

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

PREAMENDED

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

LLS NO. 21-0809.01 Jane Ritter x4342

HOUSE BILL 21-1222

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A BILL FOR AN ACT

101 **CONCERNING ALIGNING LOCAL GOVERNING AUTHORITY REGULATIONS**
102 **TO EXPAND OPPORTUNITIES TO ACCESS CHILD CARE IN FAMILY**
103 **CHILD CARE HOMES.**

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 requires that family child care homes be classified as residences for purposes of licensure and local regulations, including zoning, land use development, fire and life safety, and building codes. The bill also adds a provision stating that whenever the state department of human services reviews and rewrites its rules concerning child care

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.*

HOUSE
3rd Reading Unamended
April 6, 2021

HOUSE
Amended 2nd Reading
April 5, 2021

agencies or facilities, it shall seek advice from the department of public safety when such rules relate to specific types of child care agencies or facilities.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Colorado has a shortage of licensed, safe, and affordable child
5 care options, while at the same time there is a growing need for child care
6 in order to bolster the economy and allow parents to work;

7 (b) Family child care homes provide an essential element of the
8 child care network in both urban and rural parts of the state. In fact, in
9 many counties, there are no licensed child care centers, making family
10 child care homes the only option families have for licensed child care.

11 (c) Many parents prefer child care that is located in family homes
12 within their neighborhood so their children can experience a home-like
13 environment that is conducive to healthy and safe development.

14 (2) The general assembly further finds that:

15 (a) Zoning, land use development, building, and fire standards that
16 vary across the state and that treat family child care homes differently
17 from family residences are difficult for providers to meet, create undue
18 hardship and barriers to entry, and negatively impact the number of
19 providers willing and able to offer licensed child care; and

20 (b) The child care licensure rules promulgated by the Colorado
21 department of human services provide rigorous protections for children's
22 health and safety, including protective standards relating to fire and life
23 safety, sanitation, and physical environment in family child care homes.

24 (3) Therefore, the general assembly declares that the regulation of

1 family child care homes throughout the state is a matter of statewide
2 concern and the inconsistent regulation by local governments relating to
3 zoning, land use development, building codes, and fire and life safety
4 hinders the ability of the state department of human services to license
5 and inspect family child care homes and to provide accessible, safe, and
6 affordable licensed child care options for all Colorado parents.

7 **SECTION 2.** In Colorado Revised Statutes, 26-6-104.5, **amend**
8 (1) as follows:

9 **26-6-104.5. Compliance with local government zoning**
10 **regulations - notice to local governments - provisional licensure.**

11 (1) (a) The department shall require any child care facility seeking
12 licensure pursuant to section 26-6-104 to comply with any applicable
13 zoning AND LAND USE DEVELOPMENT regulations of the municipality, city
14 and county, or county where the facility is situated. Failure to comply
15 with applicable zoning AND LAND USE regulations ~~shall constitute~~
16 CONSTITUTES grounds for the denial of a license to a facility.

17 (b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION TO
18 THE CONTRARY, THE AVAILABILITY OF SAFE, AFFORDABLE, AND LICENSED
19 FAMILY CHILD CARE HOMES IS A MATTER OF STATEWIDE CONCERN.
20 THEREFORE, PERMITTING FRAGMENTED REGULATION AMONG
21 JURISDICTIONS IMPEDES AND INFRINGES UPON THE DEPARTMENT'S
22 APPROPRIATE AND CONSISTENT LICENSING AND REGULATION OF FAMILY
23 CHILD CARE HOMES THROUGHOUT THE STATE. ACCORDINGLY, LOCAL
24 GOVERNING AUTHORITIES SHALL TREAT FAMILY CHILD CARE HOMES AS
25 RESIDENTIAL PROPERTY USE IN THE APPLICATION OF LOCAL REGULATIONS,
26 INCLUDING ZONING, LAND USE DEVELOPMENT, FIRE AND LIFE SAFETY,
27 SANITATION, AND BUILDING CODES. LOCAL GOVERNING AUTHORITIES

1 SHALL NOT IMPOSE ANY ADDITIONAL REGULATIONS GOVERNING FAMILY
2 CHILD CARE HOMES THAT DO NOT ALSO APPLY TO OTHER RESIDENTIAL
3 PROPERTIES, PROVIDED THAT THE FOREGOING DOES NOT RESTRICT AN
4 AUTHORITY'S ABILITY TO PROHIBIT, ON A CASE-BY-CASE BASIS, THE
5 OPERATION IN IMMEDIATELY ADJACENT RESIDENCES OF TWO OR MORE
6 LARGE FAMILY CHILD CARE HOMES, AS THAT TERM IS DEFINED BY RULES
7 BY THE DEPARTMENT THAT GOVERNS THE OPERATION OF FAMILY CHILD
8 CARE HOMES, OR TO MANAGE THE FLOW OF TRAFFIC AND PARKING
9 RELATED TO ADJACENT LARGE FAMILY CHILD CARE HOMES. RESIDENTIAL
10 USE OF PROPERTY FOR ZONING PURPOSES INCLUDES ALL FORMS OF
11 RESIDENTIAL ZONING AND, SPECIFICALLY, ALTHOUGH NOT EXCLUSIVELY,
12 SINGLE-FAMILY RESIDENTIAL ZONING.

13 **SECTION 3.** In Colorado Revised Statutes, 26-6-106, **amend**
14 (1)(a) as follows:

15 **26-6-106. Standards for facilities and agencies - rules.**

16 (1) (a) The department shall prescribe and publish standards for
17 licensing. ~~Such~~ THE STANDARDS ~~shall~~ MUST be applicable to the various
18 types of facilities and agencies for child care regulated and licensed by
19 this part 1; except that the department shall prescribe and publish separate
20 standards for the licensing of child placement agencies operating for the
21 purpose of adoptive placement and adoption-related services. The
22 department shall seek the advice and assistance of persons representative
23 of the various types of child care facilities and agencies in establishing
24 ~~such standards. Such standards shall~~ THE STANDARDS, INCLUDING THE
25 ADVICE AND ASSISTANCE OF THE DEPARTMENT OF PUBLIC SAFETY AND
26 COUNCILS AND ASSOCIATIONS REPRESENTING FIRE MARSHALS AND
27 BUILDING CODE OFFICIALS IN THE PROMULGATION OF ANY RULES RELATED

1 TO ADEQUATE FIRE PROTECTION AND PREVENTION, AS ALLOWED IN
2 SUBSECTION (2)(e) OF THIS SECTION, IN A FAMILY CHILD CARE HOME. THE
3 STANDARDS MUST be established by rules promulgated by the state board
4 of human services and ~~shall~~ be issued, ~~and~~ published, AND BECOME
5 EFFECTIVE only in conformity with ~~the provisions and procedures~~
6 ~~specified in article 4 of title 24. C.R.S., and shall become effective only~~
7 ~~as provided in said article.~~

8 **SECTION 4. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly; except
11 that, if a referendum petition is filed pursuant to section 1 (3) of article V
12 of the state constitution against this act or an item, section, or part of this
13 act within such period, then the act, item, section, or part will not take
14 effect unless approved by the people at the general election to be held in
15 November 2022 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.