

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 21-0328.01 Jane Ritter x4342

SENATE BILL 21-201

SENATE SPONSORSHIP

Danielson and Pettersen, Bridges, Buckner, Fields, Garcia, Ginal, Gonzales, Jaquez
Lewis, Moreno, Priola, Simpson, Story, Winter

HOUSE SPONSORSHIP

Young and Boesenecker,

Senate Committees

Health & Human Services
Appropriations

House Committees

Public & Behavioral Health & Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING STRICTER ENFORCEMENT FOR CHILD CARE FACILITIES,**
102 **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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 addresses concerns related to child care facilities that are operating without a valid license or are exempt from licensure, including:

- Adding a requirement for the state department of human services (department) to include complaints and cease-and-desist orders that have been issued against a child care facility (facility) on the department's 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
Amended 2nd Reading
May 25, 2021

SENATE
3rd Reading Unamended
April 26, 2021

SENATE
Amended 2nd Reading
April 23, 2021

- provider website that is accessible to the public;
- Allowing the department or a county department of human or social services (county department) to apply for an injunction if a person is operating a facility that is either required to be licensed but is in violation of any of the requirements of such license or is exempt from licensure but has received one or more cease-and-desist orders from the department or a county department;
- Establishing that a person operating a facility, whether licensed or exempt from licensure, that has received a cease-and-desist order from the department or a county department and who fails to cure the violation cited by the department or a county department in the allotted period is guilty of a petty offense;
- Revising and increasing the language related to civil penalties and fines for persons operating a facility, whether licensed or exempt from licensure; and
- Clarifying that those petty offenses count toward the withholding of Colorado child care assistance program money for family child care home providers.

In honor and memory of Elle Matthews, the bill names section 26-6-112 of the Colorado Revised Statutes the "Elle Matthews Act for Increased Safety in Child Care".

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

2 **SECTION 1.** In Colorado Revised Statutes, 26-6-103, **amend** (6)
 3 as follows:

4 **26-6-103. Application of part - study - definition. (6) On or**
 5 before July 1 DECEMBER 31, 2021, and every year ONGOING thereafter,
 6 the department shall report the number of cease-and-desist orders issued
 7 to child care providers who are operating outside the exemptions
 8 described in this section ON THE PORTION OF ITS STATE CHILD CARE
 9 PROVIDER WEBSITE THAT IS ACCESSIBLE TO FAMILIES, AND IN AN
 10 ACCESSIBLE AND PROMINENT MANNER, THE NAME AND LOCATION OF ANY
 11 CHILD CARE PROVIDER WHO IS OPERATING OUTSIDE THE EXEMPTIONS
 12 DESCRIBED IN THIS SECTION AND TO WHOM ONE OR MORE

1 CEASE-AND-DESIST ORDERS HAVE BEEN ISSUED. IF MORE THAN ONE
2 CEASE-AND-DESIST ORDER HAS BEEN ISSUED TO THE SAME PROVIDER, THE
3 WEBSITE MUST INCLUDE THE TOTAL NUMBER OF SUCH ORDERS. THIS
4 REQUIREMENT FOR WEBSITE POSTING FOR CHILD CARE PROVIDERS WHO
5 ARE OPERATING OUTSIDE THE EXEMPTIONS DESCRIBED IN THIS SECTION
6 MUST BE MADE PUBLIC BY ELECTRONIC MEANS, IN A CONSUMER-FRIENDLY
7 ANDEASILY ACCESSIBLE FORMAT, ORGANIZED BY PROVIDER, AND INCLUDE
8 THE DATE OR DATES OF THE CEASE-AND-DESIST ORDER OR ORDERS.

9 **SECTION 2.** In Colorado Revised Statutes, **amend 26-6-111** as
10 follows:

11 **26-6-111. Injunctive proceedings.** The department, in the name
12 of the people of the state of Colorado, through the attorney general of the
13 state, ~~may~~ MUST apply for an injunction in any court of competent
14 jurisdiction to enjoin any person from operating any facility without a
15 license that is required to be licensed under this part 1. ~~An injunction may~~
16 also be requested by the appropriate county department through the
17 county attorney or retained counsel. IF THE PERSON DOES NOT HAVE A
18 VALID LICENSE PURSUANT TO THIS PART 1, THE PERSON'S LICENSE HAS
19 BEEN REVOKED PURSUANT TO SECTION 26-6-108, ~~OR~~ THE PERSON DOES
20 NOT MEET THE LICENSING EXEMPTION CRITERIA SET FORTH IN SECTION
21 26-6-103, YET PROVIDES CHILD CARE, AND HAS A PATTERN OF PROVIDING
22 SUCH CHILD CARE WITHOUT A VALID LICENSE AS REQUIRED BY THIS PART
23 1, AND DESPITE HAVING RECEIVED NOTIFICATION FROM THE DEPARTMENT
24 THAT THE PERSON OR FACILITY IS IN VIOLATION OF THE LAW, THEN SUCH
25 PERSON IS PROVIDING UNLICENSED AND ILLEGAL CHILD CARE. AT THE
26 TIME THE DEPARTMENT APPLIES FOR AN INJUNCTION, THE DEPARTMENT
27 SHALL NOTIFY LAW ENFORCEMENT OF THE INJUNCTION PROCEEDINGS. If

1 it is established that the defendant has been or is so operating such facility
2 WITHOUT A VALID LICENSE, the court shall enter a decree enjoining said
3 THE defendant from further operating such THE facility unless and until
4 he THE PERSON obtains a license therefor. In case of violation of any
5 injunction issued under the provisions of PURSUANT TO this section, the
6 court may summarily try and punish the offender for contempt of court.
7 Such injunctive proceedings shall be ARE in addition to and not in lieu of
8 the penalty provided in section 26-6-112.

9 **SECTION 3.** In Colorado Revised Statutes, **amend** 26-6-112 as
10 follows:

11 **26-6-112. Penalty - short title.** (1) ON OR AFTER JULY 1, 2021,
12 any person violating any provision of this part 1, ~~or~~ intentionally making
13 any false statement or report to the department or to any agency delegated
14 by the department to make an investigation or inspection ~~under~~ PURSUANT
15 TO the provisions of this part 1, OR VIOLATING A CEASE-AND-DESIST
16 ORDER THAT IS NOT CURED is guilty of a ~~misdemeanor~~ PETTY OFFENSE
17 and, upon conviction, ~~thereof~~, shall be punished by a fine of ~~not less than~~
18 ~~three hundred dollars nor more than five hundred dollars~~ OF UP TO FIVE
19 HUNDRED DOLLARS, A SENTENCE OF UP TO TEN DAYS IN JAIL, OR BOTH.

20 (2) THE SHORT TITLE OF THIS SECTION IS THE "ELLE MATTHEWS
21 ACT FOR INCREASED SAFETY IN CHILD CARE".

22 **SECTION 4.** In Colorado Revised Statutes, 26-6-114, **amend** (1);
23 and **repeal** (2) as follows:

24 **26-6-114. Civil penalties - fines - child care cash fund -**
25 **created.** (1) In addition to any other penalty otherwise provided by law,
26 INCLUDING SECTION 26-6-112, any person violating any provision of this
27 part 1 or intentionally making any false statement or report to the

1 department or to any agency delegated by the department to make an
2 investigation or inspection under the provisions of this part 1 may be
3 assessed a civil penalty of ~~not more than one hundred dollars a day~~ UP to
4 a maximum of ten thousand dollars AS FOLLOWS:

5 (a) TWO HUNDRED AND FIFTY DOLLARS A DAY FOR THE FIRST DAY;

6 (b) FIVE HUNDRED DOLLARS A DAY FOR THE SECOND DAY; AND

7 (c) ONE THOUSAND DOLLARS A DAY FOR THE THIRD AND
8 SUBSEQUENT DAYS.

9 (2) ~~The amount of the civil penalties to be assessed pursuant to~~
10 ~~subsection (1) of this section shall be set in rules and regulations~~
11 ~~promulgated by the department.~~

12 **SECTION 5.** In Colorado Revised Statutes, 26-6-120, **amend** (3)
13 introductory portion and (3)(a) as follows:

14 **26-6-120. Exempt family child care home providers -**
15 **fingerprint-based criminal history record check - child care**
16 **assistance program money - temporary care - rules - definitions.**

17 (3) THE STATE DEPARTMENT OR A COUNTY DEPARTMENT SHALL NOT
18 ISSUE OR RENEW a contract to provide ~~moneys under~~ MONEY PURSUANT
19 TO the Colorado child care assistance program pursuant to part 8 of article
20 2 of this title ~~shall not be issued or renewed by the state department or a~~
21 ~~county department~~ TITLE 26 to a qualified provider if the qualified
22 provider or a qualified adult:

23 (a) Has a pattern of misdemeanor OR PETTY OFFENSE convictions
24 occurring within the ten years preceding submission of the application, ~~A~~
25 ~~pattern of misdemeanor convictions shall be defined by rule of the state~~
26 ~~board~~ INCLUDING PETTY OFFENSE CONVICTIONS PURSUANT TO SECTION
27 26-6-112. THE STATE BOARD SHALL DEFINE BY RULE WHAT CONSTITUTES

1 A PATTERN OF MISDEMEANOR OR PETTY OFFENSE CONVICTIONS; or

2 **SECTION 6. Appropriation.** For the 2021-22 state fiscal year,
3 \$83,375 is appropriated to the department of human services for use by
4 the office of early childhood. This appropriation is from federal child care
5 development funds. To implement this act, the office may use the
6 appropriation for child care licensing and administration.

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