

NOTE: The governor signed this measure on 6/2/2015.

An Act

SENATE BILL 15-087

BY SENATOR(S) Newell, Aguilar, Baumgardner, Carroll, Cooke, Crowder, Donovan, Garcia, Guzman, Heath, Jahn, Johnston, Kefalas, Kerr, Lundberg, Martinez Humenik, Merrifield, Roberts, Scheffel, Scott, Steadman, Todd, Ulibarri, Woods, Cadman;
also REPRESENTATIVE(S) Singer, Brown, Fields, Ginal, Hamner, Kagan, Kraft-Tharp, Lee, McCann, Mitsch Bush, Moreno, Pettersen, Primavera, Priola, Rosenthal, Ryden, Salazar, Williams, Windholz, Winter, Young.

CONCERNING THE SAFE PLACEMENT OF CHILDREN IN FOSTER CARE HOMES.

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

SECTION 1. In Colorado Revised Statutes, 26-1-103, **amend** (2) and (3) as follows:

26-1-103. Definitions. As used in this title, unless the context otherwise requires:

(2) "County department" means the county or district department of HUMAN OR social services.

(3) "County director" means the director of the county or district

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

department of HUMAN OR social services.

SECTION 2. In Colorado Revised Statutes, 26-6-102, **amend** (1.2) and (4.5); **repeal** (8.7); and **add** (4.8) and (4.9) as follows:

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

(1.2) "Certificate" means a legal document granting permission to operate a ~~family~~ foster CARE home OR A KINSHIP FOSTER CARE HOME.

(4.5) "Foster care home" means a ~~facility~~ HOME that is certified by ~~the~~ A county department or a child placement agency PURSUANT TO SECTION 26-6-106.3 for child care in a place of residence of a family or person for the purpose of providing twenty-four-hour family FOSTER care for a child under the age of ~~eighteen~~ TWENTY-ONE years. ~~who is not related to the head of such home, except in the case of relative care.~~ A FOSTER CARE HOME MAY INCLUDE FOSTER CARE FOR A CHILD WHO IS UNRELATED TO THE HEAD OF THE HOME OR FOSTER CARE PROVIDED THROUGH A KINSHIP FOSTER CARE HOME BUT DOES NOT INCLUDE NONCERTIFIED KINSHIP CARE, AS DEFINED IN SECTION 19-1-103 (78.7), C.R.S. The term includes any foster care home receiving a child for regular twenty-four-hour care and any home receiving a child from any state-operated institution for child care or from any child placement agency, as defined in subsection (2) of this section. "Foster care home" also includes those homes licensed by the department of human services PURSUANT TO SECTION 26-6-104 that receive neither moneys from the counties nor children placed by the counties.

(4.8) "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.

(4.9) "KINSHIP FOSTER CARE HOME" MEANS A FOSTER CARE HOME THAT IS CERTIFIED BY EITHER A COUNTY DEPARTMENT OR LICENSED CHILD PLACEMENT AGENCY PURSUANT TO SECTION 26-6-106.3 AS HAVING MET THE FOSTER CARE CERTIFICATION REQUIREMENTS AND WHERE THE FOSTER CARE OF THE CHILD IS PROVIDED BY KIN. KINSHIP FOSTER CARE PROVIDERS

ARE ELIGIBLE FOR FOSTER CARE REIMBURSEMENT. A KINSHIP FOSTER CARE HOME PROVIDES TWENTY-FOUR-HOUR FOSTER CARE FOR A CHILD OR YOUTH UNDER THE AGE OF TWENTY-ONE YEARS.

(8.7) "~~Salaried foster parent~~" means a person who is employed by a child placement agency for the purposes of the demonstration pilot program authorized pursuant to section 26-6-104 (1) (d) (IV), and who is employed for the sole purpose of providing foster care and who serves in no other capacity for the child placement agency.

SECTION 3. In Colorado Revised Statutes, 26-6-104, **amend** (1) (a), (1) (b), (3), (7) (a) (I) introductory portion, (7) (a) (I) (C), and (8) introductory portion; and **repeal** (1) (d) as follows:

26-6-104. Licenses - out-of-state notices and consent - demonstration pilot program. (1) (a) Except as otherwise provided in PARAGRAPH (b) OF THIS SUBSECTION (1) OR ELSEWHERE IN this part 1, ~~no~~ A person shall NOT operate any AN agency or facility defined in this part 1 without first being licensed BY THE STATE DEPARTMENT to operate or maintain such agency or facility by the state department and paying the PRESCRIBED fee. ~~prescribed therefor.~~ Except as otherwise provided in ~~subparagraph (H) of paragraph (b) of this subsection (1) and~~ paragraph (c) of this subsection (1), any such license issued by the state department shall be IS permanent unless otherwise revoked or suspended pursuant to section 26-6-108.

(b) ~~(H)~~ A person operating a foster care home shall not be IS NOT required to obtain a license from the state department to operate the foster care home if such THE person holds a certificate ISSUED PURSUANT TO SECTION 26-6-106.3 to operate such THE home from any county department or a child placement agency licensed under the provisions of this part 1. ~~All such certificates shall be considered licenses~~ A CERTIFICATE IS CONSIDERED A LICENSE for the purpose of this part 1, including but not limited to the investigation and criminal history background checks required under section SECTIONS 26-6-106.3 AND 26-6-107. Each certificate shall be in such form as prescribed and provided by the state department, shall certify that such person and any other adults residing in the home who are acting as care givers are suitable persons to operate a foster care home or provide care for a child, and shall contain such information as the state department requires. A child placement agency issuing or renewing any such certificate

shall transmit a copy or report thereof to the state department.

~~(H) On and after July 1, 2002, and contingent upon the time lines for implementation of the computer "trails" enhancements, the state board shall promulgate rules requiring the annual recertification of foster care homes and setting forth the procedural requirements associated with recertification. Such rules shall include requirements that the certifying entity shall perform on-site visits to each foster care home applying for certification or recertification and shall require inspections of the entire premises of the foster care home, including sleeping areas, as well as other assessments of the foster care home. No foster care home shall be certified at any one time by more than one child placement agency or county department.~~

~~(HH) A foster care home, when certified by a child placement agency or county department, may receive for care a child from sources other than the certifying child placement agency or county department upon the written consent and approval of the child placement agency or county department as to each such child.~~

~~(IV) A facility may be certified as a foster care home and licensed as a family child care home so long as the licensure and certification are provided by two separate licensing entities. The state board shall promulgate rules governing the communication requirements between two entities that license and certify the same facility.~~

~~(d) (f) Notwithstanding any other provision of this part 1, no person shall operate a foster care home that is certified by a county department if such person is a relative of any employee of the child welfare division or unit of the county department certifying the foster care home. If such person files an application with a county department that would violate the provisions of this subparagraph (f) by certifying the foster care home, the county department shall refer the application to another county department or to a child placement agency. Unless otherwise prohibited, the county department or child placement agency to which the application was referred may certify and supervise a foster care home operated by such person. The county department that referred the application may place children in the county-certified foster care home upon written agreement of the two county departments.~~

~~(H) Notwithstanding any other provision of this part 1, no person shall operate a foster care home that is certified by a child placement agency if such person is a relative of any owner, officer, executive, member of the governing board, or employee of the child placement agency certifying the foster care home. If such person files an application with a child placement agency that would violate the provisions of this subparagraph (H) by certifying the foster care home, the child placement agency shall refer the application to a county department or to another child placement agency that would not violate the provisions of this subparagraph (H) by certifying the foster care home.~~

~~(HH) Notwithstanding any other provision of this part 1, no owner, officer, executive, member of the governing board, or employee of a child placement agency licensed pursuant to this part 1, or any relative of said owner, officer, executive, member, or employee, shall hold a beneficial interest in any property operated, or intended to be operated, as a foster care home, when the property is certified by the child placement agency as a foster care home. The provisions of this subparagraph (HH) shall not apply to salaried foster parents.~~

~~(IV) Repealed.~~

(3) A provisional license ~~or certificate~~ for a period of six months may be issued once to an applicant for an original license, ~~or certificate~~, permitting the applicant to operate a family child care home, foster care home, or child care center if the applicant is temporarily unable to conform to all standards required under this part 1, upon proof by the applicant that ~~attempts are being made~~ THE APPLICANT IS ATTEMPTING to conform to such standards or to comply with any other requirements. The applicant has the right to appeal any standard that the applicant believes ~~works~~ PRESENTS an undue hardship or has been applied too stringently by ~~the representatives~~ of the department. Upon THE filing OF an appeal, the department shall proceed in the manner prescribed for licensee appeals in section 26-6-106 (3).

(7) (a) (I) The state department ~~a county department, or a child placement agency licensed under the provisions of this part 1~~ shall not issue a license ~~or certificate~~ to operate a family child care home, a foster care home, a child care center, a residential child care facility, a secure residential treatment center, or a child placement agency, and any license

or certificate issued prior to August 7, 2006, shall be revoked or suspended, if the applicant for the license or certificate, an affiliate of the applicant, a person employed by the applicant, or a person who resides with the applicant at the facility has been convicted of:

(C) Any ~~felony~~ offenses involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(8) The state department ~~a county department, or a child placement agency licensed under the provisions of this part 1~~ shall not issue a license or certificate to operate any agency or facility defined in this part 1 if the person applying for such license or certificate or an affiliate of the applicant, a person employed by the applicant, or a person who resides with the applicant at the facility:

SECTION 4. In Colorado Revised Statutes, **add** 26-6-106.3 as follows:

26-6-106.3. [Similar to 26-6-104 (1) (b) (II), (1) (b) (III), (1) (b) (IV), and (1) (d)] Certification and annual recertification of foster care homes by county departments and licensed child placement agencies - background and reference check requirements - definitions. (1) THIS SECTION APPLIES TO FOSTER CARE HOMES, INCLUDING KINSHIP FOSTER CARE HOMES, CERTIFIED BY COUNTY DEPARTMENTS OR LICENSED CHILD PLACEMENT AGENCIES. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, THIS SECTION DOES NOT APPLY TO FOSTER CARE HOMES THAT ARE LICENSED BY THE STATE DEPARTMENT PURSUANT TO THE REQUIREMENTS OF SECTION 26-6-104 AND THAT DO NOT RECEIVE MONEYS FROM THE COUNTIES OR CHILDREN PLACED BY THE COUNTIES. A FOSTER CARE HOME LICENSED BY THE STATE DEPARTMENT MUST UNDERGO ALL OF THE BACKGROUND CHECKS AND REQUIREMENTS SET FORTH IN SECTION 26-6-104 OR AS OTHERWISE STATED IN THIS PART 1.

(2) A PERSON OPERATING A FOSTER CARE HOME SHALL OBTAIN A CERTIFICATE TO OPERATE THE HOME FROM A COUNTY DEPARTMENT OR A CHILD PLACEMENT AGENCY LICENSED UNDER THE PROVISIONS OF THIS PART 1. A CERTIFICATE IS CONSIDERED A LICENSE FOR THE PURPOSE OF THIS PART 1, INCLUDING BUT NOT LIMITED TO THE INVESTIGATION AND CRIMINAL HISTORY BACKGROUND CHECKS REQUIRED UNDER THIS SECTION AND SECTION 26-6-107. EACH CERTIFICATE MUST BE IN THE FORM PRESCRIBED

AND PROVIDED BY THE STATE DEPARTMENT, CERTIFY THAT THE PERSON OPERATING THE FOSTER CARE HOME IS A SUITABLE PERSON TO OPERATE A FOSTER CARE HOME OR PROVIDE CARE FOR A CHILD, AND CONTAIN ANY OTHER INFORMATION AS THE STATE DEPARTMENT REQUIRES. A CHILD PLACEMENT AGENCY ISSUING OR RENEWING ANY SUCH CERTIFICATE SHALL NOTIFY THE STATE DEPARTMENT ABOUT THE CERTIFICATION IN A METHOD AND TIME FRAME AS SET BY RULE ADOPTED BY THE STATE BOARD.

(3) A FOSTER CARE HOME, WHEN CERTIFIED BY A COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY MAY RECEIVE FOR CARE A CHILD FROM A SOURCE OTHER THAN THE CERTIFYING COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY UPON THE WRITTEN CONSENT AND APPROVAL OF THE CERTIFYING COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY.

(4) A COUNTY DEPARTMENT OR LICENSED CHILD PLACEMENT AGENCY MAY CERTIFY A FACILITY AS A FOSTER CARE HOME THAT IS ALSO LICENSED AS A FAMILY CHILD CARE HOME BY THE STATE DEPARTMENT SO LONG AS THE LICENSURE AND CERTIFICATION ARE PROVIDED BY TWO SEPARATE LICENSING ENTITIES.

(5) PRIOR TO ISSUING A CERTIFICATE OR A RECERTIFICATION TO AN APPLICANT TO OPERATE A FOSTER CARE HOME, A COUNTY DEPARTMENT OR A CHILD PLACEMENT AGENCY LICENSED UNDER THE PROVISIONS OF THIS PART 1 SHALL CONDUCT THE FOLLOWING BACKGROUND CHECKS FOR THE APPLICANT FOR A CERTIFICATE, A PERSON EMPLOYED BY THE APPLICANT, OR A PERSON WHO RESIDES AT THE FACILITY OR THE HOME:

(a) A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION TO DETERMINE IF THE APPLICANT, EMPLOYEE, OR A PERSON WHO RESIDES AT THE FACILITY OR THE HOME HAS BEEN CONVICTED OF:

(I) CHILD ABUSE, AS SPECIFIED IN SECTION 18-6-401, C.R.S.;

(II) A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406, C.R.S.;

(III) AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS

DEFINED IN SECTION 16-22-102 (9), C.R.S.;

(IV) A FELONY, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3, C.R.S.;

(V) A FELONY INVOLVING PHYSICAL ASSAULT, BATTERY, OR A DRUG-RELATED OFFENSE WITHIN THE FIVE YEARS PRECEDING THE DATE OF APPLICATION FOR A CERTIFICATE;

(VI) A PATTERN OF MISDEMEANOR CONVICTIONS, AS DEFINED BY RULE OF THE STATE BOARD, WITHIN THE TEN YEARS IMMEDIATELY PRECEDING THE DATE OF SUBMISSION OF THE APPLICATION; OR

(VII) ANY OFFENSE IN ANY OTHER STATE, THE ELEMENTS OF WHICH ARE SUBSTANTIALLY SIMILAR TO THE ELEMENTS OF ANY ONE OF THE OFFENSES DESCRIBED IN SUBPARAGRAPHS (I) TO (VI) OF THIS PARAGRAPH (a);

(b) A CHECK OF THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT TO DETERMINE THE STATUS OR DISPOSITION OF ANY CRIMINAL CHARGES BROUGHT AGAINST THE APPLICANT, EMPLOYEE, OR A PERSON WHO RESIDES AT THE FACILITY OR THE HOME THAT WERE IDENTIFIED BY THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION;

(c) A CHECK OF THE STATE DEPARTMENT'S AUTOMATED DATABASE FOR INFORMATION TO DETERMINE IF THE PERSON, EMPLOYEE, OR PERSON WHO RESIDES AT THE FACILITY OR THE HOME HAS BEEN IDENTIFIED AS HAVING A FINDING OF CHILD ABUSE OR NEGLECT AND WHETHER SUCH FINDING HAS BEEN DETERMINED TO PRESENT AN UNSAFE PLACEMENT FOR A CHILD; AND

(d) A CHECK AGAINST THE STATE'S SEX OFFENDER REGISTRY AND AGAINST THE NATIONAL SEX OFFENDER PUBLIC REGISTRY OPERATED BY THE UNITED STATES DEPARTMENT OF JUSTICE THAT CHECKS NAMES AND ADDRESSES IN THE REGISTRIES AND THE INTERACTIVE DATABASE SYSTEM FOR COLORADO TO DETERMINE IF THE APPLICANT, EMPLOYEE, OR PERSON WHO RESIDES AT THE FACILITY OR THE HOME IS A REGISTERED SEX

OFFENDER.

(6) A COUNTY DEPARTMENT OR A CHILD PLACEMENT AGENCY LICENSED UNDER THE PROVISIONS OF THIS PART 1 SHALL NOT ISSUE A CERTIFICATE TO OPERATE, OR A RECERTIFICATION TO OPERATE, A FOSTER CARE HOME AND SHALL REVOKE OR SUSPEND A CERTIFICATE IF THE APPLICANT FOR THE CERTIFICATE, A PERSON EMPLOYED BY THE APPLICANT, OR A PERSON WHO RESIDES AT THE FACILITY OR HOME:

(a) HAS BEEN CONVICTED OF ANY OF THE CRIMES LISTED IN PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION AS VERIFIED THROUGH FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS AND A CHECK OF THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT;

(b) HAS BEEN IDENTIFIED AS HAVING A FINDING OF CHILD ABUSE OR NEGLECT THROUGH A CHECK OF THE STATE DEPARTMENT'S AUTOMATED DATABASE AND SUCH FINDING HAS BEEN DETERMINED TO PRESENT AN UNSAFE PLACEMENT FOR A CHILD;

(c) IS A REGISTERED SEX OFFENDER IN THE SEX OFFENDER REGISTRY CREATED PURSUANT TO SECTION 16-22-110, C.R.S., OR IS A REGISTERED SEX OFFENDER IN ANOTHER STATE AS DETERMINED BY A CHECK OF THE NATIONAL SEX OFFENDER PUBLIC REGISTRY OPERATED BY THE UNITED STATES DEPARTMENT OF JUSTICE; EXCEPT THAT THIS PROVISION DOES NOT APPLY TO AN ADULT RESIDENT WHO HAS BEEN PLACED IN THE FOSTER CARE FACILITY OR HOME FOR TREATMENT UNDER AN ADULT CHILD WAIVER. THE SEX OFFENDER REGISTRY CHECKS MUST CHECK THE KNOWN NAMES AND ADDRESSES OF THE APPLICANT, EMPLOYEE, OR A PERSON WHO RESIDES AT THE FACILITY OR THE HOME IN THE INTERACTIVE DATABASE SYSTEM FOR COLORADO AND IN THE NATIONAL SEX OFFENDER PUBLIC REGISTRY AGAINST ALL OF THE REGISTRANTS' KNOWN NAMES AND ADDRESSES.

(7) FOR PURPOSES OF THIS SECTION, "CONVICTED" MEANS A CONVICTION BY A JURY OR BY A COURT AND INCLUDES A DEFERRED JUDGMENT AND SENTENCE AGREEMENT, A DEFERRED PROSECUTION AGREEMENT, A DEFERRED ADJUDICATION AGREEMENT, AN ADJUDICATION, OR A PLEA OF GUILTY OR NOLO CONTENDERE; EXCEPT THAT THIS DOES NOT APPLY TO A DIVERSION OR DEFERRAL OR PLEA FOR A JUVENILE WHO PARTICIPATED IN DIVERSION, AS DEFINED IN SECTION 19-1-103(44), C.R.S., AND DOES NOT APPLY TO A DIVERSION OR DEFERRAL OR PLEA FOR A PERSON

WHO PARTICIPATED IN AND SUCCESSFULLY COMPLETED THE CHILD ABUSE AND CHILD NEGLECT DIVERSION PROGRAM AS DESCRIBED IN SECTION 19-3-310, C.R.S.

(8) (a) THE CONVICTIONS IDENTIFIED IN PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION AND PARAGRAPH (a) OF SUBSECTION (6) MUST BE DETERMINED ACCORDING TO THE RECORDS OF THE COLORADO BUREAU OF INVESTIGATION OR THE FEDERAL BUREAU OF INVESTIGATION AND THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT. THE SCREENING REQUEST IN COLORADO SHALL BE MADE PURSUANT TO SECTION 19-1-307 (2) (k.5), C.R.S., RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION 19-3-313.5, C.R.S., AND 42 U.S.C. 671 (a) (2). A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF THE CONVICTION, DEFERRED JUDGMENT AND SENTENCE AGREEMENT, DEFERRED PROSECUTION AGREEMENT, OR DEFERRED ADJUDICATION AGREEMENT IS PRIMA FACIE EVIDENCE OF A CONVICTION OR AGREEMENT.

(b) THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY MUST NOT ISSUE A CERTIFICATE TO OPERATE A FOSTER CARE HOME OR A KINSHIP FOSTER CARE HOME IF THE STATE DEPARTMENT OR THE COUNTY DEPARTMENT HAS A CERTIFIED COURT ORDER FROM ANOTHER STATE INDICATING THAT THE PERSON APPLYING FOR THE CERTIFICATE:

(I) HAS BEEN CONVICTED OF CHILD ABUSE OR ANY UNLAWFUL SEXUAL OFFENSE AGAINST A CHILD UNDER A LAW OF ANY OTHER STATE OR THE UNITED STATES, THE ELEMENTS OF WHICH ARE SUBSTANTIALLY SIMILAR TO THE ELEMENTS OF ANY OF THE OFFENSES DESCRIBED IN SUBPARAGRAPHS (I) TO (VI) OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION; OR

(II) HAS ENTERED INTO A DEFERRED JUDGMENT OR DEFERRED PROSECUTION AGREEMENT IN ANOTHER STATE AS TO CHILD ABUSE OR ANY SEXUAL OFFENSE AGAINST A CHILD, THE ELEMENTS OF WHICH ARE SUBSTANTIALLY SIMILAR TO THE ELEMENTS OF ANY OF THE OFFENSES DESCRIBED IN SUBPARAGRAPHS (I) TO (VI) OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION.

(9) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 1, A PERSON SHALL NOT OPERATE A FOSTER CARE HOME THAT IS CERTIFIED BY

A COUNTY DEPARTMENT OR BY A CHILD PLACEMENT AGENCY IF HE OR SHE IS A RELATIVE OF ANY EMPLOYEE OF THE CHILD WELFARE DIVISION OR UNIT OF THE COUNTY DEPARTMENT CERTIFYING THE FOSTER CARE HOME OR A RELATIVE OF ANY OWNER, OFFICER, EXECUTIVE, MEMBER OF THE GOVERNING BOARD, OR EMPLOYEE OF THE CHILD PLACEMENT AGENCY CERTIFYING THE FOSTER CARE HOME. IF THE PERSON FILES AN APPLICATION WITH A COUNTY DEPARTMENT OR A CHILD PLACEMENT AGENCY THAT WOULD VIOLATE THE PROVISIONS OF THIS SUBSECTION (9) BY CERTIFYING THE FOSTER CARE HOME, THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY SHALL REFER THE APPLICATION TO ANOTHER COUNTY DEPARTMENT OR TO A CHILD PLACEMENT AGENCY. UNLESS OTHERWISE PROHIBITED, THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY TO WHICH THE APPLICATION WAS REFERRED MAY CERTIFY AND SUPERVISE A FOSTER CARE HOME OPERATED BY THE PERSON. THE COUNTY DEPARTMENT THAT REFERRED THE APPLICATION MAY PLACE A CHILD IN THE COUNTY-CERTIFIED FOSTER CARE HOME UPON WRITTEN AGREEMENT OF THE TWO COUNTY DEPARTMENTS.

(10) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 1, AN OWNER; OFFICER; EXECUTIVE; MEMBER OF THE GOVERNING BOARD; EMPLOYEE OF A CHILD PLACEMENT AGENCY LICENSED PURSUANT TO THIS PART 1; OR ANY RELATIVE OF SAID OWNER, OFFICER, EXECUTIVE, MEMBER, OR EMPLOYEE SHALL NOT HOLD A BENEFICIAL INTEREST IN ANY PROPERTY OPERATED OR INTENDED TO BE OPERATED AS A FOSTER CARE HOME, WHEN THE PROPERTY IS CERTIFIED BY THE CHILD PLACEMENT AGENCY AS A FOSTER CARE HOME.

(11) A COUNTY DEPARTMENT OR LICENSED CHILD PLACEMENT AGENCY MAY ISSUE A ONE-TIME PROVISIONAL CERTIFICATE FOR A PERIOD OF SIX MONTHS TO AN APPLICANT FOR AN ORIGINAL CERTIFICATE THAT PERMITS THE APPLICANT TO OPERATE A FOSTER CARE HOME IF THE APPLICANT IS TEMPORARILY UNABLE TO CONFORM TO ALL STANDARDS REQUIRED UNDER THIS PART 1 UPON PROOF BY THE APPLICANT THAT HE OR SHE IS ATTEMPTING TO CONFORM TO SUCH STANDARDS OR TO COMPLY WITH ANY OTHER REQUIREMENTS. THE APPLICANT HAS A RIGHT TO APPEAL TO THE STATE DEPARTMENT ANY STANDARD THAT THE APPLICANT BELIEVES PRESENTS AN UNDUE HARDSHIP OR HAS BEEN APPLIED TOO STRINGENTLY BY THE COUNTY DEPARTMENT OR LICENSED CHILD PLACEMENT AGENCY. UPON THE FILING OF AN APPEAL, THE STATE DEPARTMENT SHALL PROCEED IN THE MANNER PRESCRIBED FOR LICENSEE APPEALS IN SECTION 26-6-106 (3).

SECTION 5. In Colorado Revised Statutes, **amend** 26-6-106.5 as follows:

26-6-106.5. Foster care - kinship care - rules applying generally - rule-making. (1) No later than January 1, ~~2004~~ 2016, the state board shall promulgate rules that apply to foster care generally, regardless of whether the foster care is provided by a foster care home certified by a county department or by a child placement agency, AND TO KINSHIP CARE, INCLUDING KINSHIP FOSTER CARE. The state board shall develop the rules in consultation with the state department, county departments, child placement agencies, and others with expertise in the development of rules regarding foster care.

(2) At a minimum, the rules described in subsection (1) of this section ~~shall~~ MUST include the following:

(a) ~~Contingent upon the implementation of~~ USING the computer ~~"trails" enhancements~~ STATE DEPARTMENT'S AUTOMATED DATABASE, the procedures for notifying all county departments and child placement agencies that place children in foster care when the state department has identified a confirmed report of child abuse or neglect, as defined in section 19-1-103 (27), C.R.S., that involves a foster care home, as well as the suspension of any further placements in the foster care home until the investigation is concluded; ~~and~~

(b) The immediate notification of a child's guardian ad litem upon the child's placement in a foster care home, and the provision of the guardian ad litem's contact information to the foster parents;

(c) A REQUIREMENT THAT ALL COUNTY DEPARTMENTS AND ALL CHILD PLACEMENT AGENCIES THAT PLACE CHILDREN IN FOSTER CARE CONDUCT AND DOCUMENT THAT ALL OF THE BACKGROUND CHECKS SPECIFIED IN SECTION 26-6-106.3 (5) AND (6) HAVE BEEN COMPLETED FOR ANY PERSON APPLYING TO PROVIDE FOSTER CARE, ANY PERSON EMPLOYED BY THE APPLICANT TO WORK IN A FOSTER CARE FACILITY, AND FOR ANY ADULT RESIDENT OF THE FOSTER CARE HOME PRIOR TO PLACING A CHILD IN FOSTER CARE WITH THAT PERSON;

(d) A LIST OF ACTIONS A COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY MUST TAKE IF A DISQUALIFYING FACTOR IS FOUND

DURING ANY OF THE BACKGROUND CHECKS SPECIFIED IN SECTION 26-6-106.3 (5) AND (6) AND SECTION 19-3-406 (4) AND (4.5), C.R.S.;

(e) A LIST OF SANCTIONS THE STATE DEPARTMENT MAY PLACE UPON A COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY IF THE REQUIRED BACKGROUND CHECKS FOR FOSTER CARE HOMES ARE NOT COMPLETED OR DOCUMENTED, INCLUDING FINES OR DISCIPLINARY ACTIONS;

(f) REQUIREMENTS THAT FOSTER CARE HOMES MUST BE RECERTIFIED ANNUALLY, INCLUDING RULES SETTING FORTH THE PROCEDURAL REQUIREMENTS ASSOCIATED WITH CERTIFICATION AND RECERTIFICATION. THE RULES MUST INCLUDE REQUIREMENTS THAT THE CERTIFYING ENTITY SHALL PERFORM AN ON-SITE VISIT TO EACH FOSTER CARE HOME APPLYING FOR CERTIFICATION OR RECERTIFICATION AND MUST REQUIRE INSPECTIONS OF THE ENTIRE PREMISES OF THE FOSTER CARE HOME, INCLUDING SLEEPING AREAS, AS WELL AS OTHER ASSESSMENTS OF THE FOSTER CARE HOME. ONLY ONE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY SHALL CERTIFY A FOSTER CARE HOME AT ANY ONE TIME. THE RULES MUST ALSO SPECIFY A TIME FRAME FOR NOTIFICATION AND THE METHOD FOR A CHILD PLACEMENT AGENCY ISSUING OR RENEWING A CERTIFICATE TO OPERATE A FOSTER CARE HOME TO NOTIFY THE STATE DEPARTMENT ABOUT ANY CERTIFICATION.

(g) RULES THAT GOVERN THE HEALTH ASSESSMENT OF FOSTER CARE PARENTS BY A LICENSED HEALTH CARE PROFESSIONAL THAT REQUIRE A WRITTEN EVALUATION OF THE PERSON'S PHYSICAL AND MENTAL ABILITY TO CARE FOR FOSTER CHILDREN. IF, IN THE OPINION OF THE LICENSED HEALTH CARE PROFESSIONAL OR THE ASSESSMENT WORKER, AN EMOTIONAL OR PSYCHOLOGICAL CONDITION EXISTS THAT WOULD HAVE A NEGATIVE IMPACT ON THE CARE OF FOSTER CHILDREN, THE ISSUANCE OF A CERTIFICATE SHALL BE CONDITIONED UPON THE SATISFACTORY REPORT OF A LICENSED MENTAL HEALTH PRACTITIONER.

(h) THE COMMUNICATION REQUIREMENTS THAT MUST BE FOLLOWED BETWEEN TWO ENTITIES THAT LICENSE AND CERTIFY THE SAME FACILITY AS A FOSTER CARE HOME AND AS A FAMILY CHILD CARE HOME AS SET FORTH IN SECTION 26-6-106.3 (4).

(3) THE STATE DEPARTMENT SHALL REVIEW THE CURRENT ADDRESS VERIFICATION PRACTICES AND POLICIES IN OTHER STATES FOR CHECKING THE PRIOR ADDRESSES OF PERSONS WHO APPLY TO BE FOSTER CARE

PROVIDERS OR KINSHIP FOSTER CARE PROVIDERS AND OF ADULTS WHO RESIDE IN THE FOSTER CARE HOME OR KINSHIP FOSTER CARE HOME. AFTER CONDUCTING SUCH REVIEW, THE STATE DEPARTMENT SHALL RECOMMEND TO THE STATE BOARD WHETHER RULES AND STANDARDS SHOULD BE ADOPTED FOR VERIFICATION OF ADDRESSES OF SUCH PERSONS BY COUNTY DEPARTMENTS AND CHILD PLACEMENT AGENCIES.

SECTION 6. In Colorado Revised Statutes, 26-6-107, **amend** (1) (a.5) and (1) (a.7) as follows:

26-6-107. Investigations and inspections - local authority - reports - rules. (1) (a.5) An applicant for certification as a foster care home shall provide the child placement agency or the county department from whom the certification is sought with a list of all the prior child placement agencies and county departments to which the applicant had previously applied, and a release of information from such child placement agencies and county departments to which the applicant had previously applied, to obtain information about the application and any certification given by such child placement agencies and county departments. A child placement agency or county department from whom the certification is sought shall conduct a reference check of the applicant and any adult resident of the foster care home ~~who is acting as a caregiver~~ by contacting all of the child placement agencies and county departments identified by the applicant before issuing the certification for that foster care home. Child placement agencies and county departments shall be held harmless for information released, in good faith, to other child placement agencies or county departments.

(a.7) (I) For all ~~family foster care or kinship care~~ applicants APPLYING TO BE A FOSTER CARE HOME OR KINSHIP FOSTER CARE HOME, regardless of reimbursement, the county department or child placement agency shall require each adult who is eighteen years of age or older and who resides in the home to obtain a fingerprint-based criminal history ~~records~~ RECORD check through the Colorado bureau of investigation and the federal bureau of investigation. THE APPLICANT MUST PROVIDE THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY WITH THE ADDRESSES WHERE THE APPLICANT AND ANY ADULT RESIDING IN THE HOME HAS LIVED IN THE PRECEDING FIVE YEARS, INCLUDING ADDRESSES FROM OTHER STATES. THE COUNTY DEPARTMENT OR THE CHILD PLACEMENT AGENCY SHALL CONDUCT THE FOLLOWING BACKGROUND CHECKS OF THE APPLICANT

OR AN ADULT RESIDING IN THE HOME:

(A) A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO DETERMINE IF THE APPLICANT OR ADULT RESIDING IN THE HOME HAS BEEN CONVICTED OF ANY OF THE CRIMES LISTED IN SECTION 26-6-106.3 (5) (a);

(B) A CHECK OF THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT TO DETERMINE THE STATUS OR DISPOSITION OF ANY PENDING CRIMINAL CHARGES BROUGHT AGAINST THE APPLICANT OR ADULT WHO RESIDES IN THE HOME THAT WERE IDENTIFIED BY THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION;

(C) A CHECK OF THE STATE DEPARTMENT'S AUTOMATED DATABASE FOR INFORMATION TO DETERMINE IF THE APPLICANT OR ADULT WHO RESIDES IN THE HOME HAS BEEN IDENTIFIED AS HAVING A FINDING OF CHILD ABUSE OR NEGLECT AND WHETHER SUCH FINDING HAS BEEN DETERMINED TO PRESENT AN UNSAFE PLACEMENT FOR A CHILD; AND

(D) A CHECK AGAINST THE STATE'S SEX OFFENDER REGISTRY AND AGAINST THE NATIONAL SEX OFFENDER PUBLIC REGISTRY OPERATED BY THE UNITED STATES DEPARTMENT OF JUSTICE THAT CHECKS NAMES AND ADDRESSES IN THE REGISTRIES AND THE INTERACTIVE DATABASE SYSTEM FOR COLORADO TO DETERMINE IF THE APPLICANT OR ADULT WHO RESIDES AT THE HOME IS A REGISTERED SEX OFFENDER.

(II) In addition to the fingerprint-based criminal history records RECORD check, the county department or child placement agency shall contact the appropriate entity in each state in which the applicant or any adult residing in the home has resided within the preceding five years to determine whether the ~~adult~~ INDIVIDUAL has been found to be responsible in a confirmed report of child abuse or neglect.

(III) The screening request in Colorado FOR CRIMINAL HISTORY RECORD CHECKS THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION shall be made pursuant to section 19-1-307 (2) (k.5), C.R.S., rules promulgated by the state board pursuant to section 19-3-313.5, C.R.S., and 42 U.S.C. 671 (a) (20).

(IV) An investigation pursuant to this paragraph (a.7) shall be

conducted for any new resident adult whenever the adult is added to the family foster care home or kinship care home. Information obtained from any state records of abuse or neglect shall not be used for any purpose other than conducting the investigation for placement or certification.

SECTION 7. In Colorado Revised Statutes, 19-1-103, **amend** (32); and **add** (71.3) and (78.7) as follows:

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

(32) (a) "County department", as used in this article and part 2, part 3, and part 7 of article 3 of this title and part 2 of article 5 of this title, means the county or district department of HUMAN OR social services.

(b) "County department", as used in section 19-3-211 and in article 3.3 of this title, means a county or a city and county department of HUMAN OR social services.

(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.

(78.7) "NONCERTIFIED KINSHIP CARE" MEANS A CHILD IS BEING CARED FOR BY A RELATIVE OR KIN WHO HAS A SIGNIFICANT RELATIONSHIP WITH THE CHILD IN CIRCUMSTANCES WHEN THERE IS A SAFETY CONCERN BY A COUNTY DEPARTMENT AND WHERE THE RELATIVE OR KIN HAS NOT MET THE FOSTER CARE CERTIFICATION REQUIREMENTS FOR A KINSHIP FOSTER CARE HOME OR HAS CHOSEN NOT TO PURSUE THAT CERTIFICATION PROCESS.

SECTION 8. In Colorado Revised Statutes, 19-3-203, **amend** (1) and (2) as follows:

19-3-203. Guardian ad litem. (1) Upon the filing of a petition under section 19-3-502 that alleges abuse or neglect of a minor child, the court shall appoint a guardian ad litem, WHO SHALL BE AN

ATTORNEY-AT-LAW LICENSED TO PRACTICE IN COLORADO. Nothing in this section shall limit the power of the court to appoint a guardian ad litem prior to the filing of a petition for good cause.

(2) The guardian ad litem shall be provided with all reports relevant to a case submitted to or made by any agency or person pursuant to this article, including reports of examination of the child or persons responsible for the neglect or dependency of the child. THE COUNTY DEPARTMENT SHALL SHARE WITH THE GUARDIAN AD LITEM THE REPORTS OF FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS FROM THE COLORADO BUREAU OF INVESTIGATION AND FROM THE FEDERAL BUREAU OF INVESTIGATION IF THE COURT ORDERS THE COUNTY DEPARTMENT TO SHARE THAT INFORMATION WITH THE GUARDIAN AD LITEM. The court and social workers assigned to the case shall keep the guardian ad litem apprised of significant developments in the case, particularly prior to further neglect or dependency court appearances.

SECTION 9. In Colorado Revised Statutes, **amend** 19-3-406 as follows:

19-3-406. Fingerprint-based criminal history record check - providers of emergency placement for children - use of criminal justice records - definitions - rules. (1) (a) ~~A county department may elect to collaborate with local law enforcement agencies to perform initial criminal history record checks followed by fingerprint verification pursuant to the provisions of this section. If a county department elects to collaborate with local law enforcement agencies pursuant to this section, then~~ Any time a child is taken into temporary custody by a law enforcement officer and any time the court places temporary custody of a child with a county department pursuant to the provisions of this part 4, and a relative or other available person is identified as a potential emergency placement for the child, the COUNTY DEPARTMENT OR A local law enforcement agency shall IMMEDIATELY conduct an initial criminal history record check of the relative or other available person prior to the county department or the law enforcement officer placing the child in the emergency placement. A COUNTY DEPARTMENT MAY PERFORM INITIAL CRIMINAL HISTORY RECORD CHECKS THROUGH ITS STAFF OR MAY COLLABORATE WITH LOCAL LAW ENFORCEMENT AGENCIES TO PERFORM THE INITIAL CRIMINAL HISTORY RECORD CHECKS. When a county department ~~of social services~~ has temporary custody of a child pursuant to the provisions of this part 4 and

contacts the local law enforcement agency for an initial criminal history record check of a person who is identified as a potential emergency placement for the child pursuant to the provisions of this section, the local law enforcement agency shall IMMEDIATELY provide the county department with a verbal response regarding the person's criminal history and shall not provide the county department with documentation of the person's criminal history, consistent with the provisions of Public Law 92-544, and regulations promulgated thereunder, as amended.

~~(b) If a county department of social services elects to request an initial criminal history record check pursuant to the provisions of this section;~~ The child may not be placed with the relative or other available person if the initial criminal history record check conducted pursuant to paragraph (a) of this subsection (1) reflects a criminal history described in subsection (4) of this section.

~~(c) If a county department of social services elects to request an initial criminal history record check pursuant to the provisions of this section;~~ The child may be placed with the relative or other available person if the initial criminal history record check does not reflect a criminal history described in subsection (4) of this section; EXCEPT THAT THE RELATIVE OR OTHER PERSON WHO IS NOT DISQUALIFIED BASED UPON THE RESULTS OF THE INITIAL CRIMINAL HISTORY RECORD CHECK CONDUCTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL REPORT TO LOCAL LAW ENFORCEMENT, OR TO THE COUNTY DEPARTMENT WHEN THE COUNTY DEPARTMENT HAS A FINGERPRINT MACHINE, AND UNDERGO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AS DESCRIBED IN SUBSECTIONS (2) AND (3) OF THIS SECTION AND ALL OF THE OTHER REQUIRED BACKGROUND CHECKS DESCRIBED IN SUBSECTION (4.5) OF THIS SECTION.

(2) A relative or other available person who is not disqualified as an emergency placement for a child pursuant to paragraph (b) of subsection (1) of this section and who authorizes a child to be placed with him or her on an emergency basis pursuant to the provisions of this part 4 shall report to a local law enforcement agency OR TO A COUNTY DEPARTMENT THAT HAS A FINGERPRINT MACHINE for the purpose of providing fingerprints to the law enforcement agency OR TO THE COUNTY DEPARTMENT no later than five days after the child is placed in the person's home or no later than fifteen calendar days when exigent circumstances exist. If the relative or other

available person fails to report to the local law enforcement agency OR TO THE COUNTY DEPARTMENT, IF APPLICABLE, FOR FINGERPRINTING within this time period, the county department ~~of social services~~ or the law enforcement officer, as appropriate, shall immediately remove the child from the physical custody of the person. The county department ~~of social services~~ shall ~~contact the local law enforcement agency to verify~~ CONFIRM WITHIN FIFTEEN DAYS AFTER THE CHILD HAS BEEN PLACED WITH THE RELATIVE OR OTHER AVAILABLE PERSON that a THE relative or other available person identified by the county department reported to the local law enforcement agency for fingerprinting within the time period specified by this subsection (2).

(3) When a person reports to a local law enforcement agency OR TO A COUNTY DEPARTMENT THAT HAS A FINGERPRINT MACHINE, pursuant to the provisions of subsection (2) of this section, the local law enforcement agency OR THE COUNTY DEPARTMENT, IF APPLICABLE, shall fingerprint the person and IMMEDIATELY forward the fingerprints to the Colorado bureau of investigation for the purpose of obtaining a fingerprint-based criminal history record check. Upon receipt of fingerprints and payment for the costs, the Colorado bureau of investigation shall conduct a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. ~~The local law enforcement agency shall be the authorized agency to receive information regarding~~ The results of the state and national fingerprint-based criminal history record checks CONDUCTED PURSUANT TO THIS SECTION SHALL BE FORWARDED IMMEDIATELY TO THE AGENCY AUTHORIZED TO RECEIVE THE INFORMATION. If the fingerprint-based criminal history record check indicates that the person has a criminal history described in subsection (4) of this section, the county department ~~of social services~~ or the local law enforcement officer, whichever is appropriate, shall immediately remove the child from the emergency placement and shall not place a child with the person who has the criminal history without court involvement and an order of the court affirming placement of the child with the person.

(4) A county department or a local law enforcement agency ~~that elects to perform an initial criminal history record check pursuant to the provisions of this section~~ shall not make an emergency placement or continue the emergency placement of a child with a person who has been convicted of one or more of the following offenses:

- (a) Child abuse, as described in section 18-6-401, C.R.S.;
- (b) A crime of violence, as defined in section 18-1.3-406, C.R.S.;
- (c) ~~A felony~~ AN offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;
- (d) A felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;
- (e) A felony involving physical assault or a drug-related offense, committed within the preceding five years;
- (f) Violation of a protection order, as described in section 18-6-803.5, C.R.S.;
- (g) A crime involving homicide; or
- (h) An offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in paragraphs (a) to (g) of this subsection (4).

(4.5) (a) IF A RELATIVE OR OTHER PERSON WAS NOT DISQUALIFIED AS AN EMERGENCY PLACEMENT BASED UPON THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AND THE CHILD WAS PLACED IN AN EMERGENCY PLACEMENT WITH SUCH PERSON, THE COUNTY DEPARTMENT SHALL PERFORM THE FOLLOWING ADDITIONAL BACKGROUND CHECKS OF THE RELATIVE OR OTHER PERSON:

(I) A CHECK OF THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT PURSUANT TO SECTION 26-6-106.3, C.R.S., TO DETERMINE THE STATUS OR DISPOSITION OF ANY CRIMINAL CHARGES;

(II) A CHECK OF THE STATE DEPARTMENT'S AUTOMATED DATABASE FOR INFORMATION TO INFORM DECISIONS ABOUT PLACEMENT TO DETERMINE IF THE PERSON HAS BEEN IDENTIFIED AS HAVING A FINDING OF CHILD ABUSE OR NEGLECT AND WHETHER SUCH FINDING PRESENTS AN UNSAFE PLACEMENT FOR THE CHILD; AND

(III) A CHECK AGAINST THE STATE'S SEX OFFENDER REGISTRY AND AGAINST THE NATIONAL SEX OFFENDER PUBLIC REGISTRY OPERATED BY THE UNITED STATES DEPARTMENT OF JUSTICE THAT CHECKS NAMES AND ADDRESSES AGAINST THE KNOWN NAMES AND ADDRESSES IN THE REGISTRIES AND THE INTERACTIVE DATABASE SYSTEM FOR COLORADO TO DETERMINE IF A PERSON IS A REGISTERED SEX OFFENDER.

(b) IF INFORMATION IS FOUND AS A RESULT OF THE ADDITIONAL BACKGROUND CHECKS OF THE RELATIVE OR OTHER PERSON THAT INDICATE THAT CONTINUED PLACEMENT WITH THAT RELATIVE OR OTHER PERSON WOULD NO LONGER BE SAFE FOR THE CHILD, THE COUNTY DEPARTMENT SHALL REMOVE THE CHILD FROM THAT PLACEMENT.

(c) THE COUNTY DEPARTMENT SHALL ALSO REQUEST THAT A LOCAL LAW ENFORCEMENT AGENCY PERFORM A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OF ANY PERSON RESIDING IN THE HOME TO DETERMINE IF THE PERSON HAS A CRIMINAL HISTORY AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION AND ALSO PERFORM THE ADDITIONAL BACKGROUND CHECKS DESCRIBED IN SUBPARAGRAPHS (I) TO (II) OF PARAGRAPH (a) OF THIS SUBSECTION (4.5). THE LOCAL LAW ENFORCEMENT AGENCY SHALL PROVIDE THE COUNTY DEPARTMENT WITH THE RESULTS OF THE STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK WITHIN FORTY-EIGHT HOURS. IF THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK INDICATES THAT A PERSON RESIDING IN THE HOME HAS A CRIMINAL HISTORY DESCRIBED IN SUBSECTION (4) OF THIS SECTION OR THE INFORMATION FROM THE OTHER BACKGROUND CHECKS RAISES ISSUES ABOUT THE SAFETY OF THE CHILD IN THE HOME, THE COUNTY DEPARTMENT SHALL EVALUATE THE CONTINUED PLACEMENT OF THE CHILD IN THE HOME AND DEVELOP A PLAN TO ADDRESS THE ISSUES WITHIN FOURTEEN DAYS. A COUNTY DEPARTMENT SHALL REMEDY THE SITUATION AS QUICKLY AS POSSIBLE AND NO LATER THAN TWO WEEKS AFTER THE PLACEMENT. THE STATE BOARD SHALL PROMULGATE RULES TO ADDRESS CHILD SAFETY AND WHAT MUST BE CONSIDERED IN THE EVALUATION.

(5) The state board of ~~human services~~ shall promulgate rules to implement the provisions of this section, consistent with the provisions contained in part 3 of article 72 of title 24, C.R.S.

(6) For purposes of this section, "initial criminal history record

check" means a name-based state and federal criminal history record check performed by a local law enforcement agency utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(7) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, IF THE COUNTY DEPARTMENT VERIFIES AND DOCUMENTS THAT ALL OF THE CRIMINAL HISTORY RECORD CHECKS AND OTHER BACKGROUND CHECKS DESCRIBED IN SUBSECTION (4.5) OF THIS SECTION HAVE BEEN COMPLETED IN THE PRECEDING THREE MONTHS FOR A RELATIVE, OTHER PERSON, OR A PERSON RESIDING IN THE HOME, THE COUNTY DEPARTMENT DOES NOT NEED TO REPEAT THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OF THAT RELATIVE, OTHER PERSON, OR A PERSON RESIDING IN THE HOME; EXCEPT THAT THE COUNTY DEPARTMENT SHALL REPEAT THE OTHER BACKGROUND CHECKS DESCRIBED IN SUBSECTION (4.5) OF THIS SECTION AND CONTACT LOCAL LAW ENFORCEMENT TO DETERMINE IF THERE WERE ANY NEW CHARGES FOR OFFENSES FILED AGAINST THAT RELATIVE, OTHER PERSON, OR A PERSON RESIDING IN THE HOME DURING THE PRECEDING THREE MONTHS SINCE THE LAST FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

(8) (a) THE COLORADO BUREAU OF INVESTIGATION SHALL FLAG THE FINGERPRINTS OF AND NOTIFY THE APPLICABLE COUNTY DEPARTMENT OF ANY NEW ARRESTS OF AN INDIVIDUAL WHOSE FINGERPRINTS THE COUNTY DEPARTMENT SUBMITS TO A LOCAL LAW ENFORCEMENT AGENCY THAT THE COUNTY DEPARTMENT ALSO INTENDS TO BE SUBSEQUENTLY USED FOR FOSTER CARE CERTIFICATION.

(b) THE COUNTY DEPARTMENT SHALL NOTIFY THE COLORADO BUREAU OF INVESTIGATION WITHIN FIVE CALENDAR DAYS AFTER SUBMITTING THE REQUEST FOR A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK WHEN THE COUNTY DEPARTMENT INTENDS TO ACCEPT AN APPLICATION FOR FOSTER CARE CERTIFICATION FROM THAT PERSON SO THAT THE FLAGGING AND AUTOMATIC NOTIFICATION TO THE COUNTY DEPARTMENT OF NEW ARRESTS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (8) OCCURS FOR THAT PERSON AND CONTINUES THROUGH THE DURATION OF THE INDIVIDUAL'S FOSTER CARE CERTIFICATION. THE COUNTY DEPARTMENT SHALL USE THE SAME FINGERPRINTS RECEIVED UNDER THIS SUBSECTION (8) AND ANY UPDATED FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK RESULTS FROM THE AUTOMATIC NOTIFICATION AS A SUBSTITUTE FOR MEETING THE FINGERPRINT REQUIREMENTS FOR A PERSON

WHO IS APPLYING FOR FOSTER CARE CERTIFICATION PURSUANT TO SECTION 26-6-106.3, C.R.S.

SECTION 10. In Colorado Revised Statutes, **add** 19-3-407 as follows:

19-3-407. Noncertified kinship care - requirement for background checks and other checks - definitions. (1) A COUNTY DEPARTMENT SHALL REQUEST THAT A LOCAL LAW ENFORCEMENT AGENCY CONDUCT THE FOLLOWING BACKGROUND CHECKS OF KIN OR ANY ADULT WHO RESIDES AT THE HOME PRIOR TO PLACING A CHILD IN NONCERTIFIED KINSHIP CARE, UNLESS SUCH PLACEMENT IS AN EMERGENCY PLACEMENT PURSUANT TO SECTION 19-3-406:

(a) A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION TO DETERMINE IF THE KIN OR AN ADULT WHO RESIDES AT THE HOME HAS BEEN CONVICTED OF:

(I) CHILD ABUSE, AS SPECIFIED IN SECTION 18-6-401, C.R.S.;

(II) A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406, C.R.S.;

(III) AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9), C.R.S.;

(IV) A FELONY, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3, C.R.S.;

(V) A FELONY INVOLVING PHYSICAL ASSAULT, BATTERY, OR A DRUG-RELATED OFFENSE WITHIN THE FIVE YEARS PRECEDING THE DATE OF APPLICATION FOR A CERTIFICATE;

(VI) A PATTERN OF MISDEMEANOR CONVICTIONS, AS DEFINED BY RULE OF THE STATE BOARD, WITHIN THE TEN YEARS IMMEDIATELY PRECEDING THE DATE OF SUBMISSION OF THE APPLICATION; OR

(VII) ANY OFFENSE IN ANY OTHER STATE, THE ELEMENTS OF WHICH

ARE SUBSTANTIALLY SIMILAR TO THE ELEMENTS OF ANY ONE OF THE OFFENSES DESCRIBED IN SUB-SUBPARAGRAPHS (I) TO (VI) OF THIS PARAGRAPH (a);

(b) A CHECK OF THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT TO DETERMINE THE STATUS OR DISPOSITION OF ANY PENDING CRIMINAL CHARGES BROUGHT AGAINST THE KIN OR AN ADULT WHO RESIDES AT THE HOME THAT WERE IDENTIFIED BY THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION;

(c) A CHECK OF THE STATE DEPARTMENT'S AUTOMATED DATABASE FOR INFORMATION TO DETERMINE IF THE KIN OR AN ADULT WHO RESIDES AT THE HOME HAS BEEN IDENTIFIED AS HAVING A FINDING OF CHILD ABUSE OR NEGLECT AND WHETHER SUCH FINDING HAS BEEN DETERMINED TO PRESENT AN UNSAFE PLACEMENT FOR A CHILD; AND

(d) A CHECK AGAINST THE STATE'S SEX OFFENDER REGISTRY AND AGAINST THE NATIONAL SEX OFFENDER PUBLIC REGISTRY OPERATED BY THE UNITED STATES DEPARTMENT OF JUSTICE THAT CHECKS NAMES AND ADDRESSES IN THE REGISTRIES AND THE INTERACTIVE DATABASE SYSTEM FOR COLORADO TO DETERMINE IF THE KIN OR AN ADULT WHO RESIDES AT THE HOME IS A REGISTERED SEX OFFENDER.

(2) A COUNTY DEPARTMENT SHALL NOT PLACE A CHILD IN NONCERTIFIED KINSHIP CARE IF THE KIN OR ANY ADULT WHO RESIDES WITH THE KIN AT THE HOME:

(a) HAS BEEN CONVICTED OF ANY OF THE CRIMES LISTED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION;

(b) IS A REGISTERED SEX OFFENDER IN THE SEX OFFENDER REGISTRY CREATED PURSUANT TO SECTION 16-22-110, C.R.S. OR IS A REGISTERED SEX OFFENDER AS DETERMINED BY A CHECK OF THE NATIONAL SEX OFFENDER REGISTRY OPERATED BY THE UNITED STATES DEPARTMENT OF JUSTICE. THE SEX OFFENDER REGISTRY CHECKS MUST CHECK THE KIN'S OR ADULT RESIDENT'S KNOWN NAMES AND ADDRESSES IN THE INTERACTIVE DATABASE SYSTEM FOR COLORADO OR THE NATIONAL SEX OFFENDER PUBLIC REGISTRY AGAINST ALL OF THE REGISTRANT'S KNOWN NAMES AND ADDRESSES; OR

(c) HAS BEEN IDENTIFIED AS HAVING A FINDING OF CHILD ABUSE OR NEGLECT THROUGH A CHECK OF THE STATE DEPARTMENT'S AUTOMATED DATABASE AND THAT FINDING HAS BEEN DETERMINED TO PRESENT AN UNSAFE PLACEMENT FOR THE CHILD.

(3) A COUNTY DEPARTMENT MAY MAKE A PLACEMENT WITH NONCERTIFIED KIN THAT WOULD OTHERWISE BE DISQUALIFIED PURSUANT TO SUBSECTION (2) OF THIS SECTION OR ALLOW CONTINUED PLACEMENT WITH NONCERTIFIED KIN IF AN ADULT RESIDING IN THE HOME WOULD OTHERWISE BE DISQUALIFIED PURSUANT TO SUBSECTION (2) OF THIS SECTION IF SUCH PLACEMENT OCCURS ACCORDING TO RULES PROMULGATED BY THE STATE BOARD OR IF THERE IS COUNTY-INITIATED COURT INVOLVEMENT AND AN ORDER OF THE COURT AFFIRMING PLACEMENT OF THE CHILD WITH THE KIN.

(4) FOR THE PURPOSES OF THIS SECTION, "CONVICTED" MEANS A CONVICTION BY A JURY OR BY A COURT AND INCLUDES A DEFERRED JUDGMENT AND SENTENCE AGREEMENT, A DEFERRED PROSECUTION AGREEMENT, A DEFERRED ADJUDICATION AGREEMENT, AN ADJUDICATION, OR A PLEA OF GUILTY OR NOLO CONTENDERE; EXCEPT THAT THIS DOES NOT APPLY TO A DIVERSION OR DEFERRAL OR PLEA FOR A JUVENILE WHO PARTICIPATED IN DIVERSION, AS DEFINED IN SECTION 19-1-103(44), C.R.S., AND DOES NOT APPLY TO A DIVERSION OR DEFERRAL OR PLEA FOR A PERSON WHO PARTICIPATED IN AND SUCCESSFULLY COMPLETED THE CHILD ABUSE AND CHILD NEGLECT DIVERSION PROGRAM AS DESCRIBED IN SECTION 19-3-310, C.R.S.

(5) THE CONVICTIONS IDENTIFIED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND IN SUBSECTION (2) OF THIS SECTION MUST BE DETERMINED ACCORDING TO THE RECORDS OF THE COLORADO BUREAU OF INVESTIGATION OR THE FEDERAL BUREAU OF INVESTIGATION AND THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT. THE SCREENING REQUEST IN COLORADO SHALL BE MADE PURSUANT TO SECTION 19-1-307(2)(k.5), RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION 19-3-313.5, AND 42 U.S.C. 671(a)(2). A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF THE CONVICTION, DEFERRED JUDGMENT AND SENTENCE AGREEMENT, DEFERRED PROSECUTION AGREEMENT, OR DEFERRED ADJUDICATION AGREEMENT IS PRIMA FACIE EVIDENCE OF A CONVICTION OR AGREEMENT.

(6) THE STATE BOARD SHALL ADOPT RULES RELATING TO BACKGROUND CHECKS OF RELATIVES AND PLACEMENT OF CHILDREN IN NONCERTIFIED KINSHIP CARE, INCLUDING:

(a) RULES ON REQUIREMENTS THAT ALL COUNTY DEPARTMENTS THAT PLACE CHILDREN IN NONCERTIFIED KINSHIP CARE CONDUCT AND DOCUMENT THAT ALL OF THE BACKGROUND CHECKS HAVE BEEN INITIATED AND COMPLETED IN ACCORDANCE WITH SECTION 19-3-406 AND WITH THIS SECTION FOR ANY PERSON PROVIDING NONCERTIFIED KINSHIP CARE AND FOR ANY ADULT RESIDING AT THE HOME;

(b) RULES ON THE ACTIONS A COUNTY DEPARTMENT SHOULD TAKE IF A DISQUALIFYING FACTOR IS FOUND DURING ANY OF THE BACKGROUND CHECKS SPECIFIED IN THIS SECTION, INCLUDING RULES ON REVIEWING THE PLACEMENT OF CHILDREN, ADDRESSING CHILD SAFETY ISSUES, EVALUATING THE VULNERABILITY AND THE AGE OF THE CHILD, AND IDENTIFY ALTERNATIVE REMEDIES TO REMOVAL OF THE CHILD FROM THE PLACEMENT.

SECTION 11. In Colorado Revised Statutes, 19-3-508, **add** (8) as follows:

19-3-508. Neglected or dependent child - disposition - concurrent planning. (8) WHEN ENTERING A DECREE PLACING THE CHILD IN THE LEGAL CUSTODY OF A RELATIVE OR PLACING THE CHILD IN THE LEGAL CUSTODY OF A COUNTY DEPARTMENT FOR PLACEMENT IN A FOSTER CARE HOME, THE COURT SHALL ENSURE THAT THE CHILD'S PLACEMENT AT THE TIME OF THE HEARING IS IN THE BEST INTERESTS OF THE CHILD AND SHALL INQUIRE ABOUT DOCUMENTATION THAT THE COUNTY DEPARTMENT OR A LICENSED CHILD PLACEMENT AGENCY HAS ADEQUATELY SCREENED THE FOSTER CARE PROVIDER OR THE FAMILY MEMBER WHO IS SEEKING TO CARE FOR THE CHILD AND ANY ADULT RESIDING IN THAT HOME AND THAT ALL OF THE CRIMINAL HISTORY RECORD CHECKS AND OTHER BACKGROUND CHECKS HAVE BEEN COMPLETED AS REQUIRED PURSUANT TO SECTION 26-6-106.3, C.R.S., OR 19-3-407.

SECTION 12. In Colorado Revised Statutes, 19-3-605, **amend** (3) (b) as follows:

19-3-605. Request for placement with family members. (3) In making placement determinations concerning a child following the order

of termination of the parent-child legal relationship pursuant to the provisions of this section, the court may consider all pertinent information related to modifying the placement of the child prior to removing the child from his or her placement, giving strong consideration to the following:

(b) Whether the child's placement at the time of the hearing is a safe and potentially permanent placement for the child, INCLUDING DOCUMENTATION THAT A COUNTY DEPARTMENT OR A LICENSED CHILD PLACEMENT AGENCY HAS ADEQUATELY SCREENED THE FAMILY MEMBER WHO IS SEEKING TO CARE FOR THE CHILD AND ANY ADULT RESIDING IN THE HOME AND THAT ALL OF THE CRIMINAL HISTORY RECORD CHECKS AND OTHER BACKGROUND CHECKS HAVE BEEN COMPLETED AS REQUIRED PURSUANT TO SECTION 26-6-106.3, C.R.S., OR SECTION 19-3-407;

SECTION 13. In Colorado Revised Statutes, 19-1-307, **amend** (2) (k.5) as follows:

19-1-307. Dependency and neglect records and information - access - fee - rules - records and reports fund - misuse of information - penalty. (2) **Records and reports - access to certain persons - agencies.** Except as otherwise provided in section 19-1-303, only the following persons or agencies shall be given access to child abuse or neglect records and reports:

(k.5) The state department of human services, when requested in writing by a qualified county department, ~~of social services~~, individual, or child placement agency approved to conduct home study investigations and reports pursuant to section 19-5-207.5 (2) (b) (I) for purposes of screening a prospective adoptive parent or any adult residing in the home under section 19-5-207 (2.5) (c), or investigating a prospective ~~family~~ foster care parent, kinship care parent, or an adult residing in the home under section 26-6-107 (1) (a.7), C.R.S. Within ten days after the request, the state department of human services shall provide the date of the report of the incident, the location of investigation, the type of abuse and neglect, and the county that investigated the incident contained in the confirmed reports of child abuse or neglect. The county department, individual, or child placement agency shall be subject to the fee assessment established in subsection (2.5) of this section. With respect to screening a prospective adoptive parent, any employee of the county department or the child placement agency or any individual who releases any information obtained

under this paragraph (k.5) to any person other than the adoption court shall be deemed to have violated the provisions of subsection (4) of this section and shall be subject to penalty therefor.

SECTION 14. In Colorado Revised Statutes, 19-7-101, **amend** (2) as follows:

19-7-101. Legislative declaration. (2) The general assembly further declares that subsection (1) of this section represents guidelines to promote the physical, mental, social, and emotional development of youth in foster care and to prepare them for a successful transition back into their families or the community. The application of these guidelines may be limited to reasonable periods during the day or restricted according to the routine of family foster care homes to ensure the protection of children and foster families.

SECTION 15. In Colorado Revised Statutes, 26-5-102, **amend** (2) (i) as follows:

26-5-102. Provision of child welfare services - system reform goals. (2) Reforms in child welfare and related delivery systems shall be directed at the following objectives:

(i) Promotion of the local placement of children with families by recruiting and supporting family foster CARE homes within the neighborhoods and communities in which identified children reside;

SECTION 16. In Colorado Revised Statutes, 26-5.7-105, **amend** (6) as follows:

26-5.7-105. Child care facilities - homeless youth shelters - authority - duties. (6) A licensed family foster CARE home approved as a licensed host family home shall not accept a homeless youth for placement under this section if there are any foster children currently placed in the home.

SECTION 17. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill L. Cadman
PRESIDENT OF
THE SENATE

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO