

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

PREAMENDED

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

LLS NO. 20-0729.01 Michael Dohr x4347

HOUSE BILL 20-1302

HOUSE SPONSORSHIP

Lontine,

SENATE SPONSORSHIP

(None),

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO IMPROVE THE PROTECTION SERVICES FOR**
102 **AT-RISK ADULTS.**

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, when an employer is going to hire a person to work in a position in which the person has contact with at-risk adults, the employer must perform a check of the system that contains substantiated claims of mistreatment against an at-risk adult (CAPS check). The bill makes various clarifying changes to the adult protection statutes related to the CAPS check program.

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 states that if an employer receives a CAPS check on a person and does not hire the person at the time of receiving the check but wants to hire the person at a subsequent time, the employer shall request a new CAPS check prior to hiring the person. The bill requires that if the employer is also an employee, the employer and employer's parent or oversight agency would get the results if the employer was a substantiated perpetrator. The bill prohibits using a CAPS check request for a person who is not going to be an employee. The bill prohibits an employee or volunteers from knowingly providing inaccurate information for a CAPS check or an employer or other person or entity conducting an employee screening on behalf of the employer from knowingly providing inaccurate information in the request for a CAPS check.

The bill requires entities that care for at-risk adults to cooperate with a county or district department of human or social services in investigations into allegations of mistreatment at the entities' facilities.

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

2 **SECTION 1.** In Colorado Revised Statutes, 26-3.1-101, **amend**
3 (1)(c), (2)(a), (4) introductory portion, (4)(a), (4)(b), (6), (7)(c), (7)(d),
4 and (9); **repeal** (7)(e) and (8); and **add** (5.5) as follows:

5 **26-3.1-101. Definitions.** As used in this article 3.1, unless the
6 context otherwise requires:

7 (1) "Abuse" means any of the following acts or omissions
8 committed against an at-risk adult:

9 (c) ~~Subjection to sexual conduct or contact classified as a crime~~
10 ~~under the "Colorado Criminal Code", title 18, C.R.S. UNLAWFUL SEXUAL~~
11 ~~BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9).~~

12 (2) "Caretaker" means a person who:

13 (a) Is responsible for the care of an at-risk adult as a result of a
14 ~~family or~~ legal relationship; OR

15 (4) "Exploitation" means an act or omission ~~committed by a~~
16 ~~person~~ that:

17 (a) Uses deception, harassment, intimidation, or undue influence

1 to permanently or temporarily deprive an at-risk adult of the use, benefit,
2 or possession of any thing of value; OR

3 (b) Employs the services of a third party for the profit or
4 advantage of the person or another person to the detriment of the at-risk
5 adult; OR

6 (5.5) "HARMFUL ACT" MEANS AN ACT COMMITTED AGAINST AN
7 AT-RISK ADULT BY A PERSON WITH A KNOWN RELATIONSHIP TO THE
8 AT-RISK ADULT WHEN SUCH ACT IS NOT DEFINED AS ABUSE, CARETAKER
9 NEGLECT, OR EXPLOITATION BUT POSES AN IMMINENT RISK OF NEGATIVELY
10 IMPACTING THE HEALTH, SAFETY, OR WELFARE OF AN AT-RISK ADULT.

11 (6) "Least restrictive intervention" means acquiring or providing
12 services, including protective services, for the shortest duration and to the
13 minimum extent necessary to remedy or prevent situations of actual
14 mistreatment OR self-neglect. ~~or exploitation.~~

15 (7) "Mistreatment" means:

16 (c) Exploitation; OR

17 (d) ~~An act or omission that threatens the health, safety, or welfare~~
18 ~~of an at-risk adult; or~~ A HARMFUL ACT.

19 (e) ~~An act or omission that exposes an at-risk adult to a situation~~
20 ~~or condition that poses an imminent risk of bodily injury to the at-risk~~
21 ~~adult.~~

22 (8) ~~"Person" means one or more individuals, limited liability~~
23 ~~companies, partnerships, associations, corporations, legal representatives,~~
24 ~~trustees, receivers, or the state of Colorado, and all political subdivisions~~
25 ~~and agencies thereof.~~

26 (9) "Protective services" means services provided by the state or
27 political subdivisions or agencies thereof in order to prevent the

1 mistreatment OR self-neglect ~~or exploitation~~ of an at-risk adult. Such
2 services include, but are not limited to: ~~Receiving and investigating~~
3 ~~reports of mistreatment, self-neglect, or exploitation,~~ Providing casework
4 ~~and counseling~~ services and arranging for, coordinating, delivering where
5 appropriate, and monitoring services, including medical care for physical
6 or mental health needs, protection from mistreatment AND SELF-NEGLECT,
7 assistance with application for public benefits, referral to community
8 service providers, and initiation of probate proceedings.

9 **SECTION 2.** In Colorado Revised Statutes, 26-3.1-102, **amend**
10 (1)(a), (1)(c), (3), (7)(a), (7)(b) introductory portion, and (7)(b)(I); and
11 **add** (7)(b)(IX) as follows:

12 **26-3.1-102. Reporting requirements.** (1) (a) A person specified
13 in ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION
14 who observes the mistreatment or self-neglect of an at-risk adult or who
15 has reasonable cause to believe that an at-risk adult has been mistreated
16 or is self-neglecting ~~and~~ OR is at imminent risk of mistreatment or
17 self-neglect is urged to report such fact to a county department not more
18 than twenty-four hours after making the observation or discovery.

19 (c) In addition to those persons urged by this subsection (1) to
20 report known or suspected mistreatment or self-neglect of an at-risk adult
21 and circumstances or conditions that might reasonably result in
22 mistreatment or self-neglect, any other person may report such known or
23 suspected mistreatment or self-neglect and circumstances or conditions
24 that might reasonably result in mistreatment or self-neglect of an at-risk
25 adult to the local law enforcement agency or the county department. Upon
26 receipt of such report, the receiving agency shall prepare a written report
27 within ~~forty-eight~~ TWENTY-FOUR hours.

1 (3) A copy of the WRITTEN report prepared by the county
2 department in accordance with subsections (1) and (2) of this section
3 THAT INCLUDES AN ALLEGATION OF MISTREATMENT ~~shall~~ MUST be
4 forwarded within twenty-four hours AFTER RECEIPT OF THE REPORT to a
5 local law enforcement agency. A WRITTEN report prepared by a local law
6 enforcement agency ~~shall~~ MUST be forwarded within twenty-four hours
7 AFTER RECEIPT OF THE REPORT to the county department.

8 (7) (a) Except as provided in ~~paragraph (b) of this subsection (7)~~
9 SUBSECTION (7)(b) OF THIS SECTION, reports of the mistreatment or
10 self-neglect of an at-risk adult, including the name and address of any
11 at-risk adult, member of said adult's family, or informant, or any other
12 identifying information contained in such reports AND SUBSEQUENT CASES
13 RESULTING FROM THE REPORTS, is confidential and is not public
14 information.

15 (b) Disclosure of a report of the mistreatment or self-neglect of an
16 at-risk adult and information relating to an investigation of such a report
17 AND SUBSEQUENT CASES RESULTING FROM THE REPORT is permitted only
18 when authorized by a court for good cause. A court order is not required,
19 and such disclosure is not prohibited when:

20 (I) A criminal INVESTIGATION INTO AN ALLEGATION OF
21 MISTREATMENT IS BEING CONDUCTED, WHEN A REVIEW OF DEATH BY A
22 CORONER IS BEING CONDUCTED WHEN THE DEATH IS SUSPECTED TO BE
23 RELATED TO MISTREATMENT, OR WHEN A CRIMINAL ~~complaint,~~
24 ~~information, or indictment based on the report~~ is filed AND THE REPORT
25 AND CASE INFORMATION IS RELEVANT TO THE INVESTIGATION, DEATH
26 REVIEW, COMPLAINT, OR INDICTMENT;

27 (IX) THE DISCLOSURE IS MADE TO AN EMPLOYER REQUIRED TO

1 REQUEST A CAPS CHECK PURSUANT TO SECTION 26-3.1-111 OR TO THE
2 STATE DEPARTMENT AGENCY THAT OVERSEES THE EMPLOYER WHEN THE
3 INFORMATION IS NECESSARY TO ENSURE THE SAFETY OF OTHER AT-RISK
4 ADULTS UNDER THE CARE OF THE EMPLOYER. THE INFORMATION MUST BE
5 THE MINIMUM INFORMATION NECESSARY TO ENSURE THE SAFETY OF
6 OTHER AT-RISK ADULTS UNDER THE CARE OF THE EMPLOYER OR
7 OVERSIGHT OF THE STATE DEPARTMENT AGENCY.

8 **SECTION 3.** In Colorado Revised Statutes, 26-3.1-103, **amend**
9 (1); and **add** (1.3) as follows:

10 **26-3.1-103. Evaluations - investigations - training - rules.**

11 (1) The agency receiving a report of mistreatment or self-neglect of an
12 at-risk adult shall immediately make a thorough evaluation of the reported
13 level of risk. The immediate concern of the evaluation is the protection
14 of the at-risk adult. The evaluation, at a minimum, must include a
15 determination of a response time frame and whether THE REPORT MEETS
16 THE CRITERIA FOR an investigation of the allegations ~~is required~~
17 PURSUANT TO STATE DEPARTMENT RULE. If a county department
18 determines that an investigation is required, the county department is
19 responsible for ensuring an investigation is conducted and arranging for
20 the subsequent provision of protective services to be conducted by
21 persons trained to conduct such investigations and provide protective
22 services.

23 (1.3) (a) EACH EMPLOYER AS DEFINED BY SECTION 26-3.1-111 (7)
24 SHALL PROVIDE, UPON REQUEST OF THE COUNTY DEPARTMENT, ACCESS TO
25 CONDUCT AN INVESTIGATION INTO AN ALLEGATION OF MISTREATMENT.
26 ACCESS MUST INCLUDE THE ABILITY TO REQUEST INTERVIEWS WITH
27 RELEVANT PERSONS AND TO OBTAIN DOCUMENTS AND OTHER EVIDENCE

1 AND HAVE ACCESS TO:

2 (I) PATIENTS WHO ARE THE SUBJECT OF THE INVESTIGATION INTO
3 MISTREATMENT OF AN AT-RISK ADULT AND PATIENTS WHO ARE RELEVANT
4 TO AN INVESTIGATION INTO AN ALLEGATION OF MISTREATMENT OF AN
5 AT-RISK ADULT;

6 (II) PERSONNEL, INCLUDING PAID EMPLOYEES, CONTRACTORS,
7 VOLUNTEERS, AND INTERNS, INCLUDING CONTACT INFORMATION FOR
8 FORMER PERSONNEL WHO ARE RELEVANT TO THE INVESTIGATION;

9 (III) CLIENTS OR RESIDENTS WHO ARE THE SUBJECT OF THE
10 INVESTIGATION INTO MISTREATMENT OF AN AT-RISK ADULT AND CLIENTS
11 OR RESIDENTS WHO ARE RELEVANT TO AN INVESTIGATION INTO AN
12 ALLEGATION OF MISTREATMENT OF AN AT-RISK ADULT;

13 (IV) INDIVIDUAL PATIENT, RESIDENT, CLIENT, OR CONSUMER
14 RECORDS, INCLUDING HEALTH RECORDS OR INCIDENT AND INVESTIGATIVE
15 REPORTS, CARE AND BEHAVIORAL PLANS, STAFF SCHEDULES AND TIME
16 SHEETS, AND PHOTOS AND OTHER TECHNOLOGICAL EVIDENCE; AND

17 (V) ANY OTHER INFORMATION THAT BECOMES NECESSARY AND
18 RELEVANT FOR COUNTY DEPARTMENTS TO PERFORM THEIR DUTIES
19 PURSUANT TO THIS SECTION.

20 (b) COUNTY DEPARTMENT STAFF CONDUCTING AN INVESTIGATION
21 PURSUANT TO THIS SECTION HAVE THE RIGHT TO ENTER THE PREMISES OF
22 ANY EMPLOYER AS DEFINED BY SECTION 26-3.1-111 (7) AS NECESSARY TO
23 COMPLETE A THOROUGH INVESTIGATION. COUNTY DEPARTMENT STAFF
24 SHALL IDENTIFY THEMSELVES AND THE PURPOSE OF THE INVESTIGATION
25 TO THE PERSON IN CHARGE OF THE ENTITY AT THE TIME OF ENTRY.

26 (c) A PERSON WHO **WILLFULLY** VIOLATES A PROVISION OF
27 SUBSECTION (1.3)(a) OR (1.3)(b) OF THIS SECTION COMMITS A CLASS 1

1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
2 18-1.3-501 AND IS LIABLE FOR DAMAGES PROXIMATELY CAUSED THEREBY.

3 (d) ATTORNEYS AT LAW PROVIDING LEGAL ASSISTANCE TO
4 INDIVIDUALS PURSUANT TO A CONTRACT WITH AN AREA AGENCY ON
5 AGING, THE STAFF OF SUCH ATTORNEYS AT LAW, AND THE LONG-TERM
6 CARE OMBUDSMAN ARE EXEMPT FROM THE REQUIREMENTS OF THIS
7 SECTION.

8 **SECTION 4.** In Colorado Revised Statutes, 26-3.1-108, **amend**
9 (2) introductory portion and (2)(c); and **repeal** (3) as follows:

10 **26-3.1-108. Notice of report - appeals - rules.** (2) In addition to
11 rules promulgated pursuant to subsection (1) of this section, the state
12 department shall promulgate rules to establish a process at the state level
13 by which a person who is substantiated in a case of mistreatment of an
14 at-risk adult may appeal the finding to the state department. At a
15 minimum, the rules promulgated pursuant to this subsection (2) ~~shall~~
16 **MUST** address the following:

17 (c) A requirement for and procedures to facilitate the
18 expungement of and prevention of the release of any information
19 contained in CAPS records for purposes of a CAPS check related to a
20 person who is substantiated in a case of mistreatment of an at-risk adult
21 that existed prior to ~~May 31, 2017~~ JULY 1, 2018; except that the state
22 department and county departments may maintain such information in
23 CAPS to assist in future risk and safety assessments.

24 (3) ~~A county department is not required to provide notice to a~~
25 ~~person of a finding of a substantiated case of mistreatment of an at-risk~~
26 ~~adult until CAPS is capable of automatically generating the notice~~
27 ~~required pursuant to state department rules.~~

1 **SECTION 5.** In Colorado Revised Statutes, **amend** 26-3.1-109
2 as follows:

3 **26-3.1-109. Limitation.** Nothing in this ~~article shall be construed~~
4 ~~to mean~~ ARTICLE 3.1 MEANS that a person is mistreated ~~neglected,~~
5 ~~exploited,~~ OR SELF-NEGLECTING or in need of emergency or protective
6 services for the sole reason that he or she is being furnished or relies upon
7 treatment by spiritual means through prayer alone in accordance with the
8 tenets and practices of that person's recognized church or religious
9 denomination, nor ~~shall~~ DOES anything in this ~~article be construed to~~
10 ARTICLE 3.1 authorize, permit, or require any medical care or treatment
11 in contravention of the stated or implied objection of such a person.

12 **SECTION 6.** In Colorado Revised Statutes, 26-3.1-111, **amend**
13 (1), (6)(a)(I), (7)(h), (7)(i), and (10); and **add** (6)(a)(III), (6)(a)(IV),
14 (6)(e.3), (6)(e.7), and (7)(j) as follows:

15 **26-3.1-111. Access to CAPS - employment checks -**
16 **confidentiality - fees - rules - legislative declaration - definitions.**
17 (1) The general assembly finds and declares that individuals receiving
18 care and services from persons employed in programs or facilities
19 described in subsection (7) of this section are vulnerable to mistreatment,
20 including abuse, neglect, and exploitation. It is the intent of the general
21 assembly to minimize the potential for employment of persons with a
22 history of mistreatment of at-risk adults in positions that would allow
23 those persons unsupervised access to these adults. As a result, the general
24 assembly finds it necessary to strengthen protections for vulnerable adults
25 by requiring certain employers to request a CAPS check by the state
26 department to determine if a person who will provide direct care to an
27 at-risk adult has been substantiated in a case of mistreatment of an at-risk

1 adult. THE GENERAL ASSEMBLY ALSO FINDS THAT IT IS NECESSARY TO
2 REQUIRE THAT CERTAIN EMPLOYERS COOPERATE WITH, AND PROVIDE
3 ACCESS TO, COUNTY DEPARTMENTS DURING COUNTY INVESTIGATIONS OF
4 MISTREATMENT OF AT-RISK ADULTS PURSUANT TO SECTION 26-3.1-103
5 (1.3).

6 (6) (a) (I) On and after January 1, 2019, prior to hiring or
7 contracting with an employee who will provide direct care to an at-risk
8 adult, an employer described in subsection (7) of this section shall request
9 a CAPS check by the state department pursuant to this section to
10 determine if the person is substantiated in a case of mistreatment of an
11 at-risk adult. Within ten days after the date of the employer's request, if
12 the employee was substantiated in a case of mistreatment of an at-risk
13 adult, unless the finding was expunged through a successful appeal to the
14 state department, the state department shall provide the employer with
15 information concerning the mistreatment through electronic means, or
16 other means if requested by the employer, including the date OF the
17 ~~mistreatment was reported~~ SUBSTANTIATED FINDING, the type of
18 mistreatment reported, and the county that investigated the report of
19 mistreatment. IF AN EMPLOYER RECEIVES A CAPS CHECK ON A PERSON
20 AND DOES NOT INITIATE THE HIRING PROCESS AT THE TIME OF RECEIVING
21 THE CHECK BUT WANTS TO HIRE THE PERSON AT A SUBSEQUENT TIME THAT
22 IS MORE THAN THIRTY DAYS FROM RECEIPT OF THE PRIOR CAPS CHECK
23 RESULTS, THE EMPLOYER SHALL REQUEST A NEW CAPS CHECK PRIOR TO
24 HIRING THE PERSON PURSUANT TO STATE DEPARTMENT RULES.

25 (III) IF THE EMPLOYER IS ALSO AN EMPLOYEE OR VOLUNTEER, THE
26 EMPLOYER SHALL REQUEST THE CAPS CHECK ON HIMSELF OR HERSELF. IF
27 THE EMPLOYEE OR VOLUNTEER IS DETERMINED DURING EITHER THE

1 INITIAL CAPS CHECK OR SUBSEQUENTLY AS PROVIDED IN SUBSECTION (10)
2 OF THIS SECTION TO HAVE A SUBSTANTIATED FINDING OF MISTREATMENT,
3 BOTH THE EMPLOYER AND THE EMPLOYER'S PARENT COMPANY OR
4 OVERSIGHT AGENCY SHALL RECEIVE THE CAPS CHECK RESULTS.

5 (IV) AN EMPLOYER DESCRIBED IN SUBSECTION (7) OF THIS SECTION
6 OR A PERSON MAY REQUEST A CAPS CHECK BY THE STATE DEPARTMENT
7 PURSUANT TO THIS SECTION ON A VOLUNTEER WHO WILL PROVIDE DIRECT
8 CARE TO AN AT-RISK ADULT TO DETERMINE IF THE VOLUNTEER IS
9 SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT. THE
10 VOLUNTEER SHALL PROVIDE TO THE EMPLOYER WRITTEN AUTHORIZATION
11 AND ANY REQUIRED IDENTIFYING INFORMATION NECESSARY TO CONDUCT
12 A CAPS CHECK PURSUANT TO THIS SECTION. WITHIN TEN DAYS AFTER THE
13 DATE OF THE EMPLOYER'S REQUEST, IF THE VOLUNTEER WAS
14 SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT,
15 UNLESS THE FINDING WAS EXPUNGED THROUGH A SUCCESSFUL APPEAL TO
16 THE STATE DEPARTMENT, THE STATE DEPARTMENT SHALL PROVIDE THE
17 EMPLOYER WITH INFORMATION CONCERNING THE MISTREATMENT
18 THROUGH ELECTRONIC MEANS, OR OTHER MEANS IF REQUESTED BY THE
19 EMPLOYER, INCLUDING THE DATE OF THE SUBSTANTIATED FINDING, THE
20 TYPE OF MISTREATMENT REPORTED, AND THE COUNTY THAT
21 INVESTIGATED THE REPORT OF MISTREATMENT. FOR PURPOSES OF THIS
22 SUBSECTION (6)(a)(IV), "EMPLOYER" INCLUDES A PERSON OR ENTITY
23 CONDUCTING VOLUNTEER SCREENING ON BEHALF OF THE EMPLOYER. THE
24 PROVISIONS OF SUBSECTIONS (6)(d), (6)(e), (6)(e.3), AND (6)(e.7) OF THIS
25 SECTION APPLY TO THIS SUBSECTION (6)(a)(IV).

26 (e.3) ANY PERSON WHO REQUESTS A CAPS CHECK FOR A PERSON
27 WHO IS NOT AN EMPLOYEE OR VOLUNTEER OR NOT BEING CONSIDERED FOR

1 EMPLOYMENT OR WHO IS NOT A CARE PROVIDER OR BEING CONSIDERED AS
2 A CARE PROVIDER FOR A RECIPIENT OF CONSUMER DIRECTED ATTENDANT
3 SUPPORT SERVICES PURSUANT TO ARTICLE 10 OF TITLE 25.5 COMMITS A
4 CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED PURSUANT TO SECTION
5 18-1.3-501.

6 (e.7) AN EMPLOYEE WHO KNOWINGLY PROVIDES INACCURATE
7 INFORMATION TO HIS OR HER EMPLOYER FOR A CAPS CHECK, OR AN
8 EMPLOYER OR OTHER PERSON OR ENTITY CONDUCTING AN EMPLOYEE
9 SCREENING ON BEHALF OF THE EMPLOYER THAT KNOWINGLY PROVIDES
10 INACCURATE INFORMATION IN THE REQUEST FOR A CAPS CHECK,
11 COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED PURSUANT TO
12 SECTION 18-1.3-501.

13 (7) The following employers shall request a CAPS check pursuant
14 to this section:

15

16 (h) A facility operated by the state department for the care and
17 treatment of persons with intellectual and developmental disabilities
18 pursuant to article 10.5 of title 27; and

19 (i) Veterans community living centers operated pursuant to article
20 12 of this title 26; AND

21 (j) THE OFFICE OF PUBLIC GUARDIANSHIP PURSUANT TO SECTION
22 13-94-105 (6).

23 (10) The state department shall ~~review the feasibility and cost of~~
24 ~~including a feature in CAPS that would~~ provide notification to ~~an~~ THE
25 employer if a substantiated finding of mistreatment by an employee is
26 subsequently entered into CAPS. ~~If it is feasible to include a notification~~
27 ~~feature, subject to available money to implement any necessary system~~

1 ~~changes and completion of those system changes, the state department~~
2 ~~shall implement the notification feature as part of a CAPS check.~~

3 **SECTION 7.** In Colorado Revised Statutes, 13-14-101, **amend**
4 the introductory portion and (1) introductory portion as follows:

5 **13-14-101. Definitions.** For purposes of this ~~article~~ ARTICLE 14,
6 unless the context otherwise requires:

7 (1) "Abuse of the elderly or of an at-risk adult" means
8 mistreatment of a person who is sixty years of age or older or who is an
9 at-risk adult as defined in ~~section 26-3.1-101 (1), C.R.S.~~ SECTION
10 26-3.1-101 (1.5), including but not limited to repeated acts that:

11 **SECTION 8.** In Colorado Revised Statutes, 13-94-105, **add** (6)
12 as follows:

13 **13-94-105. Office of public guardianship - duties - report.** (6)
14 PRIOR TO EMPLOYMENT, THE OFFICE OF PUBLIC GUARDIANSHIP, PURSUANT
15 TO SECTION 25-1.5-103 (1)(a)(I)(A), SHALL SUBMIT THE NAME OF A
16 PERSON HIRED AS A GUARDIAN OR GUARDIAN'S DESIGNEE, AS WELL AS ANY
17 OTHER REQUIRED IDENTIFYING INFORMATION, TO THE DEPARTMENT OF
18 HUMAN SERVICES FOR A CHECK OF THE COLORADO ADULT PROTECTIVE
19 SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111 TO DETERMINE
20 IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN
21 AT-RISK ADULT.

22 **SECTION 9.** In Colorado Revised Statutes, 25-3-102, **amend**
23 (1)(c) as follows:

24 **25-3-102. License - application - issuance - certificate of**
25 **compliance required - rules - repeal.** (1) (c) The department shall issue
26 licenses to applicants furnishing satisfactory evidence of fitness to
27 conduct and maintain a health facility described in section 25-3-101 in

1 accordance with this part 1 and the rules adopted by the department. The
2 department shall not require, as satisfactory evidence of fitness, evidence
3 as to whether an applicant has provided self declarations, affidavits, or
4 other attestations as to its general compliance with statutory or regulatory
5 licensing requirements. The department shall determine an applicant's
6 fitness solely based on the specific fitness information or documentation
7 submitted by the applicant upon the department's request or as otherwise
8 acquired by the department through its own review or investigation of the
9 applicant. The department may require the applicant to attest to the
10 accuracy of the information provided as long as the attestation does not
11 require the applicant's affirmation of its general compliance with statutory
12 or regulatory licensing requirements. CAPS CHECK INFORMATION
13 PURSUANT TO SECTION 26-3.1-111 (6)(a)(III) MAY BE CONSIDERED PART
14 OF AN APPLICANT'S EVIDENCE OF FITNESS. THE BOARD MAY PROMULGATE
15 RULES AS NECESSARY TO IMPLEMENT THIS SUBSECTION (1)(c).

16 **SECTION 10.** In Colorado Revised Statutes, 25.5-10-202,
17 **amend** (1)(c), (15.5) introductory portion, (29.5)(c) and (29.5)(d); **add**
18 (18.5); and **repeal** (29.5)(e) as follows:

19 **25.5-10-202. Definitions.** As used in this article 10, unless the
20 context otherwise requires:

21 (1) "Abuse" means any of the following acts or omissions
22 committed against a person with an intellectual and developmental
23 disability:

24 (c) ~~Subjection to sexual conduct or contact classified as a crime~~
25 ~~under the "Colorado Criminal Code", title 18, C.R.S. UNLAWFUL SEXUAL~~
26 ~~BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9).~~

27 (15.5) "Exploitation" means an act or omission committed by a

1 ~~person who~~ THAT:

2 (18.5) "HARMFUL ACT" MEANS AN ACT COMMITTED AGAINST A
3 PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY BY A
4 PERSON WITH A KNOWN RELATIONSHIP TO THE PERSON WITH AN
5 INTELLECTUAL AND DEVELOPMENTAL DISABILITY WHEN SUCH ACT IS NOT
6 DEFINED AS ABUSE, CARETAKER NEGLECT, OR EXPLOITATION BUT POSES
7 AN IMMINENT RISK OF OR OTHERWISE NEGATIVELY IMPACTING THE
8 HEALTH, SAFETY, OR WELFARE OF A PERSON WITH AN INTELLECTUAL AND
9 DEVELOPMENTAL DISABILITY.

10 (29.5) "Mistreated" or "mistreatment" means:

11 (c) Exploitation; OR

12 ~~(d) An act or omission that threatens the health, safety, or welfare~~
13 ~~of a person with an intellectual and developmental disability; or A~~
14 HARMFUL ACT.

15 ~~(e) An act or omission that exposes a person with an intellectual~~
16 ~~and developmental disability to a situation or condition that poses an~~
17 ~~imminent risk of bodily injury to the person with an intellectual and~~
18 ~~developmental disability.~~

19 **SECTION 11. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2020 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.