

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

INTRODUCED

LLS NO. 19-0944.01 Brita Darling x2241

SENATE BILL 19-178

SENATE SPONSORSHIP

Foote,

HOUSE SPONSORSHIP

Singer,

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE SUBSIDIZATION OF ADOPTION FOR ELIGIBLE**
102 **CHILDREN IN COLORADO.**

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 repeals and reenacts, with amendments, provisions of the state's adoption assistance program (adoption program) that provides cash subsidies and other noncash benefits to families who adopt eligible children and youth who might not otherwise be adopted, in order to update the adoption program. The department of human services (state department) administers the adoption program in conjunction with county

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.

1 (b) IN PARTICULAR, ADOPTION IS AN IMPORTANT TOOL TO HELP
2 INCREASE THE NUMBER OF PERMANENT AND STABLE HOMES FOR
3 COLORADO'S ABUSED AND NEGLECTED CHILDREN AND YOUTH; AND

4 (c) MANY CHILDREN AND YOUTH WHO ARE ADOPTED IN COLORADO
5 HAVE EXPERIENCED PRIOR ABUSE, NEGLECT, MULTIPLE PLACEMENTS, AND
6 INSTITUTIONALIZATION. THESE PRIOR EXPERIENCES OFTEN CAUSE
7 PHYSICAL, PSYCHOLOGICAL, EMOTIONAL, AND DEVELOPMENTAL HARM
8 THAT AFFECTS THESE CHILDREN AND YOUTH THROUGHOUT THEIR LIVES.

9 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS
10 THE INTENT OF THIS ARTICLE 7 TO:

11 (a) ENCOURAGE FAMILIES OF ANY ECONOMIC STATUS TO ADOPT
12 ELIGIBLE CHILDREN AND YOUTH AND TO PROVIDE SUCH FAMILIES WITH
13 BENEFITS THAT WILL ENABLE THEM TO MEET THE NEEDS OF ELIGIBLE
14 CHILDREN AND YOUTH WHO MEET THE CRITERIA FOR THE BENEFITS AS
15 ESTABLISHED IN THIS ARTICLE 7;

16 (b) ENSURE THAT ALL FAMILIES AND ELIGIBLE CHILDREN AND
17 YOUTH IN COLORADO HAVE EQUAL OPPORTUNITIES TO ACCESS THE
18 BENEFITS ESTABLISHED IN THIS ARTICLE 7;

19 (c) ENSURE THAT ALL FAMILIES AND ELIGIBLE CHILDREN AND
20 YOUTH IN COLORADO HAVE EQUAL ACCESS TO CONSISTENT INFORMATION,
21 GUIDANCE, AND PRACTICES TO ENSURE THAT THE NEEDS OF EACH CHILD
22 OR YOUTH RECEIVE CONSISTENT CONSIDERATION, REGARDLESS OF THE
23 AGENCY THAT IS ADMINISTERING BENEFITS PURSUANT TO THIS ARTICLE 7;

24 (d) ENSURE THAT FAMILIES ARE ABLE TO MAINTAIN SAFE AND
25 STABLE HOMES FOR THE ELIGIBLE CHILDREN AND YOUTH THEY ADOPT
26 THROUGH BENEFITS TAILORED TO ACCOMMODATE AND SUPPORT THE
27 NEEDS OF THE ADOPTED ELIGIBLE CHILDREN AND YOUTH; AND

1 (e) ENSURE THAT ANY AGENCY PROVIDING BENEFITS PURSUANT TO
2 THIS ARTICLE 7 HAS CLEAR GUIDANCE AND SUPPORT IN ITS EFFORTS TO
3 HELP ELIGIBLE CHILDREN AND YOUTH FIND AND MAINTAIN SAFE,
4 PERMANENT ADOPTIVE HOMES.

5 **26-7-102. Definitions.** AS USED IN THIS ARTICLE 7, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (1) "AGREEMENT" MEANS AN ADOPTION ASSISTANCE AGREEMENT
8 NEGOTIATED AND ENTERED INTO PURSUANT TO SECTION 26-7-107.

9 (2) "ANTICIPATED NEEDS" MEANS THOSE NEEDS THAT ARE
10 REASONABLY FORESEEABLE AND AS DEFINED IN THE ELIGIBILITY CRITERIA
11 LISTED IN SUBSECTION (8) OF THIS SECTION THAT ARE KNOWN AT THE TIME
12 OF FINALIZATION OF THE ADOPTION. CONSIDERATION OF THESE
13 ANTICIPATED NEEDS AND SERVICES ARE PART OF THE GOOD-FAITH
14 NEGOTIATION OF THE AMOUNT OF THE ADOPTION ASSISTANCE PAYMENT
15 AND SERVICES AND MUST COMPLY WITH THE FUNDING REQUIREMENTS IN
16 SECTION 26-7-103.

17 (3) "BENEFIT" MEANS ANY SUBSIDY OR SERVICE AVAILABLE TO
18 ADOPTIVE FAMILIES PURSUANT TO THIS ARTICLE 7, INCLUDING MONTHLY
19 SUBSIDY PAYMENTS. THESE PAYMENTS MUST NOT INCLUDE PAYMENTS FOR
20 SERVICES THAT ARE REASONABLY ACCESSIBLE AND CAN BE FUNDED
21 THROUGH OTHER PUBLIC OR PRIVATE SOURCES, INCLUDING BUT NOT
22 LIMITED TO SOCIAL SECURITY AND MEDICAID, AS REQUIRED IN 20 U.S.C.
23 SEC. 1440.

24 (4) "CHILD PLACEMENT AGENCY" MEANS ANY ENTITY THAT,
25 PURSUANT TO THE REQUIREMENTS IN SECTION 26-6-102 (7), MAY PLACE,
26 FACILITATE PLACEMENT, OR ARRANGE FOR THE PLACEMENT OF AN
27 ELIGIBLE CHILD OR YOUTH FOR THE PURPOSE OF ADOPTION, TREATMENT,

1 OR FOSTER CARE. ONLY ELIGIBLE CHILDREN OR YOUTH WHO ARE PLACED
2 BY A COUNTY DEPARTMENT OR THROUGH A CHILD PLACEMENT AGENCY
3 THAT IS DESIGNATED AS A NONPROFIT ENTITY ARE ELIGIBLE TO RECEIVE
4 BENEFITS PURSUANT TO THIS ARTICLE 7.

5 (5) "CIRCUMSTANCES OF THE FAMILY" MEANS THE CAPACITY OF
6 THE FAMILY, INCLUDING BUT NOT LIMITED TO FINANCIAL CAPACITY, TO
7 MEET THE ANTICIPATED NEEDS OF THE ELIGIBLE CHILD OR YOUTH.

8 (6) "COUNTY DEPARTMENT" MEANS A COUNTY DEPARTMENT OF
9 HUMAN OR SOCIAL SERVICES.

10 (7) "DISSOLVED ADOPTION" MEANS AN ADOPTION IN WHICH THE
11 LEGAL RELATIONSHIP BETWEEN THE ADOPTIVE PARENTS AND ADOPTIVE
12 CHILD OR YOUTH IS SEVERED, EITHER VOLUNTARILY OR INVOLUNTARILY,
13 AFTER THE ADOPTION IS LEGALLY FINALIZED. THIS MAY RESULT IN THE
14 CHILD OR YOUTH'S RETURN TO, OR ENTRY INTO, FOSTER CARE.

15 (8) "ELIGIBLE CHILD OR YOUTH" MEANS A CHILD OR YOUTH WHO
16 MEETS THE MEDICAL AND DISABILITY REQUIREMENTS FOR FEDERAL
17 SUPPLEMENTAL SECURITY INCOME OR IS A CHILD OR YOUTH WITH ONE OR
18 MORE SPECIFIC FACTORS OR CONDITIONS THAT WOULD MAKE IT
19 REASONABLE TO CONCLUDE THAT A CHILD OR YOUTH CANNOT BE ADOPTED
20 WITHOUT PROVIDING BENEFITS TO ASSIST IN THE ADOPTION. SUCH
21 FACTORS MAY INCLUDE BUT ARE NOT LIMITED TO:

22 (a) A PHYSICAL DISABILITY, SUCH AS HEARING, VISION, OR
23 PHYSICAL IMPAIRMENT; NEUROLOGICAL CONDITIONS; DISFIGURING
24 DEFECTS; METABOLIC DISORDER; A CHILD OR YOUTH INFECTED WITH THE
25 HUMAN IMMUNODEFICIENCY VIRUS; OR HEART DEFECTS THAT HAVE BEEN
26 DOCUMENTED BY A LICENSED MEDICAL PROFESSIONAL;

27 (b) A MENTAL, INTELLECTUAL, OR DEVELOPMENTAL DISABILITY

1 THAT HAS BEEN DOCUMENTED BY A LICENSED MEDICAL PROFESSIONAL,
2 SUCH AS A PERCEPTUAL, SPEECH, OR LANGUAGE DISABILITY OR ANY
3 DISABILITY THAT RESULTS IN EDUCATIONAL DELAYS OR SIGNIFICANT
4 LEARNING DIFFICULTIES;

5 (c) AN EMOTIONAL HANDICAP, SUCH AS POST-TRAUMATIC STRESS
6 DISORDER, BIPOLAR DISORDER, OR OTHER MENTAL HEALTH DISORDER
7 THAT HAS BEEN DOCUMENTED BY A LICENSED MENTAL HEALTH
8 PROFESSIONAL;

9 (d) HEREDITARY FACTORS THAT HAVE BEEN DOCUMENTED BY A
10 LICENSED MEDICAL PROVIDER OR MENTAL HEALTH PROFESSIONAL;

11 (e) AN EDUCATIONAL DISABILITY THAT QUALIFIES FOR SECTION
12 504 OF THE FEDERAL "REHABILITATION ACT OF 1973", AS AMENDED, 29
13 U.S.C. SEC. 701 ET SEQ., OR SPECIAL EDUCATION SERVICES;

14 (f) FACTORS THAT PLACE A CHILD OR YOUTH IN A "HIGH-RISK"
15 CATEGORY, SUCH AS BEING DRUG- OR ALCOHOL-EXPOSED IN UTERO;

16 (g) OTHER CONDITIONS THAT ACT AS A BARRIER TO THE CHILD'S OR
17 YOUTH'S ADOPTION, INCLUDING BUT NOT LIMITED TO A HEALTHY CHILD OR
18 YOUTH OVER SEVEN YEARS OF AGE OR A SIBLING GROUP THAT SHOULD
19 REMAIN INTACT AND MEDICAL CONDITIONS THAT ARE LIKELY TO REQUIRE
20 FURTHER TREATMENT; OR

21 (h) ETHNIC BACKGROUND OR MEMBERSHIP IN A MINORITY GROUP
22 WHOSE CHILDREN OR YOUTH MIGHT BE DIFFICULT TO PLACE.

23 (9) "PROGRAM" MEANS THE ADOPTION ASSISTANCE PROGRAM
24 CREATED IN SECTION 26-7-103.

25 (10) "SERVICES" MEANS ANY BENEFITS OTHER THAN MONTHLY
26 SUBSIDY PAYMENTS THAT A FAMILY MAY RECEIVE AS PART OF AN
27 AGREEMENT.

1 (11) "STATE DEPARTMENT" MEANS THE STATE DEPARTMENT OF
2 HUMAN SERVICES.

3 (12) "SUBSIDY" REFERS EXCLUSIVELY TO MONTHLY CASH
4 PAYMENTS THAT ARE PROVIDED TO ELIGIBLE FAMILIES AS PART OF AN
5 AGREEMENT.

6 (13) "TITLE IV-E" REFERS TO FEDERAL FUNDS ADMINISTERED
7 THROUGH THE SOCIAL SECURITY ACT TO SUPPORT STATES' PROGRAMS,
8 INCLUDING BUT NOT LIMITED TO FOSTER CARE, ADOPTION ASSISTANCE,
9 AND GUARDIANSHIP ASSISTANCE.

10 **26-7-103. Adoption assistance program - created -**
11 **administration - funding - reporting - rules - definition.** (1) THE
12 ADOPTION ASSISTANCE PROGRAM IS CREATED IN THE STATE DEPARTMENT
13 AND SHALL BE ADMINISTERED BY THE STATE DEPARTMENT AND COUNTY
14 DEPARTMENTS PURSUANT TO THIS ARTICLE 7. THE STATE DEPARTMENT
15 SHALL, THROUGH THE STATE BOARD OF HUMAN SERVICES, ADOPT ANY
16 RULES NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE 7.

17 (2) IN ADDITION TO ANY MONEY APPROPRIATED TO THE STATE
18 DEPARTMENT BY THE GENERAL ASSEMBLY FOR THE PROGRAM, THE STATE
19 DEPARTMENT IS ALSO AUTHORIZED TO ACCEPT, ON BEHALF OF THE
20 PROGRAM, ANY FEDERAL FUNDS MADE AVAILABLE FOR ANY PURPOSE
21 CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE 7.

22 (3) THE STATE DEPARTMENT SHALL KEEP DATA AS NECESSARY TO
23 EVALUATE THE PROGRAM'S EFFECTIVENESS IN PROVIDING STABILITY TO
24 ELIGIBLE CHILDREN, YOUTH, AND FAMILIES INVOLVED IN ADOPTION
25 THROUGH THE CHILD WELFARE SYSTEM. ON OR BEFORE NOVEMBER 1,
26 2019, AND EVERY NOVEMBER 1 THEREAFTER, THE STATE DEPARTMENT
27 SHALL PREPARE AND MAKE AVAILABLE TO THE PUBLIC A REPORT THAT

1 INCLUDES, BUT IS NOT LIMITED TO, INFORMATION CONCERNING:

2 (a) THE COST OF ADMINISTERING THE PROGRAM, INCLUDING
3 EXPENDITURES FOR MONTHLY SUBSIDIES AND OTHER BENEFITS;

4 (b) THE TYPES OF SERVICES AWARDED THROUGH THE PROGRAM ON
5 A STATEWIDE BASIS;

6 (c) THE NUMBER OF DISSOLVED ADOPTIONS INVOLVING CHILDREN
7 AND YOUTH WHO QUALIFIED FOR OR RECEIVED BENEFITS FROM THE
8 PROGRAM;

9 (d) THE RESULTS OF ANY PROGRAM EVALUATION PERFORMED BY
10 THE STATE DEPARTMENT.

11 **26-7-104. General information for prospective adoptive**

12 **families.** (1) AT THE TIME THAT THE FAMILY IS MATCHED FOR ADOPTION
13 OF A CHILD OR YOUTH WHO IS POTENTIALLY ELIGIBLE FOR BENEFITS
14 PURSUANT TO THIS ARTICLE 7, THE STATE DEPARTMENT, A COUNTY
15 DEPARTMENT, OR A NONPROFIT CHILD PLACEMENT AGENCY, AS
16 APPROPRIATE, SHALL PROVIDE THE PROSPECTIVE ADOPTIVE FAMILY, IN
17 WRITING, WITH INFORMATION CONCERNING THE FOLLOWING:

18 (a) THE AVAILABILITY OF BENEFITS, WITH AN EXPLANATION OF THE
19 DIFFERENCES BETWEEN THESE BENEFITS AND FOSTER CARE MAINTENANCE
20 PAYMENTS;

21 (b) THE AVAILABILITY OF REIMBURSEMENT FOR ANY
22 NONRECURRING EXPENSES INCURRED IN THE ADOPTION OF AN ELIGIBLE
23 CHILD OR YOUTH;

24 (c) THE AVAILABILITY OF MENTAL HEALTH SERVICES THROUGH
25 THE STATE MEDICAL ASSISTANCE PROGRAM PURSUANT TO ARTICLES 4, 5,
26 AND 6 OF TITLE 25.5 OR OTHER PROGRAMS;

27 (d) THE FEDERAL ADOPTION TAX CREDIT FOR AN INDIVIDUAL WHO

1 IS ADOPTING OR IS CONSIDERING ADOPTING A CHILD OR YOUTH IN FOSTER
2 CARE OR THROUGH A NONPROFIT CHILD PLACEMENT AGENCY, IN
3 ACCORDANCE WITH SECTION 403 OF THE FEDERAL "FOSTERING
4 CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008",
5 PUB.L.110-351;

6 (e) NOTICE OF THE GENERAL RIGHT TO BRING TO THE ADOPTION
7 ASSISTANCE NEGOTIATION PROCESS:

8 (I) PARTIES WHO POSSESS RELEVANT INFORMATION ABOUT A
9 CHILD'S OR YOUTH'S HISTORY AND NEEDS, INCLUDING THE CHILD'S
10 GUARDIAN AD LITEM OR THE FAMILY'S ADVOCATE; AND

11 (II) LEGAL REPRESENTATION FOR A CHILD OR YOUTH OR
12 PROSPECTIVE ADOPTIVE FAMILY;

13 (f) NOTICE OF THE RIGHT TO APPEAL AND BE REPRESENTED BY
14 LEGAL COUNSEL, AT THE PROSPECTIVE ADOPTIVE PARENTS' EXPENSE, IN
15 ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",
16 ARTICLE 4 OF TITLE 24, AND PURSUANT TO SECTION 26-7-109; AND

17 (g) NOTICE OF THE GENERAL RIGHT TO REQUEST A NEGOTIATION
18 MEETING.

19 (2) THE STATE DEPARTMENT SHALL ALSO MAKE THE INFORMATION
20 DESCRIBED IN THIS SECTION AVAILABLE ON ITS WEBSITE.

21 **26-7-105. Eligibility for adoption benefits.** (1) ONLY AN
22 ELIGIBLE CHILD OR YOUTH WHO HAS SPECIAL NEEDS THAT CREATE A
23 BARRIER TO HIS OR HER ADOPTION IS ELIGIBLE FOR ADOPTION BENEFITS.

24 (2) THE FOLLOWING CONDITIONS MUST BE PRESENT AT THE TIME
25 THE ELIGIBLE CHILD OR YOUTH WAS PLACED FOR ADOPTION; EXCEPT THAT
26 A CHILD OR YOUTH WHO MEETS THE MEDICAL AND DISABILITY
27 REQUIREMENTS FOR FEDERAL SUPPLEMENTAL SECURITY INCOME DOES NOT

1 NEED TO MEET THE ADDITIONAL CONDITIONS:

2 (a) THE ELIGIBLE CHILD OR YOUTH WAS IN THE CUSTODY OF A
3 COUNTY DEPARTMENT, A PERSON TO WHOM THE CUSTODY OF THE CHILD
4 HAS BEEN GIVEN BY PROPER ORDER OF A DEPENDENCY AND NEGLECT
5 COURT, OR A NONPROFIT CHILD PLACEMENT AGENCY, AND IS LEGALLY
6 AVAILABLE FOR ADOPTION, INCLUDING THE RESOLUTION OF ALL APPEALS;
7 AND

8 (b) IT HAS BEEN DETERMINED THAT THE ELIGIBLE CHILD OR YOUTH
9 CANNOT OR SHOULD NOT BE RETURNED HOME TO HIS OR HER BIOLOGICAL
10 PARENTS; AND

11 (c) REASONABLE BUT UNSUCCESSFUL EFFORTS TO PLACE THE
12 ELIGIBLE CHILD OR YOUTH FOR ADOPTION WITHOUT BENEFITS HAVE BEEN
13 MADE, EXCEPT UNDER THE FOLLOWING CIRCUMSTANCES:

14 (I) IT IS DETERMINED THAT SUCH EFFORTS WOULD BE AGAINST THE
15 BEST INTEREST OF THE ELIGIBLE CHILD OR YOUTH BECAUSE OF FACTORS
16 THAT INCLUDE, BUT ARE NOT LIMITED TO, THE EXISTENCE OF A
17 SIGNIFICANT BOND WITH THE PROSPECTIVE ADOPTIVE PARENTS OR A
18 SEARCH FOR A NONSUBSIDIZED ADOPTIVE PLACEMENT WOULD DELAY A
19 CHILD'S OR YOUTH'S RIGHT TO PERMANENCY IN A TIMELY MANNER; OR

20 (II) THE ELIGIBLE CHILD OR YOUTH IS BEING PLACED BY A BIRTH
21 PARENT WITH DESIGNATED ADOPTIVE PARENTS THROUGH A NONPROFIT
22 CHILD PLACEMENT AGENCY; AND

23 (d) THE COUNTY DEPARTMENT OR NONPROFIT CHILD PLACEMENT
24 AGENCY HAS DETERMINED THAT THE ADOPTIVE FAMILY HAS THE
25 CAPABILITY OF PROVIDING FOR THE NONFINANCIAL NEEDS OF THE ELIGIBLE
26 CHILD OR YOUTH.

27 **26-7-106. Available benefits.** (1) THE STATE DEPARTMENT OR A

1 COUNTY DEPARTMENT MAY AUTHORIZE OR ADMINISTER ONE OR MORE OF
2 THE TYPES OF BENEFITS AVAILABLE PURSUANT TO THIS ARTICLE 7, AS
3 DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

4 (2) THE BENEFITS AVAILABLE PURSUANT TO THIS ARTICLE 7
5 INCLUDE:

6 (a) MONTHLY SUBSIDY PAYMENTS;

7 (b) MEDICAL ASSISTANCE PURSUANT TO ARTICLES 4, 5 AND 6 OF
8 TITLE 25.5;

9 (c) REIMBURSEMENT FOR NONRECURRING EXPENSES INCURRED BY
10 OR ON BEHALF OF THE ADOPTIVE PARENT IN CONNECTION WITH THE
11 ADOPTION, INCLUDED BUT NOT LIMITED TO:

12 (I) ANY FEES ORDINARILY ASSESSED BY THE STATE DEPARTMENT,
13 A COUNTY DEPARTMENT, OR A CHILD PLACEMENT AGENCY FOR ADOPTION
14 INVESTIGATIONS AND HOME STUDY REPORTS; AND

15 (II) ANY REASONABLE AND NECESSARY ADOPTION FEES, COURT
16 COSTS, ATTORNEY FEES, AND OTHER EXPENSES THAT ARE DIRECTLY
17 RELATED TO THE LEGAL ADOPTION OF THE CHILD AS DESCRIBED IN 42
18 U.S.C. SEC. 673 (a)(1); AND

19 (d) PAYMENT OR REIMBURSEMENT FOR OTHER SERVICES OR
20 BENEFITS AS DEFINED IN SECTION 26-7-102 (3).

21 **26-7-107. Determination of benefits - adoption assistance**

22 **agreement - review - definitions.** (1) THE BENEFITS PROVIDED IN ANY

23 CASE PURSUANT TO THIS ARTICLE 7 MUST BE DETERMINED THROUGH AN

24 AGREEMENT BETWEEN THE ADOPTIVE PARENTS AND THE STATE

25 DEPARTMENT OR COUNTY DEPARTMENT ADMINISTERING THE PROGRAM.

26 THE TERMS OF THE AGREEMENT MUST BE REACHED THROUGH A

27 DISCUSSION AND GOOD-FAITH NEGOTIATION PROCESS THAT ADDRESSES

1 THE NEEDS OF THE ELIGIBLE CHILD OR YOUTH. ONCE THE TERMS OF THE
2 AGREEMENT ARE REACHED BY THE RESPECTIVE PARTIES, THE PARTIES
3 SHALL SIGN THE AGREEMENT PRIOR TO ADOPTION FINALIZATION. IF AN
4 AGREEMENT CANNOT BE REACHED WITH THE CONCURRENCE OF THE
5 ADOPTIVE PARENTS, THE ADOPTIVE PARENTS' REQUEST FOR ADOPTION
6 ASSISTANCE MAY BE REVIEWABLE THROUGH THE ADMINISTRATIVE LAW
7 APPEALS PROCESS.

8 (2) THE USE OF A MEANS TEST IS PROHIBITED IN THE PROCESS OF
9 SELECTING AN ADOPTIVE FAMILY. A MEANS TEST ALSO MUST NOT BE
10 SUBSTITUTED FOR THE NEGOTIATION OF AN ADOPTIVE FAMILY'S BENEFITS.
11 THE CIRCUMSTANCES OF THE FAMILY, AS DEFINED IN SECTION 26-7-102
12 (5), SHOULD BE CONSIDERED IN NEGOTIATING A FAMILY'S BENEFITS.

13 (3) DETERMINATION OF THE TYPE AND AMOUNT OF BENEFITS TO BE
14 PROVIDED MUST TAKE INTO CONSIDERATION THE CIRCUMSTANCES OF THE
15 ADOPTIVE FAMILY AND THE CURRENT AND ANTICIPATED NEEDS OF THE
16 ELIGIBLE CHILD OR YOUTH BEING ADOPTED. IN NO CASE MAY THE AMOUNT
17 OF THE MONTHLY SUBSIDY PAYMENT EXCEED THE FOSTER CARE
18 MAINTENANCE PAYMENT THAT WOULD HAVE BEEN PAID IF THE ELIGIBLE
19 CHILD OR YOUTH HAD BEEN IN FOSTER CARE AT THE TIME OF THE ELIGIBLE
20 CHILD OR YOUTH'S ADOPTION OR AT THE TIME OF RENEGOTIATION IN THE
21 CASE OF ADOPTION ASSISTANCE ADJUSTMENT. THE AMOUNT OF PAYMENTS
22 MAY BE ADJUSTED PERIODICALLY IF EITHER THE NEEDS OF THE ELIGIBLE
23 CHILD OR YOUTH OR THE CIRCUMSTANCES OF THE FAMILY CHANGE, BUT
24 ONLY WITH THE CONCURRENCE OF THE ADOPTIVE PARENTS.

25 (4) IN CASES WHERE A SUBSIDY IS NOT PROVIDED IN AN
26 AGREEMENT, THE STATE DEPARTMENT OR COUNTY DEPARTMENT SHALL
27 DOCUMENT:

1 (a) THE CHILD'S OR YOUTH'S SPECIAL NEEDS IN THE SERVICES
2 RECORD AND IN THE STATE DEPARTMENT'S AUTOMATED CHILD WELFARE
3 SYSTEM; AND

4 (b) THE POTENTIAL NEED FOR FINANCIAL SUBSIDIES THAT EXIST
5 AND MAY NEED TO BE ACTIVATED AT A FUTURE TIME.

6 (5) AN AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION
7 MUST BE REVIEWED AT LEAST EVERY THREE YEARS. THE STATE
8 DEPARTMENT OR COUNTY DEPARTMENTS SHALL PROVIDE WRITTEN NOTICE
9 OF THE UPCOMING REVIEW TO THE ADOPTIVE FAMILY.

10 (6) ANY NEW AGREEMENT MUST INCLUDE THE CIRCUMSTANCES
11 UNDER WHICH THE STATE DEPARTMENT OR COUNTY DEPARTMENT MAY
12 SUSPEND SUBSIDY PAYMENTS.

13 (7) THE AGREEMENT MAY BE ADJUSTED AFTER GOOD-FAITH
14 NEGOTIATION AND WITH THE CONCURRENCE OF THE ADOPTIVE FAMILY. AN
15 ADJUSTMENT IS REVIEWABLE THROUGH THE ADMINISTRATIVE LAW
16 PROCESS UPON THE REQUEST OF THE FAMILY. ANY PARTY MAY REQUEST
17 A REVIEW OF THE AGREEMENT PRIOR TO THE THREE-YEAR MANDATORY
18 REVIEW IF CHANGES OCCUR IN THE NEEDS OF THE ADOPTIVE CHILD OR
19 YOUTH OR IN THE CIRCUMSTANCES OF THE FAMILY.

20 (8) BENEFITS PROVIDED THROUGH THE PROGRAM MUST BE
21 CONTINUED IF THE ADOPTIVE PARENTS LEAVE THE STATE OF COLORADO
22 WITH THE ADOPTED CHILD OR YOUTH.

23 **26-7-108. Suspension of subsidies.** (1) THE STATE DEPARTMENT
24 OR COUNTY DEPARTMENT MAY SUSPEND THE PAYMENT OF SUBSIDIES
25 AVAILABLE PURSUANT TO THIS ARTICLE 7 WHEN CONTACT WITH THE
26 ADOPTIVE FAMILY CANNOT BE ESTABLISHED AND THE COUNTY
27 DEPARTMENT CANNOT ESTABLISH THAT THE ADOPTIVE PARENT IS

1 PROVIDING ANY SUPPORT, WHICH INCLUDES FINANCIAL SUPPORT AS
2 DETERMINED BY THE TITLE IV-E AGENCY.

3 (2) PRIOR TO SUSPENSION, THE STATE DEPARTMENT OR COUNTY
4 DEPARTMENT SHALL PROVIDE NOTICE TO THE ADOPTIVE PARENTS OF
5 INTENT TO SUSPEND SUBSIDY PAYMENTS AT LEAST TEN DAYS PRIOR TO
6 SUSPENSION AND SHALL INCLUDE IN THE NOTICE:

7 (a) A STATEMENT OF THE STATE DEPARTMENT'S OR COUNTY
8 DEPARTMENT'S INTENT TO SUSPEND SUBSIDY PAYMENTS, AS WELL AS THE
9 REASONS AND LEGAL BASIS FOR THE INTENDED SUSPENSION;

10 (b) A DESCRIPTION OF THE ADOPTIVE PARENTS' RIGHT TO REQUEST
11 A FAIR HEARING PURSUANT TO 45 CFR 205.10;

12 (c) A DESCRIPTION OF THE CIRCUMSTANCES UNDER WHICH
13 ADOPTION ASSISTANCE MUST BE CONTINUED IF A HEARING IS REQUESTED;
14 AND

15 (d) THE CIRCUMSTANCES UNDER WHICH A SUSPENSION MAY BE
16 REVERSED WITHOUT A FAIR HEARING.

17 (3) WHEN THE SUBSIDY PAYMENT IS SUSPENDED, THE ELIGIBLE
18 CHILD OR YOUTH REMAINS TITLE IV-E ELIGIBLE, THE TITLE IV-E
19 AGREEMENT REMAINS IN EFFECT, AND THE ELIGIBLE CHILD OR YOUTH
20 REMAINS ELIGIBLE FOR, AND IN RECEIPT OF, MEDICAL ASSISTANCE
21 PURSUANT TO ARTICLES 4, 5 AND 6 OF TITLE 25.5, IF APPLICABLE.

22 **26-7-109. Termination of adoption assistance agreement.**

23 (1) THE STATE DEPARTMENT OR COUNTY DEPARTMENT SHALL TERMINATE
24 THE PAYMENT OF SUBSIDIES AVAILABLE PURSUANT TO THIS ARTICLE 7
25 WHEN ANY OF THE FOLLOWING SITUATIONS OCCUR:

26 (a) THE CHILD OR YOUTH REACHES EIGHTEEN YEARS OF AGE OR, IN
27 CASES WHERE THE STATE DEPARTMENT OR COUNTY DEPARTMENT HAS

1 DETERMINED THAT THE CHILD OR YOUTH HAS A SIGNIFICANT
2 DEVELOPMENTAL, GENETIC, MEDICAL, EMOTIONAL, OR OTHER MENTAL
3 HEALTH CONDITION THAT WARRANTS CONTINUED ASSISTANCE, THE CHILD
4 OR YOUTH REACHES TWENTY-ONE YEARS OF AGE;

5 (b) THE ADOPTIVE PARENT OR PARENTS ARE NO LONGER LEGALLY
6 RESPONSIBLE FOR THE SUPPORT OF THE CHILD OR YOUTH;

7 (c) THE CHILD OR YOUTH IS NO LONGER RECEIVING SUPPORT FROM
8 THE ADOPTIVE FAMILY, WHICH INCLUDES FINANCIAL SUPPORT AS
9 DETERMINED BY THE TITLE IV-E AGENCY; OR

10 (d) THE STATE DEPARTMENT OR COUNTY DEPARTMENT CERTIFIES
11 THE DEATH, MARRIAGE, OR ENROLLMENT IN MILITARY SERVICE OF THE
12 CHILD OR YOUTH.

13 (2) ADOPTIVE PARENTS WHO RECEIVE SUBSIDIES SHALL KEEP THE
14 STATE DEPARTMENT OR COUNTY DEPARTMENT THAT IS ADMINISTERING
15 THE PROGRAM INFORMED OF CIRCUMSTANCES THAT WOULD MAKE THEM
16 INELIGIBLE TO CONTINUE TO RECEIVE SUBSIDIES PURSUANT TO THIS
17 ARTICLE 7.

18 **26-7-110. Appeals.** (1) IN ANY DECISION MADE PURSUANT TO
19 THIS ARTICLE 7, THE ADOPTIVE PARENTS HAVE THE RIGHT TO APPEAL TO
20 THE STATE DEPARTMENT, WITH A HEARING BEFORE A STATE DEPARTMENT
21 ADMINISTRATIVE LAW JUDGE IN ACCORDANCE WITH THE "STATE
22 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24.

23 (2) THE FOLLOWING SITUATIONS ARE SUBJECT TO APPEAL:

24 (a) A DETERMINATION OF A CHILD'S OR YOUTH'S ELIGIBILITY FOR
25 BENEFITS PURSUANT TO SECTION 26-7-105;

26 (b) ANY DETERMINATION, REDETERMINATION, OR REDUCTION OF
27 BENEFITS PURSUANT TO THIS ARTICLE 7;

1 (c) TERMINATION OF THE AGREEMENT ENTERED INTO PURSUANT
2 TO SECTION 26-7-107; OR

3 (d) THE FAILURE OF THE STATE DEPARTMENT, COUNTY
4 DEPARTMENT, OR NONPROFIT CHILD PLACEMENT AGENCY TO NOTIFY THE
5 ADOPTIVE FAMILY OF AN ELIGIBLE CHILD OR YOUTH ABOUT THE
6 AVAILABILITY OF BENEFITS PURSUANT TO THIS ARTICLE 7.

7 **SECTION 2.** In Colorado Revised Statutes, 19-1-115, **amend**
8 (4)(d)(II) as follows:

9 **19-1-115. Legal custody - guardianship - placement out of the**
10 **home - petition for review for need of placement.** (4) (d) (II) For an
11 adoptive family who receives an approved Title IV-E adoption assistance
12 subsidy pursuant to the federal "Social Security Act", 42 U.S.C. sec. 673
13 et seq., or an approved payment in subsidization of adoption pursuant to
14 ~~section 26-7-103, C.R.S.~~ ARTICLE 7 OF TITLE 26, the cost of care, as
15 defined in section 19-1-103 (30), ~~shall~~ MUST not exceed the amount of the
16 adoption assistance payment.

17 **SECTION 3.** In Colorado Revised Statutes, 19-2-114, **amend**
18 (1)(b) as follows:

19 **19-2-114. Cost of care.** (1) (b) For an adoptive family who
20 receives an approved Title IV-E adoption assistance subsidy pursuant to
21 the federal "Social Security Act", 42 U.S.C. sec. 673 et seq., or an
22 approved payment in subsidization of adoption pursuant to ~~section~~
23 ~~26-7-103, C.R.S.~~ ARTICLE 7 OF TITLE 26, the cost of care, as defined in
24 section 19-1-103 (30), ~~shall~~ MUST not exceed the amount of the adoption
25 assistance payment.

26 **SECTION 4. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

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