

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 16-0740.01 Jane Ritter x4342

HOUSE BILL 16-1385

HOUSE SPONSORSHIP

Singer,

SENATE SPONSORSHIP

Newell,

House Committees
Public Health Care & Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE DEFINITION OF CHILD ABUSE OR NEGLECT IN THE**
102 **"COLORADO CHILDREN'S CODE" AS IT RELATES TO THE USE OF**
103 **OR EXPOSURE TO SUBSTANCES.**

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>.)

The bill updates and modernizes the language in the definition of "abuse" or "child abuse or neglect" in the "Colorado Children's Code" to reflect the ways a child's welfare can be threatened or harmed by adults through the use of or exposure to substances.

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.

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) The definition of "child abuse or neglect" in the Children's
5 Code needs to be modified to accommodate behavioral changes relating
6 to substances;

7 (b) The general assembly's intent behind any modifications to the
8 definition of "child abuse or neglect" in the Children's Code as it relates
9 to substances is to focus on guiding assessments and investigations in the
10 child welfare system after an allegation of abuse or neglect rather than to
11 dictate absolute findings of abuse or neglect in a given situation;

12 (c) Every child welfare situation is unique, the issues surrounding
13 substances and abuse or neglect have multiple nuances, and one question
14 or one test alone may not yield an accurate finding of abuse or neglect;
15 and

16 (d) Therefore, a modification to the definition of "child abuse or
17 neglect" in the Children's Code requires the department of human services
18 to provide guidance, through the promulgation of rules, on assessments
19 to county-level case workers.

20 (2) The general assembly further finds that to create stronger
21 cooperation, transparency, and consistency between the multiple parties
22 involved in these difficult child welfare situations, the collection of
23 additional data following any modification of the definition of "child
24 abuse or neglect" as it relates to substances is a necessary component of
25 successfully protecting the best interests of the children of Colorado and
26 their parents.

1 **SECTION 2.** In Colorado Revised Statutes, 19-1-103, **amend** (1)

2 (a) (VI) and (1) (a) (VII) as follows:

3 **19-1-103. Definitions.** As used in this title or in the specified

4 portion of this title, unless the context otherwise requires:

5 (1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of
6 article 3 of this title, means an act or omission in one of the following
7 categories that threatens the health or welfare of a child:

8 (VI) Any case in which ~~in the presence of a child, or on the~~
9 premises where a child is found, or where a child resides, a controlled
10 substance, as defined in section 18-18-102 (5), C.R.S., is manufactured
11 or attempted to be manufactured; SUBSTANCE USE OR SUBSTANCE
12 EXPOSURE THREATENS OR RESULTS IN HARM TO THE CHILD'S HEALTH OR
13 WELFARE UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

14 (A) BEHAVIOR INDICATING IMPAIRMENT OF A PERSON THAT
15 THREATENS OR RESULTS IN HARM TO THE CHILD. FOR PURPOSES OF THIS
16 SUB-SUBPARAGRAPH (A), A "PERSON" INCLUDES A PARENT, STEPPARENT,
17 GUARDIAN, LEGAL CUSTODIAN, RELATIVE, SPOUSAL EQUIVALENT, OR ANY
18 OTHER PERSON WHO RESIDES IN THE CHILD'S HOME OR WHO IS REGULARLY
19 IN THE CHILD'S HOME AND HAS SOLE AUTHORITY OVER OR SOLE
20 RESPONSIBILITY FOR THE CARE OF THE CHILD.

21 (B) THE KNOWING, RECKLESS, OR NEGLIGENT EXPOSURE TO OR
22 INGESTION OF ANY LEGAL OR ILLEGAL SUBSTANCE BY A CHILD THAT
23 THREATENS OR RESULTS IN HARM TO THE CHILD, UNLESS SUCH EXPOSURE
24 OR INGESTION IS THE RESULT OF THE CHILD'S LAWFUL INTAKE OF SUCH
25 SUBSTANCE; OR

26 (C) THE MANUFACTURE, DISTRIBUTION, PRODUCTION, OR
27 CULTIVATION PRACTICES OF A LEGAL OR ILLEGAL SUBSTANCE THAT

1 CREATES AN ENVIRONMENT THAT THREATENS OR RESULTS IN HARM TO
2 THE CHILD.

(VII) (A) Any case in which a child tests positive at birth for either a schedule I controlled substance, as defined in section 18-18-203, C.R.S., or a schedule II controlled substance, as defined in section 18-18-204, C.R.S. AN EXPOSURE TO ALCOHOL OR FOR A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-102, C.R.S., unless the child tests positive for a schedule II controlled substance as a result of the mother's lawful intake of such substance as prescribed OR RECOMMENDED BY A LICENSED HEALTH CARE PROVIDER WHO IS AWARE OF THE PREGNANCY AND THE USE OF SUCH SUBSTANCE, AND MONITORED BY THE SAME OR ANOTHER LICENSED HEALTH CARE PROVIDER WHO IS AWARE OF THE PREGNANCY AND THE USE OF SUCH SUBSTANCE.

14 (B) A COUNTY DEPARTMENT SHALL NOT DETERMINE A CHILD TO
15 BE ABUSED OR NEGLECTED BASED SOLELY ON THE CHILD TESTING POSITIVE
16 FOR A LEGAL SUBSTANCE UNDER COLORADO LAW AT BIRTH.

17 **SECTION 3.** In Colorado Revised Statutes, **add** 19-3-308.1 as
18 follows:

19 **19-3-308.1. Implementation of the definition of abuse as it**
20 **relates to use of or exposure to substances - rules - SMART report.**

21 (1) ON OR BEFORE JULY 1, 2017, THE STATE DEPARTMENT SHALL
22 PROMULGATE AND ADOPT RULES TO IMPROVE THE CONSISTENT
23 IMPLEMENTATION OF THE DEFINITION OF ABUSE SET FORTH IN SECTION
24 19-1-103 (1) (a) (VI) AND 19-1-103 (1) (a) (VII) AS IT RELATES TO THE
25 USE OF OR EXPOSURE TO SUBSTANCES. THE RULES MUST ADDRESS, AT A
26 MINIMUM, ANY PROCEDURES A COUNTY DEPARTMENT MUST FOLLOW UPON
27 RECEIVING A REPORT THAT AN INFANT HAS TESTED POSITIVE FOR A

1 SUBSTANCE AT BIRTH.

2 (2) THE STATE DEPARTMENT SHALL COLLECT DATA ON THE USE OF
3 THE MODIFIED DEFINITION OF "CHILD ABUSE OR NEGLECT" IN SECTION
4 19-1-103 (1) (a) AS CREATED IN HOUSE BILL 16-1385, AS WELL AS THE
5 USE OF THE GUIDELINES FOR THE IMPLEMENTATION OF THAT DEFINITION
6 ESTABLISHED THROUGH RULES PROMULGATED PURSUANT TO SUBSECTION
7 (1) OF THIS SECTION. THE STATE DEPARTMENT SHALL INCLUDE SUCH DATA
8 AS PART OF ITS "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE,
9 AND TRANSPARENT (SMART) GOVERNMENT ACT" HEARING REQUIRED BY
10 SECTION 2-7-203, C.R.S. AT A MINIMUM, THE STATE DEPARTMENT SHALL
11 COLLECT AND REPORT DATA ON THE DISPOSITION OF CHILD WELFARE
12 ASSESSMENTS RELATED TO THE MODIFIED DEFINITION OF "CHILD ABUSE OR
13 NEGLECT" AS IT RELATES TO SUBSTANCES AND CORRELATED WITH
14 ECONOMIC STATUS, RACE, AND ZIP CODE. THE FOLLOWING REPORTS MUST
15 INCLUDE DATA AS FOLLOWS:

16 (a) THE JANUARY 2017 REPORT MUST INCLUDE DATA FROM JULY
17 1, 2016, THROUGH DECEMBER 31, 2016;

18 (b) THE JANUARY 2018 REPORT MUST INCLUDE DATA FROM
19 JANUARY 1, 2017, THROUGH JULY 1, 2017, OR SUCH DATE AS THE RULES
20 PROMULGATED PURSUANT TO SUBSECTION (1) OF THIS SECTION TAKE
21 EFFECT, AND A SEPARATE COMPARISON DATA SET FROM THE DATE THE
22 RULES TAKE EFFECT THROUGH DECEMBER 31, 2017; AND

23 (c) THE JANUARY 2019 REPORT MUST INCLUDE DATA FROM
24 JANUARY 1, 2018, THROUGH DECEMBER 31, 2018. THE JANUARY 2019
25 REPORT MUST PROVIDE SEGREGATED DATA GATHERED FOR ALL THREE
26 TIME PERIODS TO ALLOW FOR A COMPARISON OF THE EFFECT BEFORE THE
27 CHANGE IN THE DEFINITION, AFTER THE CHANGE IN THE DEFINITION BUT

1 BEFORE THE RULES WERE IMPLEMENTED, AND AFTER THE PROMULGATION
2 OF RULES REGARDING THE IMPLEMENTATION OF THE MODIFIED DEFINITION.

3 **SECTION 4. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.