected in accordance with subsection (2.5)(a) of
15 this section ~~shall~~ MUST be transmitted to the state treasurer who shall
16 credit the same to the records and reports fund, which fund is hereby
17 created. The fund also consists of fees credited to the fund pursuant to
18 section 26-3.1-111. The money in the records and reports fund ~~shall be~~ IS
19 subject to annual appropriation by the general assembly for the direct and
20 indirect costs of administering subsections (2)(i), (2)(k) to (2)(o), ~~and~~
21 (2)(t), AND (2)(x) of this section, for the direct and indirect costs of
22 administering section 19-3-313.5 (3) and (4), and for the direct and
23 indirect costs described in section 26-3.1-111.

24 **SECTION 2.** In Colorado Revised Statutes, 26-6-107, **amend**
25 (1)(a)(I)(A), (1)(a)(I)(B), and (1)(a)(I)(C) as follows:

26 **26-6-107. Investigations and inspections - local authority -**
27 **reports - rules.** (1) (a) (I) (A) The state department shall investigate and

1 pass on each original application for a license, each application for a
2 permanent or time-limited license following the issuance of a
3 probationary or provisional license, and ~~on and after July 1, 2002,~~ each
4 application for renewal, to operate a facility or an agency prior to granting
5 such license or renewal. As part of such investigation, the state
6 department shall require each ~~adult who is eighteen years of age and older~~
7 INDIVIDUAL, including but not limited to the applicant, any owner,
8 employee, newly hired employee, licensee, and any adult who is eighteen
9 years of age and older who resides in the licensed facility to obtain a
10 fingerprint-based criminal history ~~records~~ RECORD check by reviewing
11 any record that ~~shall be~~ IS used to assist the state department in
12 ascertaining whether the person being investigated has been convicted of
13 any of the criminal offenses specified in section 26-6-104 (7) or any other
14 felony. The state board shall promulgate rules that define and identify
15 what the criminal history ~~records~~ RECORD check ~~shall entail~~ ENTAILS.

16 (B) Rules promulgated by the state board pursuant to this
17 ~~subparagraph (F) shall~~ SUBSECTION (1)(a)(I) MUST allow an exemption
18 from the FINGERPRINT-BASED criminal history ~~records investigation~~
19 RECORD CHECK and the check of the records and reports of child abuse or
20 neglect maintained by the state department for those out-of-state
21 employees working in Colorado at a children's resident camp ~~or~~
22 ~~school-age child care center~~ in a temporary capacity for a camp ~~or center~~
23 that is in operation for fewer than ninety days. Each person so exempted
24 from fingerprinting and the check of the records and reports of child
25 abuse or neglect maintained by the state department shall sign a statement
26 that affirmatively states that he or she has not been convicted of any
27 charge of child abuse, unlawful sexual offense, or any felony. Prospective

1 employers of such exempted persons shall conduct reference checks of
2 the prospective employees in order to verify previous work history and
3 shall conduct personal interviews with each such prospective employee.

4 (C) Rules promulgated by the state board pursuant to this
5 ~~subparagraph (F) shall~~ SUBSECTION (1)(a)(I) MUST require the
6 fingerprint-based criminal history ~~records~~ RECORD check in all
7 circumstances, other than those identified in ~~sub-subparagraph (B) or~~
8 ~~(C.7) of this subparagraph (F)~~ SUBSECTION (1)(a)(I)(B) OR (1)(a)(I)(C.7)
9 OF THIS SECTION, to include a fingerprint-based criminal history ~~records~~
10 RECORD check utilizing the records of the Colorado bureau of
11 investigation and ~~as of August 10, 2011~~ THE FEDERAL BUREAU OF
12 INVESTIGATION AND, for any new owner, new applicant, newly hired
13 employee, new licensee, or individual who begins residing in the licensed
14 facility. ~~on or after August 11, 2011, the federal bureau of investigation.~~
15 As part of the investigation, the records and reports of child abuse or
16 neglect maintained by the state department ~~shall~~ MUST be accessed to
17 determine whether the owner, applicant, employee, newly hired
18 employee, licensee, or individual who resides in the licensed facility
19 being investigated has been found to be responsible in a confirmed report
20 of child abuse or neglect. Information ~~shall be~~ IS made available pursuant
21 to section 19-1-307 (2)(j) ~~C.R.S.~~, and rules promulgated by the state
22 board pursuant to section 19-3-313.5 (4). ~~C.R.S.~~ Except as provided for
23 in ~~sub-subparagraph (C.7) of this subparagraph (F)~~ SUBSECTION
24 (1)(a)(I)(C.7) OF THIS SECTION, any change in ownership of a licensed
25 facility or the addition of a new resident adult or newly hired employee
26 to the licensed facility ~~shall require~~ REQUIRES a new investigation as
27 provided for in this section.

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