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HOUSE BILL 08-1019

BY REPRESENTATIVE(S) Casso, Borodkin, Curry, Fischer, Frangas, Gagliardi, Gallegos, Jahn, Labuda, Looper, Madden, Massey, McFadyen, Merrifield, Peniston, Primavera, Rose, Solano, Stafford, Stephens, Summers, Todd, Carroll T., Ferrandino, Green, and Middleton;
also SENATOR(S) Sandoval, Boyd, Gibbs, Groff, Isgar, Keller, Kester, Mitchell S., Morse, Schwartz, Shaffer, Spence, Taylor, Tochtrop, Tupa, Veiga, Ward, Williams, and Windels.

CONCERNING THE PROVISION OF EDUCATIONAL SERVICES FOR CHILDREN IN
OUT-OF-HOME PLACEMENTS.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that:

(a) Children who are in out-of-home placements, including but not limited to foster care placements, deserve access to the same opportunities that are enjoyed by other students to:

(I) Meet the academic achievement standards to which all students are held;

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

(II) Maintain stable school enrollments;

(III) Be placed in the least restrictive educational environments; and

(IV) Have access to the same academic resources, services, and extracurricular and enrichment activities;

(b) In determining school and other educational placements for a child in an out-of-home placement, the placing authority's decision should be driven by consideration of the best interests of the child, including the child's best interests with regard to education;

(c) Too often, children in out-of-home placements are transferred from one educational situation to another with little consideration of the effect on the child's ability to advance academically or to achieve the educational standards that are required by the state, with the result that an unacceptably high percentage of children in out-of-home placements perform poorly on statewide assessments, drop out of school prior to graduation, and do not seek education beyond the secondary level; and

(d) State and local child welfare agencies and school districts must be required to increase their level of communication and coordination with regard to transfers of children in out-of-home placements between and among educational placements, including but not limited to the transfer of records, the transfer of educational credits, and the expedited enrollment of these children, in order to improve the level of service provided to these children and to increase their ability to achieve success as fully contributing and participating adult members of society.

(2) The general assembly therefore finds that it is in the best interests of the state to support the rights of children in out-of-home placement to educational opportunities and stability by enacting this act.

SECTION 2. Article 32 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-32-138. Out-of-home placement students - transfer procedures - absences - exemptions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CHILD PLACEMENT AGENCY" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 19-1-103 (21), C.R.S.

(b) "COUNTY DEPARTMENT" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 19-1-103 (32), C.R.S.

(c) "SCHOOL" MEANS A PUBLIC SCHOOL OF A SCHOOL DISTRICT, A SCHOOL OR EDUCATIONAL PROGRAM OPERATED BY A BOARD OF COOPERATIVE SERVICES PURSUANT TO ARTICLE 5 OF THIS TITLE, AN INSTITUTE CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE, A STATE-LICENSED DAY TREATMENT FACILITY, OR A FACILITY SCHOOL AS DEFINED IN SECTION 22-86-102 (3).

(d) "STATE DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES CREATED AND EXISTING PURSUANT TO SECTION 24-1-120, C.R.S.

(e) "STUDENT IN OUT-OF-HOME PLACEMENT" MEANS A CHILD OR YOUTH WHO IS IN FOSTER CARE AND RECEIVING EDUCATIONAL SERVICES THROUGH A STATE-LICENSED DAY TREATMENT FACILITY OR A CHILD OR YOUTH WHO IS IN PLACEMENT OUT OF THE HOME, AS THAT TERM IS DEFINED IN SECTION 19-1-103 (85), C.R.S., INCLUDING, BUT NOT LIMITED TO, ANY CHILD OR YOUTH WHO IS IN PLACEMENT OUTSIDE THE HOME AS A RESULT OF AN ADJUDICATION PURSUANT TO ARTICLE 2 OF TITLE 19, C.R.S. "STUDENT IN OUT-OF-HOME PLACEMENT" SHALL ALSO INCLUDE A CHILD OR YOUTH WHO TRANSFERS ENROLLMENT AS A RESULT OF BEING RETURNED TO HIS OR HER HOME AT THE CONCLUSION OF OUT-OF-HOME PLACEMENT.

(2) (a) EACH SCHOOL DISTRICT AND THE STATE CHARTER SCHOOL INSTITUTE, CREATED PURSUANT TO SECTION 22-30.5-503, SHALL DESIGNATE AN EMPLOYEE OF THE SCHOOL DISTRICT OR THE INSTITUTE TO ACT AS THE CHILD WELFARE EDUCATION LIAISON FOR THE DISTRICT OR FOR STATE CHARTER SCHOOLS. IN LIEU OF DESIGNATING AN EMPLOYEE, A SCHOOL DISTRICT OR THE STATE CHARTER SCHOOL INSTITUTE MAY CONTRACT WITH AN INDIVIDUAL TO ACT AS THE CHILD WELFARE EDUCATION LIAISON. THE CHILD WELFARE EDUCATION LIAISON SHALL BE RESPONSIBLE FOR WORKING WITH CHILD PLACEMENT AGENCIES, COUNTY DEPARTMENTS, AND THE STATE DEPARTMENT TO FACILITATE THE PROMPT AND APPROPRIATE PLACEMENT, TRANSFER, AND ENROLLMENT IN SCHOOL OF STUDENTS IN OUT-OF-HOME PLACEMENT WITHIN THE SCHOOL DISTRICT OR WHO ARE ENROLLED OR ENROLLING IN INSTITUTE CHARTER SCHOOLS. THE SPECIFIC DUTIES OF THE

CHILD WELFARE EDUCATION LIAISON SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) WORKING WITH SOCIAL WORKERS FROM COUNTY DEPARTMENTS, JUVENILE PROBATION OFFICERS, AND FOSTER CARE PARENTS TO ENSURE THE PROMPT SCHOOL ENROLLMENT OF STUDENTS IN OUT-OF-HOME PLACEMENT AND THE PROMPT TRANSFER OF THEIR EDUCATION INFORMATION AND RECORDS WHEN STUDENTS ARE REQUIRED TO CHANGE SCHOOL ENROLLMENT DUE TO CHANGES IN PLACEMENT;

(II) ENSURING THAT THE EDUCATION INFORMATION AND RECORDS OF A STUDENT IN OUT-OF-HOME PLACEMENT ARE DELIVERED TO THE STUDENT'S NEW SCHOOL WITHIN FIVE SCHOOL DAYS AFTER RECEIVING A REQUEST FOR THE TRANSFER OF THE STUDENT'S EDUCATION INFORMATION AND RECORDS FROM A COUNTY DEPARTMENT AS REQUIRED IN SUBSECTION (3) OF THIS SECTION.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2), A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE MAY DESIGNATE AN EMPLOYEE OF THE BOARD TO ACT AS THE CHILD WELFARE EDUCATION LIAISON FOR THE SCHOOL DISTRICTS THAT ARE MEMBERS OF THE BOARD OF COOPERATIVE SERVICES. A CHILD WELFARE EDUCATION LIAISON EMPLOYED BY A BOARD OF COOPERATIVE SERVICES SHALL HAVE THE DUTIES SPECIFIED IN THIS SUBSECTION (2) AND SHALL PERFORM THEM ON BEHALF OF THE SCHOOL DISTRICTS THAT ARE MEMBERS OF THE BOARD OF COOPERATIVE SERVICES.

(3) (a) IF A STUDENT IN OUT-OF-HOME PLACEMENT IS ENROLLED IN ONE SCHOOL AND TRANSFERS ENROLLMENT TO ANOTHER SCHOOL EITHER IN THE SAME SCHOOL DISTRICT OR IN ANOTHER SCHOOL DISTRICT OR TO ANOTHER TYPE OF SCHOOL, THE SENDING SCHOOL DISTRICT OR SCHOOL SHALL TRANSFER THE STUDENT'S EDUCATION INFORMATION AND RECORDS TO THE RECEIVING SCHOOL WITHIN FIVE SCHOOL DAYS AFTER RECEIVING A TRANSFER REQUEST FROM THE COUNTY DEPARTMENT THAT HAS LEGAL CUSTODY OF THE STUDENT.

(b) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, WITHOUT HAVING TO OBTAIN A COURT ORDER, THE COUNTY DEPARTMENT THAT HAS LEGAL CUSTODY OF A STUDENT IN OUT-OF-HOME PLACEMENT MAY REQUEST THAT THE SCHOOL DISTRICT OR SCHOOL IN WHICH THE STUDENT

WAS ENROLLED RELEASE THE STUDENT'S EDUCATION INFORMATION AND RECORDS TO AN EMPLOYEE OF THE COUNTY DEPARTMENT FOR THE SOLE PURPOSE OF TRANSFERRING THE EDUCATION INFORMATION AND RECORDS TO THE STUDENT'S NEW SCHOOL. THE SCHOOL DISTRICT OR SCHOOL MAY COMPLY WITH THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (3) BY COMPLYING WITH THE COUNTY DEPARTMENT'S REQUEST WITHIN FIVE SCHOOL DAYS AFTER RECEIVING THE REQUEST.

(c) A SCHOOL DISTRICT OR SCHOOL SHALL NOT DELAY THE TRANSFER OF THE EDUCATION INFORMATION AND RECORDS OF A STUDENT IN OUT-OF-HOME PLACEMENT FOR ANY REASON, INCLUDING BUT NOT LIMITED TO THE EXISTENCE OF ANY UNPAID FINES OR FEES THAT THE STUDENT MAY HAVE OUTSTANDING AT THE SCHOOL FROM WHICH THE STUDENT IS TRANSFERRING.

(d) IF A SCHOOL DISTRICT OR SCHOOL RECEIVES A TRANSFER REQUEST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) OR A REQUEST FOR RELEASE OF RECORDS PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3) AND THE REQUEST INVOLVES A STUDENT WHO IS RECEIVING SPECIAL EDUCATION SERVICES PURSUANT TO AN INDIVIDUALIZED EDUCATION PROGRAM, THE SCHOOL DISTRICT OR SCHOOL SHALL NOTIFY THE SPECIAL EDUCATION DIRECTOR FOR THE SCHOOL DISTRICT OR SCHOOL OF THE REQUEST AS SOON AS POSSIBLE FOLLOWING RECEIPT OF THE REQUEST.

(4) (a) NOTWITHSTANDING ANY PROVISION OF LAW, OTHER THAN PARAGRAPH (b) OF THIS SUBSECTION (4), TO THE CONTRARY, IF A STUDENT WHO IS IN OUT-OF-HOME PLACEMENT IS EITHER NEWLY PLACED WITHIN A SCHOOL DISTRICT OR SCHOOL OR REQUIRED TO CHANGE SCHOOLS DUE TO A CHANGE IN PLACEMENT, THE SCHOOL DISTRICT OR SCHOOL SHALL ENROLL THE STUDENT IN SCHOOL WITHIN FIVE SCHOOL DAYS AFTER RECEIVING THE STUDENT'S EDUCATION INFORMATION AND RECORDS, REGARDLESS OF WHETHER:

(I) THE SCHOOL DISTRICT OR SCHOOL HAS RECEIVED THE STUDENT'S CERTIFICATE OF IMMUNIZATION;

(II) THE STUDENT CAN COMPLY WITH ANY REQUIREMENTS PERTAINING TO THE USE OF SCHOOL UNIFORMS OR OTHER CLOTHING RESTRICTIONS; OR

(III) THE STUDENT CAN COMPLY WITH ANY OTHER PREENROLLMENT RESTRICTIONS OR REQUIREMENTS IMPOSED BY THE SCHOOL DISTRICT OR SCHOOL.

(b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL NOT BE CONSTRUED TO PROHIBIT A SCHOOL DISTRICT OR SCHOOL FROM DENYING ENROLLMENT TO A STUDENT IN OUT-OF-HOME PLACEMENT BASED ON THE CIRCUMSTANCES SPECIFIED IN SECTION 22-33-106 (2) AND (3); EXCEPT THAT THE SCHOOL DISTRICT OR SCHOOL:

(I) MAY DENY ENROLLMENT BASED ON THE STUDENT HAVING BEEN EXPELLED FROM A SCHOOL DISTRICT IN THE PRECEDING TWELVE MONTHS AS PROVIDED IN SECTION 22-33-106 (3) (c) ONLY IF THE STUDENT WAS EXPELLED FOR HAVING DRUGS OR WEAPONS AT SCHOOL OR FOR BEING A DANGER TO SELF OR OTHERS; AND

(II) MAY NOT DENY ENROLLMENT BASED ON FAILURE TO COMPLY WITH THE PROVISIONS OF PART 9 OF ARTICLE 4 OF TITLE 25, C.R.S., AS PROVIDED IN SECTION 22-33-106 (3) (e).

(c) IF A SCHOOL DISTRICT OR SCHOOL ENROLLS A STUDENT IN OUT-OF-HOME PLACEMENT WITHOUT RECEIVING THE STUDENT'S CERTIFICATE OF IMMUNIZATION, THE SCHOOL DISTRICT OR SCHOOL SHALL NOTIFY THE STUDENT'S LEGAL GUARDIAN THAT, UNLESS THE SCHOOL DISTRICT OR SCHOOL RECEIVES THE STUDENT'S CERTIFICATE OF IMMUNIZATION OR A WRITTEN AUTHORIZATION FOR ADMINISTRATION OF IMMUNIZATIONS WITHIN FOURTEEN DAYS AFTER THE STUDENT ENROLLS, THE SCHOOL DISTRICT OR SCHOOL SHALL SUSPEND THE STUDENT UNTIL SUCH TIME AS THE SCHOOL DISTRICT OR SCHOOL RECEIVES THE CERTIFICATE OF IMMUNIZATION OR THE AUTHORIZATION.

(5) WHEN A STUDENT IN OUT-OF-HOME PLACEMENT TRANSFERS FROM ONE SCHOOL TO ANOTHER SCHOOL, THE SENDING SCHOOL SHALL CERTIFY TO THE RECEIVING SCHOOL OR SCHOOL DISTRICT THE COURSE WORK THAT THE STUDENT HAS FULLY OR PARTIALLY COMPLETED WHILE ENROLLED AT THE SCHOOL. THE RECEIVING SCHOOL OR SCHOOL DISTRICT SHALL ACCEPT THE STUDENT'S CERTIFIED COURSE WORK AND THE COURSE WORK CERTIFIED BY PREVIOUS SCHOOLS IN WHICH THE STUDENT WAS ENROLLED, AS REFLECTED IN THE STUDENT'S RECORDS, AS IF IT HAD BEEN COMPLETED AT THE RECEIVING SCHOOL. THE RECEIVING SCHOOL OR SCHOOL DISTRICT

SHALL APPLY ALL OF THE STUDENT'S CERTIFIED COURSE WORK TOWARD COMPLETION OF THE STUDENT'S REQUIREMENTS FOR GRADUATING FROM THE GRADE LEVEL IN WHICH THE STUDENT IS ENROLLED AT THE RECEIVING SCHOOL OR SCHOOL DISTRICT OR FOR GRADUATION FROM THE RECEIVING SCHOOL OR SCHOOL DISTRICT IF THE STUDENT IS ENROLLED IN TWELFTH GRADE. THE RECEIVING SCHOOL OR SCHOOL DISTRICT MAY AWARD ELECTIVE CREDIT FOR ANY PORTION OF THE STUDENT'S CERTIFIED COURSE WORK THAT IS NOT ALIGNED WITH THE CURRICULUM OF THE RECEIVING SCHOOL OR SCHOOL DISTRICT.

(6) A STUDENT IN OUT-OF-HOME PLACEMENT SHALL RECEIVE AN EXCUSED ABSENCE FROM THE SCHOOL DISTRICT OR SCHOOL IN WHICH THE STUDENT IS ENROLLED FOR ANY TIME THE STUDENT IS OUT OF SCHOOL DUE TO A REQUIRED COURT APPEARANCE OR PARTICIPATION IN COURT-ORDERED ACTIVITIES, INCLUDING BUT NOT LIMITED TO FAMILY VISITATION OR THERAPY. THE SOCIAL WORKER WHO IS ASSIGNED TO THE STUDENT SHALL VERIFY TO THE SCHOOL DISTRICT OR SCHOOL EACH INSTANCE IN WHICH THE STUDENT IS OUT OF SCHOOL FOR A COURT APPEARANCE OR FOR PARTICIPATION IN A COURT-ORDERED ACTIVITY.

(7) A SCHOOL DISTRICT OR SCHOOL IN WHICH A STUDENT IN OUT-OF-HOME PLACEMENT IS ENROLLED SHALL WAIVE ALL FEES THAT WOULD OTHERWISE BE ASSESSED AGAINST THE STUDENT, INCLUDING BUT NOT LIMITED TO ANY GENERAL FEES, FEES FOR BOOKS, FEES FOR LAB WORK, FEES FOR PARTICIPATION IN IN-SCHOOL OR EXTRACURRICULAR ACTIVITIES, AND FEES FOR BEFORE-SCHOOL OR AFTER-SCHOOL PROGRAMS. THE SCHOOL DISTRICT OR SCHOOL SHALL NOT LIMIT THE OPPORTUNITY OF A STUDENT IN OUT-OF-HOME PLACEMENT TO PARTICIPATE IN IN-SCHOOL AND EXTRACURRICULAR ACTIVITIES AND BEFORE-SCHOOL AND AFTER-SCHOOL PROGRAMS DUE TO WAIVER OF THE PARTICIPATION FEES.

SECTION 3. 19-3-213 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19-3-213. Placement criteria. (1) In any case in which the county department recommends placement out of the home for a child or in which a child is in out-of-home placement, the court, the guardian ad litem, the county department, any CASA volunteer, and other parties shall consider the best interests of the child and shall comply with the following placement criteria:

(d) PRIOR TO THE CHANGE OF PLACEMENT OF A CHILD, ALL PARTIES SHALL ATTEMPT TO PROMOTE EDUCATIONAL STABILITY FOR THE CHILD BY TAKING INTO ACCOUNT THE CHILD'S EXISTING EDUCATIONAL SITUATION AND, TO THE EXTENT POSSIBLE AND IN ACCORDANCE WITH THE CHILD'S BEST INTERESTS, SELECTING A CHANGE OF PLACEMENT THAT ENABLES THE CHILD TO REMAIN IN THE EXISTING EDUCATIONAL SITUATION OR TO TRANSFER TO A NEW EDUCATIONAL SITUATION THAT IS COMPARABLE TO THE EXISTING SITUATION.

SECTION 4. 25-4-902, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-4-902. Immunization prior to attending school.

(3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, A SCHOOL SHALL ENROLL A STUDENT WHO IS IN OUT-OF-HOME PLACEMENT WITHIN FIVE SCHOOL DAYS AFTER RECEIVING THE STUDENT'S EDUCATION INFORMATION AND RECORDS AS REQUIRED IN SECTION 22-32-138, C.R.S., REGARDLESS OF WHETHER THE SCHOOL HAS RECEIVED THE ITEMS SPECIFIED IN SUBSECTION (1) OF THIS SECTION. UPON ENROLLING THE STUDENT, THE SCHOOL SHALL NOTIFY THE STUDENT'S LEGAL GUARDIAN THAT, UNLESS THE SCHOOL RECEIVES THE STUDENT'S CERTIFICATE OF IMMUNIZATION OR A WRITTEN AUTHORIZATION FOR ADMINISTRATION OF IMMUNIZATIONS WITHIN FOURTEEN DAYS AFTER THE STUDENT ENROLLS, THE SCHOOL SHALL SUSPEND THE STUDENT UNTIL SUCH TIME AS THE SCHOOL RECEIVES THE CERTIFICATE OF IMMUNIZATION OR THE AUTHORIZATION.

SECTION 5. 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.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Peter C. Groff
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO