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SENATE BILL 20-162

BY SENATOR(S) Rankin and Moreno, Crowder, Ginal, Gonzales, Lee, Priola, Tate, Todd, Zenzinger;
also REPRESENTATIVE(S) Gonzales-Gutierrez and Ransom, Bird, Buckner, Buentello, Cutter, Duran, Esgar, Exum, Jackson, Jaquez Lewis, Kennedy, Liston, Lontine, McCluskie, Melton, Michaelson Jenet, Mullica, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Valdez D., Van Winkle, Woodrow, Young, Becker.

CONCERNING UPDATING COLORADO'S STATUTORY PROVISIONS RELATED TO FOSTER CARE PREVENTION SERVICES IN THE CONTEXT OF THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 19-1-102, **amend** (1.9) as follows:

19-1-102. Legislative declaration. (1.9) The federal "Family First Prevention Services Act" was enacted on February 9, 2018. In order to comply with the provisions of the federal "Family First Prevention Services Act", the general assembly finds that it is necessary to update current

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

statutes to enable Colorado to provide enhanced support to children, JUVENILES, OR youth, and their families in order to prevent foster care placements. The state department shall implement the updated provisions in ~~sections 19-1-103, 19-1-115, 19-3-208, and 19-3-308~~ THIS TITLE 19 utilizing foster care prevention services and qualified residential treatment programs when the federal government approves Colorado's five-year Title IV-E prevention plan, and subject to available general fund appropriations or federal funding.

SECTION 2. In Colorado Revised Statutes, 19-1-103, **amend** (71.3) and (87.7) as follows:

19-1-103. Definitions. As used in this title 19 or in the specified portion of this title 19, unless the context otherwise requires:

(71.3) "Kin" ~~for purposes of a "kinship foster care home" or for purposes of "noncertified kinship care"~~; may be a relative of the child, a person ascribed by the family as having a family-like relationship with the child, or a person that has a prior significant relationship with the child. These relationships take into account cultural values and continuity of significant relationships with the child.

(87.7) "Qualified individual" means a trained professional or licensed clinician, as defined in the federal "Family First Prevention Services Act". "QUALIFIED INDIVIDUAL" MUST BE APPROVED TO SERVE AS A QUALIFIED INDIVIDUAL ACCORDING TO THE STATE PLAN. "QUALIFIED INDIVIDUAL" MUST NOT BE AN INTERESTED PARTY OR PARTICIPANT IN THE JUVENILE COURT PROCEEDING AND MUST BE FREE OF ANY PERSONAL OR BUSINESS RELATIONSHIP THAT WOULD CAUSE A CONFLICT OF INTEREST IN EVALUATING THE CHILD, JUVENILE, OR YOUTH AND MAKING RECOMMENDATIONS CONCERNING THE CHILD'S, JUVENILE'S, OR YOUTH'S PLACEMENT AND THERAPEUTIC NEEDS ACCORDING TO THE FEDERAL TITLE IV-E STATE PLAN OR ANY WAIVER IN ACCORDANCE WITH 42 U.S.C. SEC. 675a.

SECTION 3. In Colorado Revised Statutes, 19-1-115, **amend** (4)(e) introductory portion, (4)(e)(II), and (4)(f); and **add** (4)(g) and (4)(h) as follows:

19-1-115. Legal custody - guardianship - placement out of the

home - petition for review for need of placement. (4) (e) ~~Whenever a child is placed in a qualified residential treatment program, a family or juvenile court, or, if there is no objection, the administrative review division of the department of human services, shall, within sixty days~~ WITHIN SIXTY DAYS AFTER A PLACEMENT OF A CHILD, JUVENILE, OR YOUTH IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM, OR WITHIN THIRTY DAYS AFTER A PLACEMENT WHEN THE QUALIFIED INDIVIDUAL DOES NOT SUPPORT THE QUALIFIED RESIDENTIAL TREATMENT PROGRAM LEVEL OF CARE OR THE CHILD, JUVENILE, OR YOUTH, GUARDIAN AD LITEM, OR ANY PARTY OBJECTS TO THE PLACEMENT, A JUVENILE COURT OR THE ADMINISTRATIVE REVIEW DIVISION OF THE STATE DEPARTMENT WHEN A JUVENILE HAS BEEN COMMITTED TO THE DIVISION OF YOUTH SERVICES AND THE COURT NO LONGER HAS ONGOING JURISDICTION, SHALL:

(II) Determine whether the needs of the child, JUVENILE, OR YOUTH can be met through placement with a parent, legal guardian, legal custodian, kin caregiver, or in a foster care home, or whether placement of the child, JUVENILE, OR YOUTH in a qualified residential treatment program provides the most effective and appropriate level of care for the child, JUVENILE, OR YOUTH in the least restrictive environment, and whether that placement is consistent with the short- and long-term goals, including mental, behavioral, and physical health goals, for the child, JUVENILE, OR YOUTH as specified in the permanency plan for the child, JUVENILE, OR YOUTH or as outlined in the family services ~~plan~~ PLAN OR DIVISION OF YOUTH SERVICES PLAN; and

(f) As long as a child, JUVENILE, OR YOUTH remains in a qualified residential treatment program, the county department OR THE DIVISION OF YOUTH SERVICES shall submit evidence: ~~at each review and each permanency hearing held with respect to the child:~~

(I) Demonstrating that ongoing assessment of the strengths and needs of the child, JUVENILE, OR YOUTH continues to support the determination that the needs of the child, JUVENILE, OR YOUTH cannot be met through placement with a parent, legal guardian, legal custodian, kin caregiver, or in a foster family home; ~~and~~ that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child, JUVENILE, OR YOUTH in the least restrictive environment; and that the placement is consistent with the short- and long-term goals for the child, JUVENILE, OR YOUTH as specified in the permanency plan for the child, JUVENILE, OR YOUTH, or as outlined in the

family services plan;

(II) Documenting the specific treatment or service needs that will be met for the child, JUVENILE, OR YOUTH in the placement and the length of time the child, JUVENILE, OR YOUTH is expected to need treatment or services; and

(III) Documenting the efforts made by the county DEPARTMENT to prepare the child, JUVENILE, OR YOUTH to return home or to be placed with a fit and willing kin caregiver, a legal guardian, legal custodian, or an adoptive parent, or in a foster family.

(g) THE EVIDENCE REQUIRED PURSUANT TO SUBSECTION (4)(f) OF THIS SECTION MUST BE SUBMITTED AT EACH SUBSEQUENT REVIEW AND EACH SUBSEQUENT PERMANENCY HEARING HELD CONCERNING THE CHILD, JUVENILE, OR YOUTH. THE EVIDENCE MUST NOT BE SUBMITTED LESS FREQUENTLY THAN EVERY NINETY DAYS DURING THE DURATION OF THE PLACEMENT OF THE CHILD, JUVENILE, OR YOUTH IN THE QUALIFIED RESIDENTIAL TREATMENT PROGRAM. THE EVIDENCE MUST BE SUBMITTED TO THE COURT OR TO THE ADMINISTRATIVE REVIEW DIVISION OF THE STATE DEPARTMENT OF HUMAN SERVICES IF PARTIES CONSENT TO THE LATTER. THE COURT SHALL REVIEW THE EVIDENCE SUBMITTED PURSUANT TO SUBSECTION (4)(f) OF THIS SECTION AT EACH SUBSEQUENT PERMANENCY AND STATUS REVIEW HEARING AT LEAST EVERY NINETY DAYS DURING THE DURATION OF THE PLACEMENT OF THE CHILD, JUVENILE, OR YOUTH IN THE QUALIFIED RESIDENTIAL TREATMENT PROGRAM. IF THE PARTIES CONSENT TO A REVIEW BY THE ADMINISTRATIVE REVIEW DIVISION, ATTORNEYS OF RECORD MUST BE NOTIFIED AND MAY APPEAR AT THE REVIEW. THE ADMINISTRATIVE REVIEW DIVISION SHALL REVIEW THE EVIDENCE SUBMITTED PURSUANT TO SUBSECTION (4)(f) OF THIS SECTION AT LEAST EVERY NINETY DAYS DURING THE DURATION OF THE PLACEMENT OF THE CHILD, JUVENILE, OR YOUTH IN THE QUALIFIED RESIDENTIAL TREATMENT PROGRAM.

(h) IN MAKING A DECISION AS TO PROPER PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM, THE COURT OR THE ADMINISTRATIVE REVIEW DIVISION SHALL CONSIDER THE ASSESSMENT PROVIDED BY THE QUALIFIED INDIVIDUAL AND THE MOST RECENT ASSESSMENT, AS DESCRIBED IN SUBSECTION (4)(e) OF THIS SECTION, AND SHALL GIVE GREAT WEIGHT TO THE RECOMMENDATION IN THE ASSESSMENT WHEN MAKING A QUALIFIED RESIDENTIAL TREATMENT PROGRAM PLACEMENT DECISION. AN ASSESSMENT

PREPARED BY THE QUALIFIED INDIVIDUAL MUST IDENTIFY WHETHER A QUALIFIED RESIDENTIAL TREATMENT PROGRAM IS THE MOST EFFECTIVE, APPROPRIATE, AND LEAST RESTRICTIVE PLACEMENT FOR THE CHILD OR YOUTH. THE ASSESSMENT MUST ALSO IDENTIFY CHILD- OR YOUTH-SPECIFIC SHORT- AND LONG-TERM GOALS FOR THE CHILD OR YOUTH AND THE FAMILY. IF THE COURT OR ADMINISTRATIVE REVIEW DIVISION DEVIATES FROM THE QUALIFIED INDIVIDUAL'S ASSESSMENT AND RECOMMENDATION, THE COURT SHALL MAKE SPECIFIC FINDINGS OF FACT REGARDING THE MOST EFFECTIVE, APPROPRIATE, AND LEAST RESTRICTIVE PLACEMENT FOR THE CHILD OR YOUTH AND WHETHER THE PLACEMENT IS CONSISTENT WITH CHILD- OR YOUTH-SPECIFIC SHORT- AND LONG-TERM GOALS FOR THE CHILD OR YOUTH AND THE FAMILY. WHEN MAKING SUCH FINDINGS OF FACT, THE COURT SHALL CONSIDER ALL RELEVANT INFORMATION, INCLUDING:

(I) WHETHER THE PROTOCOL FOR THE QUALIFIED RESIDENTIAL TREATMENT PROGRAM ASSESSMENT WAS FOLLOWED;

(II) THE STRENGTHS AND SPECIFIC TREATMENT OR SERVICE NEEDS OF THE CHILD OR YOUTH AND THE FAMILY;

(III) THE EXPECTED LENGTH OF STAY; AND

(IV) THE PLACEMENT PREFERENCE OF THE CHILD OR YOUTH AND THE FAMILY.

SECTION 4. In Colorado Revised Statutes, **add** 19-1-115.7 as follows:

19-1-115.7. Foster care prevention services - provision of services - rights and remedies - exchange of information. (1) A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES MAY PROVIDE BOTH CHILD WELFARE AND PREVENTION SERVICES, INCLUDING BUT NOT LIMITED TO FOSTER CARE PREVENTION SERVICES, AS DEFINED IN SECTION 19-1-103 (51.7), TO FAMILIES, KIN CAREGIVERS, CHILDREN, JUVENILES, AND YOUTH.

(2) NOTHING IN THIS SECTION AFFECTS ANY EXISTING RIGHTS OF A CHILD, JUVENILE, OR YOUTH OR A PARENT OR LEGAL GUARDIAN.

(3) WHEN PREVENTION SERVICES INFORMATION IS EXCHANGED BETWEEN STATE AGENCIES, COUNTY DEPARTMENTS, AND SERVICE

PROVIDERS TO ALLOW FOR THE PROVISION OF PREVENTION SERVICES, SUCH INFORMATION IS CONFIDENTIAL AND NOT AVAILABLE TO THE PUBLIC. ANY ENTITIES PROVIDING PREVENTION SERVICES SHALL ENSURE THAT ALL INFORMATION OBTAINED AND EXCHANGED IS CONFIDENTIAL AS REQUIRED PURSUANT TO THIS SECTION, SECTIONS 19-1-103 AND 19-1-307, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAW.

SECTION 5. In Colorado Revised Statutes, 19-2-921, **amend** (1.5)(a) introductory portion; and **add** (1.5)(a)(III) as follows:

19-2-921. Commitment to department of human services.
(1.5) (a) When a court commits a juvenile to the state department of human services pursuant to ~~the provisions of this article~~ THIS ARTICLE 2, the court shall make the following specific determinations:

(III) TO ASSIST IN THE EVALUATION OF THE IMPACT OF COLORADO'S IMPLEMENTATION OF THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT" ON THE STATE'S JUVENILE JUSTICE SYSTEM AND MAKE A FINDING OF WHETHER THE LACK OF AVAILABLE AND APPROPRIATE CONGREGATE CARE PLACEMENTS IS A CONTRIBUTING FACTOR IN COMMITTING A JUVENILE TO THE DIVISION OF YOUTH SERVICES.

SECTION 6. In Colorado Revised Statutes, 26-5-104, **add** (1)(c), (1)(d), and (1)(e) as follows:

26-5-104. Funding of child welfare services provider contracts - funding mechanism review - fund - report - rules - definitions - repeal.
(1) **Reimbursement.** (c) ON OR BEFORE DECEMBER 15, THE DELIVERY OF CHILD WELFARE SERVICES TASK FORCE, ESTABLISHED PURSUANT TO SECTION 26-5-105.8, SHALL MAKE RECOMMENDATIONS CONCERNING THE PROVISIONS OF SECTION 26-5-105.8 (1)(b).

(d) IN MAKING ITS RECOMMENDATIONS PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION, THE DELIVERY OF CHILD WELFARE SERVICES TASK FORCE SHALL CONSIDER:

(I) THE IMPACT OF THE INSTITUTE FOR MENTAL DISEASE DESIGNATION ON QUALIFIED RESIDENTIAL TREATMENT PROGRAMS FOR RESIDENTIAL CHILD CARE FACILITIES; AND

(II) THE CAPACITY OF EXISTING CHILD WELFARE SERVICES, INCLUDING PLACEMENT AVAILABILITY, MENTAL AND BEHAVIORAL HEALTH SERVICES, PREVENTION SERVICES THROUGH THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT", AND OTHER PREVENTION SERVICES.

(e) THE STATE DEPARTMENT SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE ON OR BEFORE JANUARY 15, 2021. THE REPORT MUST INCLUDE THE RECOMMENDATIONS REQUIRED PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION.

SECTION 7. In Colorado Revised Statutes, **add** 26-5.4-106 as follows:

26-5.4-106. Foster care prevention services - provision of services - rights and remedies - exchange of information. (1) A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES MAY PROVIDE BOTH CHILD WELFARE AND PREVENTION SERVICES, INCLUDING BUT NOT LIMITED TO FOSTER CARE PREVENTION SERVICES, AS DEFINED IN SECTION 26-5.4-102, TO A FAMILY AND ITS CHILDREN.

(2) NOTHING IN THIS SECTION AFFECTS ANY EXISTING RIGHTS OF A CHILD OR YOUTH, INCLUDING THOSE ELIGIBLE FOR FOSTER CARE PREVENTION SERVICES, OR ANY EXISTING RIGHTS OF A PARENT WHO IS ELIGIBLE FOR FOSTER CARE PREVENTION SERVICES.

(3) AN ENTITY PROVIDING FOSTER CARE PREVENTION SERVICES SHALL ENSURE THAT ALL INFORMATION OBTAINED AND EXCHANGED IS CONFIDENTIAL AS REQUIRED PURSUANT TO FEDERAL AND STATE LAWS REGARDING CONFIDENTIALITY.

SECTION 8. In Colorado Revised Statutes, 26-6-102, **amend** (19), (33), and (36)(a); and **add** (30.3) as follows:

26-6-102. Definitions. As used in this article 6, unless the context otherwise requires:

(19) "~~Kin~~" ~~for purposes of a "kinship foster care home"~~, may be a relative of the child, a person ascribed by the family as having a family-like relationship with the child, or a person that has a prior significant relationship with the child. These relationships take into account cultural

values and continuity of significant relationships with the child.

(30.3) "QUALIFIED INDIVIDUAL" MEANS A TRAINED PROFESSIONAL OR LICENSED CLINICIAN, AS DEFINED IN THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT". "QUALIFIED INDIVIDUAL" MUST BE APPROVED TO SERVE AS A QUALIFIED INDIVIDUAL ACCORDING TO THE STATE PLAN. "QUALIFIED INDIVIDUAL" MUST NOT BE AN INTERESTED PARTY OR PARTICIPANT IN THE JUVENILE COURT PROCEEDING AND MUST BE FREE OF ANY PERSONAL OR BUSINESS RELATIONSHIP THAT WOULD CAUSE A CONFLICT OF INTEREST IN EVALUATING THE CHILD, JUVENILE, OR YOUTH AND MAKING RECOMMENDATIONS CONCERNING THE CHILD'S, JUVENILE'S, OR YOUTH'S PLACEMENT AND THERAPEUTIC NEEDS, ACCORDING TO THE FEDERAL TITLE IV-E STATE PLAN OR ANY WAIVER IN ACCORDANCE WITH 42 U.S.C. SEC. 675a.

(33) "Residential child care facility" means a facility licensed by the state department pursuant to this part 1 to provide twenty-four-hour group care and treatment for five or more children operated under private, public, or nonprofit sponsorship. "Residential child care facility" includes community-based residential child care facilities, qualified residential treatment programs, as defined in section 26-5.4-102 (2), shelter facilities, and therapeutic residential child care facilities as defined in rule by the state board, and psychiatric residential treatment facilities as defined in section 25.5-4-103 (19.5). A residential child care facility may be eligible for designation by the executive director of the state department pursuant to article 65 of title 27. A CHILD WHO IS ADMITTED TO A RESIDENTIAL CHILD CARE FACILITY MUST BE:

(a) FIVE YEARS OF AGE OR OLDER BUT LESS THAN EIGHTEEN YEARS OF AGE; OR

(b) LESS THAN TWENTY-ONE YEARS OF AGE AND PLACED BY COURT ORDER OR VOLUNTARY PLACEMENT; OR

(c) ACCOMPANIED BY A PARENT IF LESS THAN FIVE YEARS OF AGE.

(36) (a) "Specialized group facility" means a facility sponsored and supervised by a county department or a licensed child placement agency for the purpose of providing twenty-four-hour care for three or more children, but fewer than twelve children, whose special needs can best be met

through the medium of a small group. ~~and who are:~~ A CHILD WHO IS ADMITTED TO A SPECIALIZED GROUP FACILITY MUST BE:

(I) At least ~~three~~ SEVEN years of age or older but less than eighteen years of age; ~~or~~

(II) Less than twenty-one years of age and ~~who are~~ placed by court order ~~prior to their eighteenth birthday.~~ OR VOLUNTARY PLACEMENT; OR

(III) ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN IF LESS THAN SEVEN YEARS OF AGE.

SECTION 9. In Colorado Revised Statutes, 26-6-104, **add** (1)(c)(III) as follows:

26-6-104. Licenses - out-of-state notices and consent - demonstration pilot program - definition - rules. (1) (c) (III) ON AND AFTER JULY 1, 2021, ALL RESIDENTIAL CHILD CARE FACILITIES MUST BE LICENSED ANNUALLY. THE STATE BOARD SHALL PROMULGATE RULES SPECIFYING THE PROCEDURAL REQUIREMENTS ASSOCIATED WITH THE LICENSE RENEWAL FOR RESIDENTIAL CHILD CARE FACILITIES. THE RULES MUST INCLUDE A REQUIREMENT THAT THE STATE DEPARTMENT CONDUCT ASSESSMENTS OF THE RESIDENTIAL CHILD CARE FACILITY.

SECTION 10. Appropriation - adjustments to 2020 long bill.

(1) To implement this act, appropriations made in the annual general appropriation act for the 2020-21 state fiscal year to the department of human services for use by the executive director's office for employment and regulatory affairs are adjusted as follows:

(a) The general fund appropriation is decreased by \$936,412; and

(b) The reappropriated funds appropriation from departmental indirect cost recoveries is increased by \$936,412.

SECTION 11. Appropriation. (1) For the 2020-21 state fiscal year, \$546,652 is appropriated to the department of human services. This appropriation is from the general fund and is based on an assumption that the department will require an additional 1.7 FTE. To implement this act, the department may use this appropriation as follows:

Executive director's office, general administration

Legal services \$38,376

Executive director's office, special purpose

Administrative review unit \$131,249 (1.3 FTE)

Office of information technology services, information technology

Colorado trails \$157,463

Division of child welfare

Administration \$219,564 (0.4 FTE)

(2) For the 2020-21 state fiscal year, the general assembly anticipates that the department of human services will receive \$91,039 in federal funds to implement this act. This figure is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year and is to be used as follows:

Office of information technology services, information technology

Colorado trails \$84,787

Division of child welfare

Administration \$6,252

(3) For the 2020-21 state fiscal year, \$242,250 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of human services under subsection (1) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of human services.

(4) For the 2020-21 state fiscal year, \$38,376 is appropriated to the

department of law. This appropriation is from reappropriated funds received from the department of human services under subsection (1) of this section and is based on an assumption that the department of law will require an additional 0.2 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of human services.

SECTION 12. Appropriation. (1) For the 2020-21 state fiscal year, \$211,200 is appropriated to the judicial department for use by the office of the child's representative. This appropriation is from the general fund. To implement this act, the office may use this appropriation for personal services.

(2) For the 2020-21 state fiscal year, \$178,560 is appropriated to the judicial department for use by the respondent parents' counsel. This appropriation is from the general fund. To implement this act, the office may use this appropriation for personal services.

SECTION 13. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO