

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0631.01 Richard Sweetman

HOUSE BILL 10-1106

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HOUSE SPONSORSHIP

Casso,

SENATE SPONSORSHIP

Sandoval,

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House Committees

Health and Human Services

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING BRINGING CERTAIN STATUTORY PROVISIONS  
102 CONCERNING CHILD WELFARE INTO COMPLIANCE WITH  
103 FEDERAL LAW.

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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://www.leg.state.co.us/billsummaries>.)*

To bring Colorado law into compliance with certain provisions of the federal "Social Security Act of 1965", as amended, the bill requires group home parents and any person working in a 24-hour child care facility to submit to a federal bureau of investigation fingerprint-based

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

criminal history records check through the Colorado bureau of investigation.

The bill also amends certain statutory provisions to bring them into compliance with the federal "Multiethnic Placement Act of 1994", as amended. Specifically, the bill:

- ! Requires a child's best interests to be the primary consideration for a court, county department of social services, or licensed child placement agency in making determinations concerning the placement of the child for the purpose of adoption;
- ! Requires a court, county department of social services, or licensed child placement agency making a foster care or pre-adoptive placement of a child to give preference to placement with the child's relative if the child's relative can safely meet the child's needs;
- ! Requires an agency that has responsibility for placing children out of the home to recruit and retain prospective foster and adoptive families from communities that reflect the child's racial, ethnic, cultural, and linguistic background;
- ! Prohibits a court, county department of social services, or licensed child placement agency, in making determinations concerning the placement of a child for the purpose of adoption, from considering the racial or ethnic background, color, or national origin of either the child or a family who has submitted an application to adopt except in extraordinary circumstances;
- ! Prohibits a court, county department of social services, or licensed child placement agency from delaying a foster or adoptive placement of a child as a result of the racial or ethnic background, color, or national origin of the child or a family who has submitted an application to adopt; and
- ! Allows a birth parent to designate a specific applicant with whom he or she wishes to place his or her child for purposes of adoption in private adoption cases.

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

2           **SECTION 1.** 26-6-107 (1) (a) (I) (C), Colorado Revised Statutes,  
3 is amended to read:

4           **26-6-107. Investigations and inspections - local authority -**  
5 **reports - rules.** (1) (a) (I) (C) Rules promulgated by the state board

1 pursuant to this subparagraph (I) shall require the fingerprint-based  
2 criminal history records check in all circumstances, other than those  
3 identified in sub-subparagraph (B) of this subparagraph (I), to include a  
4 fingerprint-based criminal history records check through the Colorado  
5 bureau of investigation, except for persons residing in this state less than  
6 two years, OR SPECIALIZED GROUP HOME PARENTS, OR ANY PERSON  
7 WORKING IN A TWENTY-FOUR-HOUR CHILD CARE FACILITY, who shall be  
8 required to have a federal bureau of investigation fingerprint-based  
9 criminal history records check through the Colorado bureau of  
10 investigation. As part of said investigation, the records and reports of  
11 child abuse or neglect maintained by the state department shall be  
12 accessed to determine whether the owner, applicant, employee, newly  
13 hired employee, licensee, or individual who resides in the licensed facility  
14 being investigated has been found to be responsible in a confirmed report  
15 of child abuse or neglect. Information shall be made available pursuant  
16 to section 19-1-307 (2) (j), C.R.S., and rules promulgated by the state  
17 board pursuant to section 19-3-313.5 (4), C.R.S. Any change in  
18 ownership of a licensed facility or the addition of a new resident adult or  
19 newly hired employee to the licensed facility shall require a new  
20 investigation as provided for in this section.

21 **SECTION 2.** 19-5-206 (2) and (3), Colorado Revised Statutes,  
22 are amended to read:

23 **19-5-206. Placement for purposes of adoption.** (2) (a) ~~Birth~~  
24 ~~parent or parents may designate a specific applicant with whom they may~~  
25 ~~wish to place their child for purposes of adoption. After assessment and~~  
26 ~~approval of the potential adoptive parents and subsequent relinquishment~~  
27 ~~of the child, the court shall grant guardianship of the child to a person or~~

1 ~~agency described in section 19-5-104 (1) until finalization of adoptive~~  
2 ~~placement. A county department may provide adoption services to birth~~  
3 ~~parents who request designated adoption only in cases in which the~~  
4 ~~county has legal custody of the child prior to the filing of the petition to~~  
5 ~~relinquish. All requirements and provisions of this article pertaining to~~  
6 ~~relinquishment and adoption shall apply to designated adoptions. IN~~  
7 ~~CHILD WELFARE CASES, A CHILD'S BEST INTERESTS SHALL BE THE PRIMARY~~  
8 ~~CONSIDERATION FOR A COURT, COUNTY DEPARTMENT, OR LICENSED CHILD~~  
9 ~~PLACEMENT AGENCY IN MAKING DETERMINATIONS CONCERNING THE~~  
10 ~~PLACEMENT OF THE CHILD FOR THE PURPOSE OF ADOPTION.~~

11 (b) ~~The court may waive the assessment and approval~~  
12 ~~requirements of paragraph (a) of this subsection (2) in cases where the~~  
13 ~~birth parent or parents have designated the child's grandparent, aunt,~~  
14 ~~uncle, brother, or sister as the person with whom they wish to place their~~  
15 ~~child for purposes of adoption. The court may proceed to finalize such~~  
16 ~~adoptive placement upon finding that the placement is in the best interests~~  
17 ~~of the child. IN A FOSTER CARE OR PRE-ADOPTIVE PLACEMENT OF A CHILD,~~  
18 ~~THE COURT, COUNTY DEPARTMENT, OR LICENSED CHILD PLACEMENT~~  
19 ~~AGENCY MAKING THE PLACEMENT SHALL GIVE PREFERENCE TO~~  
20 ~~PLACEMENT WITH A PERSON WHO IS THE CHILD'S RELATIVE IF THE COURT,~~  
21 ~~COUNTY DEPARTMENT, OR LICENSED CHILD PLACEMENT AGENCY~~  
22 ~~DETERMINES THAT THE CHILD'S RELATIVE CAN SAFELY MEET THE CHILD'S~~  
23 ~~NEEDS.~~

24 (c) ~~The court may waive the assessment and approval of the~~  
25 ~~potential adoptive parents in cases involving kinship or custodial adoption~~  
26 ~~or may determine and order what kind of information or written report it~~  
27 ~~deems necessary, including an abbreviated home study or home~~

1 ~~evaluation. The court may proceed to finalize such adoptive placement~~  
2 ~~upon finding that the placement is in the best interests of the child.~~ AN  
3 AGENCY THAT HAS RESPONSIBILITY FOR PLACING CHILDREN OUT OF THE  
4 HOME SHALL RECRUIT AND RETAIN PROSPECTIVE FOSTER AND ADOPTIVE  
5 FAMILIES FROM COMMUNITIES THAT REFLECT THE RACIAL, ETHNIC,  
6 CULTURAL, AND LINGUISTIC BACKGROUNDS OF THE CHILDREN IN THE  
7 AGENCY'S CARE.

8 (d) IN MAKING DETERMINATIONS CONCERNING THE PLACEMENT OF  
9 A CHILD FOR THE PURPOSE OF ADOPTION, A COURT, COUNTY DEPARTMENT,  
10 OR LICENSED CHILD PLACEMENT AGENCY MAY, UNDER EXTRAORDINARY  
11 CIRCUMSTANCES, CONSIDER THE RACIAL OR ETHNIC BACKGROUND, COLOR,  
12 OR NATIONAL ORIGIN OF:

13 (I) THE CHILD; OR

14 (II) A FAMILY WHO HAS SUBMITTED AN APPLICATION TO ADOPT.

15 (e) A COURT, COUNTY DEPARTMENT, OR LICENSED CHILD  
16 PLACEMENT AGENCY SHALL NOT DELAY A FOSTER OR ADOPTIVE  
17 PLACEMENT OF A CHILD AS A RESULT OF THE RACIAL OR ETHNIC  
18 BACKGROUND, COLOR, OR NATIONAL ORIGIN OF:

19 (I) THE CHILD; OR

20 (II) A FAMILY WHO HAS SUBMITTED AN APPLICATION TO FOSTER OR  
21 ADOPT A CHILD.

22 (f) IN PRIVATE ADOPTION CASES, A BIRTH PARENT OR BIRTH  
23 PARENTS MAY DESIGNATE A SPECIFIC APPLICANT WITH WHOM THEY MAY  
24 WISH TO PLACE THEIR CHILD FOR PURPOSES OF ADOPTION. AFTER  
25 ASSESSMENT AND APPROVAL OF THE POTENTIAL ADOPTIVE PARENTS AND  
26 SUBSEQUENT RELINQUISHMENT OF THE CHILD, THE COURT SHALL GRANT  
27 GUARDIANSHIP OF THE CHILD TO A PERSON OR AGENCY DESCRIBED IN

1 SECTION 19-5-104 (1) UNTIL FINALIZATION OF ADOPTIVE PLACEMENT.

2 (g) THE COURT MAY WAIVE THE ASSESSMENT AND APPROVAL OF  
3 THE POTENTIAL ADOPTIVE PARENTS IN CASES INVOLVING KINSHIP OR  
4 CUSTODIAL ADOPTION OR MAY DETERMINE AND ORDER THE KIND OF  
5 INFORMATION OR WRITTEN REPORT IT DEEMS NECESSARY FOR THE  
6 ASSESSMENT AND APPROVAL OF THE POTENTIAL ADOPTIVE PARENTS,  
7 INCLUDING AN ABBREVIATED HOME STUDY OR HOME EVALUATION. THE  
8 COURT MAY PROCEED TO FINALIZE SUCH ADOPTIVE PLACEMENT UPON  
9 FINDING THAT THE PLACEMENT IS IN THE BEST INTERESTS OF THE CHILD.

10 (3) ~~Consideration given to the racial background of a child legally~~  
11 ~~available for adoption in placing such child with an adopting family shall~~  
12 ~~not delay the placement of the child due to attempts to assure racial~~  
13 ~~resemblance between the child and the adopting family.~~

14 **SECTION 3.** 19-5-104 (1) (d), Colorado Revised Statutes, is  
15 amended to read:

16 **19-5-104. Final order of relinquishment.** (1) If the court  
17 terminates the parent-child legal relationship of both parents or of the  
18 only living parent, the court, after taking into account the racial, cultural,  
19 and religious background of the child, shall order guardianship of the  
20 person and legal custody transferred to:

21 (d) An individual determined to be of good moral character  
22 through a process that includes the assessment made pursuant to ~~section~~  
23 ~~19-5-206 (2) (a)~~ SECTION 19-5-206 (2) (g), if such individual shall have  
24 had the child living in his or her home for six months or more, including  
25 a foster parent or a designated adoptive parent.

26 **SECTION 4.** Part 1 of article 5 of title 19, Colorado Revised  
27 Statutes, is amended BY THE ADDITION OF A NEW SECTION to

1 read:

2 **19-5-100.5. Applicability of article.** EXCEPT WHERE INDICATED  
3 OTHERWISE, EACH PROVISION OF THIS ARTICLE PERTAINING TO  
4 RELINQUISHMENT OR ADOPTION SHALL APPLY ONLY TO CHILD WELFARE  
5 ADOPTIONS AND NOT TO PRIVATE ADOPTIONS.

6 **SECTION 5. Safety clause.** The general assembly hereby finds,  
7 determines, and declares that this act is necessary for the immediate  
8 preservation of the public peace, health, and safety.