

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



SENATE BILL 11-120

BY SENATOR(S) Newell, Bacon, Foster, Giron, Guzman, Hudak, Jahn, Johnston, Morse, Nicholson, Schwartz, Shaffer B., Steadman, Williams S., Aguilar, Boyd, Carroll, Heath, Hodge, King S., Roberts, Spence, Tochtrop, White;

also REPRESENTATIVE(S) Kefalas, Ferrandino, Kagan, Casso, Fields, Fischer, Hamner, Jones, Labuda, Levy, Nikkel, Pace, Peniston, Riesberg, Schafer S., Todd, Vigil, Wilson.

CONCERNING RIGHTS OF CERTAIN CHILDREN IN FOSTER CARE, AND, IN CONNECTION THEREWITH, ESTABLISHING RIGHTS FOR CHILDREN IN FOSTER CARE EXCEPT FOR THOSE IN THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A STATE MENTAL HOSPITAL.

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

SECTION 1. Title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 7
Protections for Youth in Foster Care

19-7-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT YOUTH IN FOSTER CARE, EXCLUDING

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

THOSE IN THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A STATE MENTAL HOSPITAL, SHOULD ENJOY THE FOLLOWING:

(a) TO RECEIVE APPROPRIATE AND REASONABLE ADULT GUIDANCE, SUPPORT, AND SUPERVISION IN A SAFE, HEALTHY, AND COMFORTABLE ENVIRONMENT WHERE HE OR SHE IS TREATED WITH RESPECT AND DIGNITY;

(b) TO BE FREE FROM PHYSICAL, SEXUAL, EMOTIONAL, OR OTHER ABUSE OR CORPORAL PUNISHMENT;

(c) TO RECEIVE ADEQUATE AND HEALTHY FOOD, ADEQUATE CLOTHING, AND AN ADEQUATE ALLOWANCE, AS APPROPRIATE;

(d) TO RECEIVE MEDICAL, DENTAL, VISION, AND MENTAL HEALTH SERVICES AS NEEDED;

(e) TO BE FREE OF THE ADMINISTRATION OF PRESCRIPTION MEDICATION OR OTHER CHEMICAL SUBSTANCES, UNLESS AUTHORIZED BY A PHYSICIAN;

(f) TO BE FREE TO CONTACT THOSE PERSONS WORKING ON HIS OR HER BEHALF, INCLUDING BUT NOT LIMITED TO, CASE WORKERS, ATTORNEYS, FOSTER YOUTH ADVOCATES AND SUPPORTERS, COURT-APPOINTED SPECIAL ADVOCATES, AND PROBATION OFFICERS;

(g) TO BE FREE TO CONTACT THE CHILD PROTECTION OMBUDSMAN, COUNTY DEPARTMENT OF SOCIAL SERVICES, OR THE DEPARTMENT OF HUMAN SERVICES REGARDING ANY QUESTIONS, CONCERNS, OR VIOLATIONS OF THE RIGHTS SET FORTH IN THIS ARTICLE, TO SPEAK TO REPRESENTATIVES OF THOSE OFFICES PRIVATELY, AND TO BE FREE FROM THREATS OR PUNISHMENT FOR MAKING COMPLAINTS;

(h) AS APPROPRIATE, TO MAKE AND RECEIVE CONFIDENTIAL TELEPHONE CALLS AND TO SEND AND RECEIVE UNOPENED MAIL IN ACCORDANCE WITH HIS OR HER PERMANENCY GOALS;

(i) TO BE FREE TO ATTEND RELIGIOUS SERVICES AND ACTIVITIES;

(j) TO BE ALLOWED TO MAINTAIN AN EMANCIPATION BANK ACCOUNT AND MANAGE PERSONAL INCOME, CONSISTENT WITH THE YOUTH'S AGE AND

DEVELOPMENTAL LEVEL, UNLESS PROHIBITED BY HIS OR HER CASE PLAN;

(k) TO BE FREE FROM BEING ABANDONED OR LOCKED IN A ROOM;

(l) TO RECEIVE AN APPROPRIATE EDUCATION, HAVE ACCESS TO TRANSPORTATION, AND PARTICIPATE IN EXTRACURRICULAR, CULTURAL, AND PERSONAL ENRICHMENT ACTIVITIES CONSISTENT WITH THE YOUTH'S AGE AND DEVELOPMENTAL LEVEL;

(m) AS APPROPRIATE, TO BE FREE TO WORK AND DEVELOP JOB SKILLS THAT ARE IN ACCORDANCE WITH HIS OR HER PERMANENCY GOALS;

(n) AS APPROPRIATE, TO BE FREE TO HAVE SOCIAL CONTACTS WITH PEOPLE OUTSIDE THE FOSTER CARE SYSTEM, SUCH AS TEACHERS, CHURCH MEMBERS, MENTORS, AND FRIENDS IN ACCORDANCE WITH HIS OR HER PERMANENCY GOALS;

(o) TO BE FREE TO ATTEND INDEPENDENT LIVING CLASSES IF HE OR SHE MEETS PROGRAM AND AGE REQUIREMENTS;

(p) TO CONSULT WITH THE COURT CONDUCTING THE YOUTH'S PERMANENCY HEARING, IN AN AGE-APPROPRIATE MANNER, REGARDING THE YOUTH'S PERMANENCY PLAN, PURSUANT TO SECTION 19-3-702 (3.7);

(q) TO HAVE A SAFE PLACE TO STORE PERSONAL BELONGINGS;

(r) AS APPROPRIATE TO HIS OR HER AGE AND DEVELOPMENTAL LEVEL, TO BE ALLOWED TO PARTICIPATE IN AND REVIEW HIS OR HER OWN CASE PLAN, IF HE OR SHE IS TWELVE YEARS OF AGE OR OLDER, AND TO RECEIVE INFORMATION ABOUT HIS OR HER OUT-OF-HOME PLACEMENT AND CASE PLAN, INCLUDING BEING INFORMED OF ANY CHANGES TO THE CASE PLAN;

(s) TO CONFIDENTIALITY OF ALL JUVENILE COURT RECORDS, CONSISTENT WITH EXISTING LAW;

(t) TO HAVE FAIR AND EQUAL ACCESS TO AVAILABLE SERVICES, PLACEMENT, CARE, TREATMENT, AND BENEFITS BASED ON HIS OR HER TREATMENT PLAN, AND TO NOT BE SUBJECTED TO DISCRIMINATION OR HARASSMENT ON THE BASIS OF ACTUAL OR PERCEIVED RACE, ETHNIC GROUP,

NATIONAL ORIGIN, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, MENTAL OR PHYSICAL DISABILITY, OR HIV STATUS;

(u) AT SIXTEEN YEARS OF AGE OR OLDER, TO HAVE ACCESS TO EXISTING INFORMATION REGARDING THE EDUCATIONAL OPTIONS AVAILABLE TO HIM OR HER, INCLUDING, BUT NOT LIMITED TO, THE COURSE WORK NECESSARY FOR VOCATIONAL AND POSTSECONDARY EDUCATIONAL PROGRAMS, AND INFORMATION REGARDING FINANCIAL AID AVAILABLE FOR POSTSECONDARY EDUCATION;

(v) TO HAVE SCHOOL STABILITY THAT PRESUMES THE YOUTH WILL REMAIN IN THE SCHOOL IN WHICH HE OR SHE IS ENROLLED AT THE TIME OF PLACEMENT, UNLESS REMAINING IN THAT SCHOOL IS NOT IN HIS OR HER BEST INTERESTS;

(w) TO REMAIN IN THE CUSTODY OF HIS OR HER PARENT OR LEGAL GUARDIAN UNLESS HIS OR HER WELFARE AND SAFETY OR THE PROTECTION OF THE PUBLIC WOULD BE OTHERWISE ENDANGERED, AND THE RIGHT THAT THE COURT PROCEED WITH ALL POSSIBLE SPEED TO A LEGAL DETERMINATION THAT WILL SERVE HIS OR HER BEST INTERESTS PURSUANT TO SECTION 19-1-102;

(x) TO BE PLACED IN A HOME WHERE THE FOSTER CAREGIVER IS AWARE OF AND UNDERSTANDS THE YOUTH'S UNIQUE HISTORY AS IT RELATES TO HIS OR HER CARE;

(y) TO RECEIVE EFFECTIVE CASE MANAGEMENT AND PLANNING THAT WILL PRIORITIZE THE SAFE RETURN OF THE YOUTH TO HIS OR HER FAMILY OR MOVE THE YOUTH ON TO OTHER FORMS OF PERMANENT PLACEMENT;

(z) AS APPROPRIATE TO THE YOUTH'S DEVELOPMENTAL LEVEL AND IF HE OR SHE IS TWELVE YEARS OF AGE OR OLDER, TO BE INVOLVED IN MEETINGS AT WHICH DECISIONS ARE MADE ABOUT HIS OR HER FUTURE, AND TO HAVE THE CHILD WELFARE AGENCY BRING TOGETHER HIS OR HER FAMILY GROUP AND OTHER SUPPORTERS TO DECISION-MAKING MEETINGS AT WHICH THE GROUP CREATES A PLAN FOR THE YOUTH'S FUTURE;

(aa) TO PLACEMENT IN THE LEAST RESTRICTIVE SETTING APPROPRIATE TO THE YOUTH'S NEEDS;

(bb) TO HAVE A GUARDIAN AD LITEM APPOINTED TO REPRESENT THE YOUTH'S BEST INTERESTS; AND

(cc) TO LIVE WITH OR BE VISITED BY HIS OR HER SIBLINGS.

(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.

19-7-102. Protection against identity theft. (1) THE COURT SHALL ENSURE THAT EACH YOUTH IN FOSTER CARE, EXCLUDING YOUTH IN THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A STATE MENTAL HOSPITAL, WHO IS SIXTEEN THROUGH EIGHTEEN YEARS OF AGE OBTAINS A FREE CREDIT REPORT. IF THE CREDIT REPORT SHOWS EVIDENCE OF POSSIBLE IDENTITY THEFT, THE PERSON ASSISTING THE YOUTH SHALL INFORM THE COURT AND REFER THE MATTER TO A GOVERNMENTAL OR NONPROFIT ENTITY ON THE REFERRAL LIST DEVELOPED PURSUANT TO SUBSECTION (2) OF THIS SECTION FOR REMEDIAL ACTION. THE CHILD'S GUARDIAN AD LITEM SHALL ADVISE THE YOUTH OF POSSIBLE CONSEQUENCES OF AND OPTIONS TO ADDRESS THE POSSIBLE IDENTITY THEFT, INCLUDING THE RIGHT TO REPORT THE MATTER TO LAW ENFORCEMENT AND SEEK POSSIBLE PROSECUTION OF THE OFFENDER.

(2) (a) ON OR BEFORE JULY 31, 2012, THE DEPARTMENT OF HUMAN SERVICES SHALL DEVELOP, IN CONSULTATION WITH COUNTY DEPARTMENTS OF SOCIAL SERVICES, A REFERRAL LIST OF GOVERNMENTAL AND NONPROFIT ENTITIES THAT ARE AUTHORIZED TO ASSIST A YOUTH IN FOSTER CARE, EXCLUDING A YOUTH IN THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A STATE MENTAL HOSPITAL, WHO HAS FOUND EVIDENCE OF POSSIBLE IDENTITY THEFT ON HIS OR HER CREDIT REPORT. AN ENTITY ON THE REFERRAL LIST DEVELOPED PURSUANT TO THIS SUBSECTION (2) IS AUTHORIZED TO TAKE ANY NECESSARY REMEDIAL ACTIONS TO CLEAR THE YOUTH'S CREDIT RECORD AND SHALL REPORT THE RESULTS OF ITS ACTIONS TO THE COUNTY DEPARTMENT OF SOCIAL SERVICES WITH LEGAL CUSTODY OF THE YOUTH.

(b) IN COMPILING THE REFERRAL LIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE DEPARTMENT OF HUMAN SERVICES, AND ANY COUNTY DEPARTMENTS OF SOCIAL SERVICES CONSULTED THEREIN, SHALL NOT BE SUBJECT TO LIABILITY PURSUANT TO THE EXTENT PROVIDED BY ARTICLE 10 OF TITLE 24, C.R.S.

19-7-103. Access to extracurricular activities - legislative declaration - rules. (1)(a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS IMPORTANT FOR YOUTH IN FOSTER CARE, EXCLUDING THOSE IN THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A STATE MENTAL HOSPITAL, TO HAVE INCREASED ACCESS TO NORMATIVE, DEVELOPMENTALLY APPROPRIATE EXTRACURRICULAR ACTIVITIES TO HELP PREPARE THEM FOR INDEPENDENCE. FOSTER PARENTS AND GROUP HOME PARENTS OR GROUP CENTER ADMINISTRATORS SHALL MAKE A REASONABLE EFFORT TO ALLOW A YOUTH IN THEIR CARE TO PARTICIPATE IN EXTRACURRICULAR, CULTURAL, EDUCATIONAL, WORK-RELATED, AND PERSONAL ENRICHMENT ACTIVITIES. ON OR BEFORE JULY 31, 2012, THE DEPARTMENT OF HUMAN SERVICES SHALL PROMULGATE RULES FOR THE IMPLEMENTATION OF THIS SECTION. THE RULES SHALL ADDRESS POLICIES, INCLUDING BUT NOT LIMITED TO WAIVER OF ANY FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECKS FOR COMMUNITY ENTITIES, EXCLUDING ALL INDIVIDUALS REQUIRED TO OBTAIN A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK PURSUANT TO SECTION 26-6-107, C.R.S., PROVIDING EXTRACURRICULAR ACTIVITIES AND GUIDELINES FOR DETERMINING IN WHAT SITUATIONS IT IS APPROPRIATE TO WAIVE FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECKS, TO ALLOW YOUTH IN FOSTER CARE, EXCLUDING THOSE IN THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS OR A STATE MENTAL HOSPITAL, WHO ARE TWELVE YEARS OF AGE AND OLDER TO PARTICIPATE IN AGE-APPROPRIATE EXTRACURRICULAR ENRICHMENT, SOCIAL ACTIVITIES, AND ACTIVITIES DESIGNED TO ASSIST THOSE YOUTH TO MAKE THE TRANSITION TO INDEPENDENCE, BUILD LIFE SKILLS, AND ENHANCE OPPORTUNITIES TO MAKE POSITIVE CONNECTIONS.

(b) IF THE DEPARTMENT OF HUMAN SERVICES OR A COUNTY DEPARTMENT OF SOCIAL SERVICES WAIVES A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), THE DEPARTMENT OF HUMAN SERVICES OR COUNTY DEPARTMENT OF SOCIAL SERVICES SHALL NOT BE SUBJECT TO LIABILITY PURSUANT TO THE EXTENT PROVIDED BY ARTICLE 10 OF TITLE 24, C.R.S.

SECTION 2. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless

approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
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