

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1109.01 Jane Ritter x4342

HOUSE BILL 18-1390

HOUSE SPONSORSHIP

Singer and Ransom,

SENATE SPONSORSHIP

Moreno and Smallwood,

House Committees

Public Health Care & Human Services

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.

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 creates a voluntary option for interested custodial parents who are experiencing a crisis whereby they may enter into an authorization agreement (agreement) with another person, unrelated to the

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.

parents, to temporarily care for their child or children. The agreement is not a termination of parental rights, nor is it considered abandonment of the child or children. The agreement is valid for no longer than 6 months, unless the parent or parents are deployed or called to active duty in the United States military, in which case it may exceed 6 months. The terms of each agreement are specific to the parents who are entering into the agreement. It grants the other person the right to perform certain parental functions as specifically outlined in the agreement, and the agreement may be revoked at any time by a custodial parent.

Qualified nonprofit organizations assist both parties in the creation and implementation of an agreement. The nonprofit organization is responsible for conducting a fingerprint-based criminal history record check on each adult in the nonparent's household, as well as a child abuse and neglect background check on the state TRAILS system for both the parent and each adult in the nonparent's household. The qualified nonprofit organization is responsible for ensuring that the nonparent party to an agreement is fully trained in the rights, duties, and limitations regarding the care of a child pursuant to the agreement.

Qualified nonprofit organizations are required to collect data on agreements and report aggregate data to the state department of human services, which then shall include such data in its annual "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing to the general assembly.

The bill establishes a provision for a parent of a minor child to create a revocable power of attorney that grants to another person certain of the parent's rights and responsibilities regarding the care, physical custody, and control of the minor child.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-1-125, **amend** (1)
3 as follows:

4 **19-1-125. Family stabilization services - voluntary out-of-home**
5 **placement - delegation of certain powers by parent or guardian -**
6 **rules.** (1) It is the intent of the general assembly to assist in the provision
7 of appropriate and necessary short-term services to help stabilize families
8 that are at risk of having their children placed in out-of-home placement
9 when those families voluntarily request such services. It is further the
10 intent of the general assembly that county departments provide for family

1 stabilization services through contracts with private or nonprofit
2 organizations or entities whenever possible, INCLUDING THOSE SPECIFIED
3 IN SECTION 19-1-125.5.

4 **SECTION 2.** In Colorado Revised Statutes, **add** 19-1-125.5 as
5 follows:

6 **19-1-125.5. Voluntary delegation of certain powers by parent**
7 **or legal guardian - authorization agreements - oversight by qualified**
8 **nonprofit organizations - reporting requirements - legislative**
9 **declaration - definitions.** (1) (a) THE GENERAL ASSEMBLY DECLARES

10 THAT COLORADO CAN STRENGTHEN AND PRESERVE FAMILIES BY
11 PROVIDING A VOLUNTARY, SAFE OPTION FOR INTERESTED, FIT PARENTS IN
12 CRISIS WHO DO NOT DEMONSTRATE A RISK TO THE HEALTH AND SAFETY OF
13 THEIR CHILDREN. BY CREATING A NETWORK OF VOLUNTEER FAMILIES WHO
14 HAVE BEEN EXTENSIVELY SCREENED AND TRAINED, THIS ALTERNATIVE
15 CAN PROVIDE A SAFE, TEMPORARY HOME FOR CHILDREN WHILE A PARENT
16 IN CRISIS GETS HELP AND SUPPORT, ALLOWING THE PARENT OR PARENTS TO
17 MAINTAIN FULL CUSTODY OF THEIR CHILDREN DURING THAT TIME.

18 (b) THE GENERAL ASSEMBLY FURTHER DECLARES THAT ITS INTENT
19 IS TO MINIMIZE THE TIME PARENTS AND THEIR CHILDREN ARE SEPARATED.

20 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
21 REQUIRES:

22 (a) "AUTHORIZATION AGREEMENT" MEANS AN AGREEMENT
23 ENTERED INTO BETWEEN A PARENT AND ANOTHER PERSON PURSUANT TO
24 SUBSECTION (3) OF THIS SECTION.

25 (b) "CHILD" MEANS A PERSON UNDER EIGHTEEN YEARS OF AGE.
26 "CHILD" DOES NOT INCLUDE AN EMANCIPATED MINOR AS DEFINED IN
27 SECTION 23-7-102 (3).

1 (c) "COUNTY DEPARTMENT" MEANS A COUNTY DEPARTMENT OF
2 HUMAN OR SOCIAL SERVICES.

3 (d) (I) "PARENT" MEANS EITHER A NATURAL PARENT OF A CHILD,
4 AS MAY BE ESTABLISHED PURSUANT TO ARTICLE 4 OF THIS TITLE 19, OR A
5 PARENT BY ADOPTION. "PARENT" INCLUDES A NATURAL PARENT HAVING
6 SOLE OR JOINT CUSTODY, REGARDLESS OF WHETHER THE PARENT IS
7 DESIGNATED AS THE PRIMARY RESIDENTIAL CUSTODIAN, A PARENT
8 ALLOCATED PARENTAL RESPONSIBILITIES WITH RESPECT TO A CHILD, OR AN
9 ADOPTIVE PARENT.

10 (II) FOR THE PURPOSES OF THIS SECTION, "PARENT" DOES NOT
11 INCLUDE A PERSON WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED
12 PURSUANT TO THE PROVISIONS OF THIS TITLE 19 OR THE PARENT OF AN
13 EMANCIPATED MINOR.

14 (e) "PERSON" OR "OTHER PERSON" MEANS A PERSON WHO IS
15 UNRELATED TO THE CHILD, WITH WHOM THE CHILD HAS BEEN PLACED
16 THROUGH A QUALIFIED NONPROFIT ORGANIZATION, AND WHO HAS
17 ENTERED INTO AN AUTHORIZATION AGREEMENT WITH THE CHILD'S PARENT
18 PURSUANT TO SUBSECTION (3) OF THIS SECTION.

19 (f) "QUALIFIED NONPROFIT ORGANIZATION" MEANS A TAX-EXEMPT
20 CHARITABLE OR SOCIAL WELFARE ORGANIZATION OPERATING UNDER
21 SECTION 501 (c)(3) OR 501 (c)(4) OF TITLE 26 OF THE FEDERAL "INTERNAL
22 REVENUE CODE OF 1986", AS AMENDED, THAT MEETS PROGRAM
23 REQUIREMENTS TO ASSIST A PARENT OR LEGAL GUARDIAN OF A CHILD
24 WITH THE PROCESS OF ENTERING INTO AN AUTHORIZATION AGREEMENT
25 PURSUANT TO THIS SECTION, INCLUDING IDENTIFYING AN APPROPRIATE
26 PLACEMENT FOR EACH CHILD SUBJECT TO THE AGREEMENT AND PROVIDING
27 SERVICES AND RESOURCES TO SUPPORT THE CHILD, PARENTS, AND OTHER

1 PERSONS AUTHORIZED TO PROVIDE TEMPORARY CARE OF THE CHILD
2 PURSUANT TO THE AUTHORIZATION AGREEMENT.

3 (g) "STATE DEPARTMENT" MEANS THE STATE DEPARTMENT OF
4 HUMAN SERVICES.

5 (3) (a) (I) EXCEPT AS PROVIDED FOR IN SUBSECTION (3)(a)(II) OF
6 THIS SECTION, A PARENT MAY VOLUNTARILY ENTER INTO AN
7 AUTHORIZATION AGREEMENT WITH ANOTHER PERSON. A PERSON WHO IS
8 NOT A RELATIVE OF THE PARENT'S CHILD MAY ONLY ENTER INTO AN
9 AUTHORIZATION AGREEMENT WITH THE PARENT IF SUCH AUTHORIZATION
10 AGREEMENT IS ENTERED INTO WITH THE ASSISTANCE OF A QUALIFIED
11 NONPROFIT ORGANIZATION PURSUANT TO THIS SECTION. THE
12 AUTHORIZATION AGREEMENT MUST NOT BE VALID FOR LONGER THAN SIX
13 MONTHS, WITH AN OPTION TO RENEW THE AGREEMENT, UNLESS A PARENT
14 IS DEPLOYED BY OR CALLED TO ACTIVE DUTY IN THE UNITED STATES
15 MILITARY, IN WHICH CASE THE AUTHORIZATION AGREEMENT IS VALID FOR
16 THE LENGTH OF THE DEPLOYMENT PLUS THIRTY DAYS.

17 (II) THIS SECTION DOES NOT APPLY TO A PARENT OR PARENTS
18 WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED FOR ANY CHILD. THIS
19 SECTION DOES NOT APPLY TO ANY PARENT WHO IS NAMED AS A
20 RESPONDENT IN AN OPEN DEPENDENCY AND NEGLECT CASE.

21 (b) AN AUTHORIZATION AGREEMENT ENTERED INTO PURSUANT TO
22 THIS SECTION DOES NOT CONSTITUTE ABANDONMENT OR CHILD ABUSE OR
23 NEGLECT, AND IT MAY NOT INDEPENDENTLY ADVERSELY AFFECT THE
24 PARENT'S RIGHTS WITH RESPECT TO THE CHILD.

25 (c) A CHILD PLACED IN A FAMILY THROUGH AN AUTHORIZATION
26 AGREEMENT IS NOT IN FOSTER CARE AND IS NOT CONSIDERED IN THE
27 CUSTODY OF A COUNTY DEPARTMENT OR THE STATE DEPARTMENT.

1 ANOTHER PERSON WITH WHOM A CHILD IS PLACED PURSUANT TO AN
2 AUTHORIZATION AGREEMENT IS NOT CONSIDERED TO BE PROVIDING A
3 FOSTER PLACEMENT AND IS NOT SUBJECT TO STATE LAWS AND RULES
4 GOVERNING FOSTER CARE AND OUT-OF-HOME PLACEMENTS.

5 (4) ANOTHER PERSON WHO HAS ENTERED INTO AN AUTHORIZATION
6 AGREEMENT MAY PERFORM ACTS IN REGARD TO THE CHILD AS OUTLINED
7 IN THE AUTHORIZATION AGREEMENT. ANOTHER PERSON WHO HAS
8 ENTERED INTO AN AUTHORIZATION AGREEMENT SHALL ACT AS A
9 MANDATORY REPORTER OF CHILD ABUSE OR NEGLECT AND SHALL
10 UNDERGO TRAINING AS A MANDATORY REPORTER. AN AUTHORIZATION
11 AGREEMENT MAY BE REVOKED AT ANY TIME BY A CUSTODIAL PARENT. IN
12 THE CASE OF JOINT CUSTODY, EVERY REASONABLE EFFORT MUST BE MADE
13 TO GAIN THE PERMISSION OF BOTH CUSTODIAL PARENTS.

14 (5) WHEN A QUALIFIED NONPROFIT ORGANIZATION RECEIVES A
15 REQUEST TO ASSIST A PARENT OR OTHER PERSON WHO IS NOT RELATED TO
16 THE PARENT'S CHILD WITH ENTERING INTO AN AUTHORIZATION
17 AGREEMENT AND PLACEMENT OF THE CHILD PURSUANT TO THIS SECTION,
18 THE QUALIFIED NONPROFIT ORGANIZATION SHALL:

19 (a) CONDUCT A FINGERPRINT-BASED CRIMINAL HISTORY RECORD
20 CHECK ON EACH ADULT IN THE NONPARENT'S HOUSEHOLD, AS WELL AS A
21 CHILD ABUSE AND NEGLECT BACKGROUND CHECK ON THE TRAILS
22 SYSTEM, AS DEFINED IN SECTION 16-20.5-102 (10), FOR BOTH THE PARENT
23 AND EACH ADULT IN THE NONPARENT'S HOUSEHOLD. THIS SHALL OCCUR
24 IN PARTNERSHIP WITH AND DURING OVERSIGHT OF A LICENSED CHILD
25 PLACEMENT AGENCY. THE QUALIFIED NONPROFIT ORGANIZATION SHALL
26 PAY THE COSTS ASSOCIATED WITH THE FINGERPRINT-BASED CRIMINAL
27 HISTORY RECORD CHECK TO THE COLORADO BUREAU OF INVESTIGATION.

1 (b) ENSURE THAT EACH PERSON PROVIDING CARE FOR A CHILD
2 PURSUANT TO AN AUTHORIZATION AGREEMENT ENTERED INTO PURSUANT
3 TO THIS SECTION IS FULLY TRAINED IN THE RIGHTS, DUTIES, AND
4 LIMITATIONS REGARDING PROVIDING CARE FOR A CHILD OUTLINED UNDER
5 SUCH AUTHORIZATION AGREEMENT. A QUALIFIED NONPROFIT
6 ORGANIZATION SHALL PARTNER WITH A LICENSED CHILD PLACEMENT
7 AGENCY FOR THE PURPOSES OF OVERSIGHT, GUIDANCE, AND TRAINING. A
8 COUNTY DEPARTMENT IS NOT RESPONSIBLE FOR ANY COSTS ASSOCIATED
9 WITH THE PROVISIONS OF THIS SECTION.

10 (6) BEGINNING IN JANUARY 2020, AND EVERY JANUARY
11 THEREAFTER, THE STATE DEPARTMENT SHALL REPORT DATA RELATED TO
12 THE IMPLEMENTATION OF THIS SECTION AS PART OF ITS "STATE
13 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
14 (SMART) GOVERNMENT ACT" HEARING REQUIRED BY SECTION 2-7-203.
15 THE DATA MUST INCLUDE, AT A MINIMUM, THE FOLLOWING DATA
16 COLLECTED BY QUALIFIED NONPROFITS AND REPORTED ANNUALLY TO THE
17 STATE DEPARTMENT RELATING TO AUTHORIZATION AGREEMENTS ENTERED
18 INTO PURSUANT TO THIS SECTION:

- 19 (a) THE TOTAL NUMBER OF FAMILIES AND CHILDREN SUPPORTED;
- 20 (b) THE AVERAGE AGE OF CHILDREN SUPPORTED;
- 21 (c) THE AVERAGE LENGTH OF STAY;
- 22 (d) THE TOP TEN REASONS PARENTS ENTERED INTO AN
23 AUTHORIZATION AGREEMENT; AND
- 24 (e) A SUMMARY OF OUTCOMES FOR FAMILIES AND CHILDREN
25 SUPPORTED.

26 **SECTION 3.** In Colorado Revised Statutes, **amend** 15-14-105 as
27 follows:

1 **15-14-105. Delegation of power by parent or guardian -**
2 **custodial power of attorney.** (1) A parent or guardian of a minor or
3 incapacitated person, by a power of attorney, may delegate to another
4 person, for a period not exceeding twelve months, any power regarding
5 care, custody, or property of the minor or ward, except the power to
6 consent to marriage or adoption.

7 (2) (a) A PARENT OF A MINOR CHILD MAY CREATE A CUSTODIAL
8 POWER OF ATTORNEY THAT, EXCEPT AS PROVIDED IN SUBSECTION (2)(b)
9 OF THIS SECTION, GRANTS TO ANOTHER PERSON THE PARENT'S LEGAL
10 RIGHTS AND RESPONSIBILITIES REGARDING THE CARE, PHYSICAL CUSTODY,
11 AND CONTROL OF THE MINOR CHILD, INCLUDING BUT NOT LIMITED TO THE
12 RIGHT TO:

- 13 (I) ENROLL THE MINOR CHILD IN SCHOOL;
- 14 (II) OBTAIN FROM THE MINOR CHILD'S SCHOOL ANY EDUCATIONAL
15 AND BEHAVIORAL INFORMATION ABOUT THE MINOR CHILD;
- 16 (III) CONSENT TO ALL SCHOOL-RELATED MATTERS REGARDING THE
17 MINOR CHILD;
- 18 (IV) CONSENT TO MEDICAL, PSYCHOLOGICAL, OR DENTAL
19 TREATMENT FOR THE MINOR CHILD; OR
- 20 (V) EXERCISE ANY OTHER RIGHT HELD BY THE PARENT, EXCEPT AS
21 PROVIDED IN SUBSECTION (2)(b) OF THIS SECTION.

22 (b) THE CUSTODIAL POWER OF ATTORNEY MAY NOT GRANT
23 AUTHORITY TO CONSENT TO THE MARRIAGE OR ADOPTION OF THE MINOR
24 CHILD, OR TO CHANGE THE MINOR CHILD'S RELIGIOUS AFFILIATION.

25 (c) THE CUSTODIAL POWER OF ATTORNEY DOES NOT AFFECT THE
26 RIGHTS OF THE PARENT OF THE MINOR CHILD IN ANY PROCEEDING
27 CONCERNING PHYSICAL CUSTODY OF THE MINOR CHILD OR THE

1 ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES FOR THE CARE
2 OF THE MINOR CHILD.

3 (d) THE CUSTODIAL POWER OF ATTORNEY IS ONLY AVAILABLE TO
4 A PARENT FOR SIX MONTHS, UNLESS ANOTHER REVOCABLE POWER OF
5 ATTORNEY IS CREATED PURSUANT TO THIS SUBSECTION (2).

6 (e) THE CUSTODIAL POWER OF ATTORNEY IS REVOCABLE AT ANY
7 TIME AND, UPON REVOCATION, IF THE MINOR CHILD OR CHILDREN WHO ARE
8 THE SUBJECT OF THE CUSTODIAL POWER OF ATTORNEY ARE NOT IN THE
9 CARE, PHYSICAL CUSTODY, AND CONTROL OF THE PARENT, THE MINOR
10 CHILD OR CHILDREN MUST BE IMMEDIATELY RETURNED TO THE CARE,
11 PHYSICAL CUSTODY, AND CONTROL OF THE PARENT.

12 **SECTION 4. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2018 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.