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HB24-1017 Rights for Youth in Foster Care

effective August 7, 2024

- Youth led initiative with incredible testimony by members of LEAP and other youth with lived experience.
- Contains 9 categories of rights with various subsections to flesh it out.
- Requires DHS to provide written notice of these rights for youth who are 5 and older when placing a youth in foster care, when moving a youth to a new foster placement, and at least once per year. Additionally, licensed homes must post these rights.
- A court may issue any orders to any party to ensure the child or youth is provided the rights enumerated in the bill (sua sponte or upon motion).
- A court shall not limit or deny any of these rights unless it finds by clear and convincing evidence that there are extraordinary circumstances and the limitation or denial is necessary for the safety of the child or youth.

3

DYS Bill of Rights HB24-1170

- Codifies protections that are currently only in policy.
- Areas of protection are broad – general topics include:
 - Freedom from harassment/Abuse/Discrimination;
 - Right to be treated with dignity;
 - To receive accommodations for disability;
 - Access to education, health care (including behavioral health), legal representatives, and the Child Protection Ombudsman;
 - Connection to family and the outside world;
 - Fresh air and exercise;
 - Gender identity and gender affirming care;
 - Rights related to disciplinary proceedings;



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Child Welfare Interim Study Committee

SB24-008

Kinship Foster Care Homes effective September 1, 2024

- Prior to transferring custody to kin, the court must make findings that kin have been advised.
- Adds to emergency assistance that can be provided to kin to allow goods needed for the child's basic care and limited rental or housing assistance (up to 60 days).
- Defines kinship foster care home and non-certified kinship care in 26-9-903.
- Allows provisional certification for up to 6 months if kin is temporarily unable to conform to all the standards and has completed their background checks (with possibility to extend).
- Kinship foster care homes get the same rate as foster care homes and non-certified kinship caregivers get 30% of the rate (moving to 50% by FY27).
- Requires data collection between CDHS and judicial department regarding numbers of youth in kin care, outcomes, etc.
- Exempts kinship foster care homes from some licensing standards and requires rulemaking to additionally remove non-safety standards.

5

Child Welfare Interim Study Committee

HB24-1038

High Acuity Crisis for Children & Youth effective June 6, 2024

- Provides over \$6 million in funds to DHS and requires development of a system of care.
- Expands treatment foster care and supportive services for children.
- Creates a training academy to facilitate high quality residential staff.
- Requires development and monitoring of quality standards for residential child care providers.
- By July 1, 2026 there will be a publicly available directory of each RCCF's quality assurance.
- Contains a data collection component regarding reasons for denying services.
- Expands the CDHS treatment beds
- Starts a pilot to assess the needs of, and provide short-term residential services for justice involved youth who do not meet the criteria for detention.



6

Child Welfare Interim Study Committee

HB24-1031

Accessibility for Persons in Child Welfare Matters

effective August 7, 2024

- Requires DHS to take reasonable steps to ensure meaningful and timely language access to a person with limited English proficiency.
- Also requires courts to provide language access to a child, parent, or other party if the person requests language access or the court finds that the person has limited English proficiency.
- This includes translation and interpretation services in circumstances when a similarly situated person would receive the communication in English.
- Court must consider services and programs that provide language access and effective communication consistent with the requirements of the ADA.



HB24-1046

Child Welfare System Tools

effective May 28th, 2024

- Requires evidence of known domestic violence in the child's home when reporting child abuse or neglect.
- Defines Coercion and Domestic Violence in 26-5-111 (a.5) and (a.6).
- CDHS shall review the current screening process for a variety of factors and then develop and implement a consistent screening process for hotline calls that must include questions about domestic violence and that notifies callers that calls are recorded.
- Requires CPO to contract with a third-party evaluator to audit the Colorado family safety and risk assessments.

7

Waiver of Right to a Jury Trial

People in Interest of JRM

540 P.3d 945 (Colo. App. 2023)

- Court did not have authority under C.R.C.P. 39 to convert a jury trial into a court trial based on respondent's failure to appear at pretrial conference.
- Respondent's subsequent failure to appear at court trial also does not constitute waiver of right to jury trial.
- While COA sympathized with trial court's attempt to conserve court resources, COA reasoned that, if change to procedure is warranted, change needs to occur legislatively.



8

Name Change Bills

both effective as of April

HB24-1071 – Name Change to Conform with Gender Identity

- A person convicted or adjudicated may only seek to change their name for good cause. This bill states that changing a name to conform with the person's gender identity is good cause.
- Found in C.R.S. 13-15-101 and 102.

HB24-1039 – Non-legal Name Change

- Requires public school employees, educators, and contractors to address students by their chosen name. Knowingly using another name, or intentional avoidance or refusal is considered discriminatory.
- Found in C.R.S. 22-1-145.



9

Education

HB24-1063

Abbreviated School Days

effective June 5th, 2024

- Defines abbreviated school days as any day where a child with disabilities receives fewer hours of instruction or educational services than other students, *regardless of whether that reduction in hours is planned or unplanned.*
- Obliges CDE to create a policy regarding abbreviated school days.
- Requires significant data reporting regarding children on abbreviated school days.



10

HB24-1216

Supports for Justice Engaged Students

- Creates a bill of rights for justice-engaged students which includes but isn't limited to:
 - Alternative options to receive a general education
 - Re-enrollment within 10 business days after first request to school
 - Credit for coursework completed while in custody
 - Graduation plan
 - Privacy vis a vis their justice involvement
 - Allowing students to participate in school activities/career readiness
- District must create a website of services/resources for students.
- District must have a contact person for justice engaged students.
- Requires districts to work with a team of professionals to ensure a pathway to graduation, and other supports.



11

HB24-1342

Test Accommodations for Persons with Disabilities

effective August 7, 2024

- Establishes that Coloradoans with disabilities must be able to receive the testing accommodations they need to adequately demonstrate their aptitude without having to first undergo additional diagnostic testing or psychological assessment if the testing accommodation they are requesting is the same testing accommodations they received previously or is in line with a medical or psychological provider's professional recommendation or diagnosis.
- This applies to licensing exams and professional or trade certifications.
- Testing accommodations are varied and some are listed in 24-34-806 (2)(b).
- Requirements to qualify are listed in 24-34-806 (3)(a).



12

HB24-1350

Parental Responsibilities Proceedings Child Safety

effective August 7th, 2024

- Focus on CFIs and lays out required information that must be included in written reports in C.R.S. 14-10-116.5 (2)(b.3). Similar for PREs in C.R.S. 14-10-127 (7)(b.3).
- States that a CFI/PRE shall strive to ensure that written reports do not include information or recommendations that are biased.
- Additional training and disclosure requirements for both.
- Allows for a complaint process through SCAO.
- Adds a lengthy definition of coercive control in C.R.S. 14-10-116.5 (5), 14-10-124, and 14-10-127 (11), and 14-10-127.5 (2)(a.3).
- Adds language to 14-10-124 (4)(e) that requires the court to give "paramount consideration to the safety, and the physical, mental, and emotional conditions and needs of the child and abused party".
- Requires certain findings when there is domestic violence in C.R.S. 14-10-124 (9).
- Adds a required court finding if the court grants or denies a request to interview a child in chambers in C.R.S. 14-10-126.
- Allows a court to seek the advice of a professional in C.R.S. 14-10-126 (3).
- For cases with allegations of domestic violence, child abuse or neglect, or child sexual abuse have been made, the court shall give strong consideration to a child's stated preference made to the court, the CFI, PRE, or the child's legal advocate, if the stated preference is consistent with the paramount consideration given to the child's safety and the physical, mental, and emotional conditions and needs of the child. C.R.S. 14-10-127.5 (3.5).



13

Parentage

People in Interest of CDP

541 P.3d 43 (Colo. App. 2023)

- COA addressed whether juvenile court erred in dismissing child's psychological mother from case when no party clearly asserted a Uniform Parentage Act (UPA) claim of maternity.
- Because no party sought to have psychological mother established as child's natural parent under the UPA (and in fact statements of her counsel suggest opposite), COA determined that psychological mother could not make such a claim on appeal.
- COA then turned to order dismissing psychological mother from case and determined trial court did not err or violate her due process rights in dismissing her.
- Judge Johnson issued special concurrence notice that all parties bear responsibility for outcome in case by viewing maternity as a dichotomy between biology and legal adoption. Instead, parentage should be considered on spectrum of biology to adoption, and that this situation falls somewhere in middle.
- "[T]he Department had an independent duty under the Children's Code to ensure that it named and then sought to terminate the proper parties' parental rights."



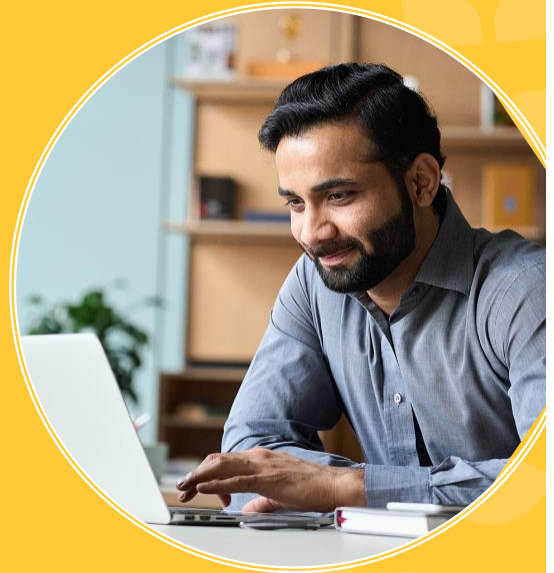
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HB24-1377

CASA Volunteers Working with Foster Youth

effective August 7th, 2024

- With the consent of the youth, a CASA volunteer may be appointed in a FYTP case to help support the youth consistent with the youth's expressed interests and the program's goals.
- CASA volunteers in FYTP are not making BIC recommendations to the court and do not have access to confidential information.
- C.R.S. 19-1-208



15



HB24-125

ICPC

- Not effective until 35 states codify this version and Colorado is the 17th.
- Written over 20 years ago.
- Intention is good, some of the language is problematic.

16

SB24-119

Term Abandonment for Federal Classification Juvenile

effective August 7, 2024

- RMAIN bill that states abandonment includes the death of one or both parents in 14-10-123 and 15-14-204 and under SIJS in 19-1-103 (128.5).



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SB24-063

Confidentiality of Group Peer Support Services

effective August 7th, 2024

- Adds emergency medical service provider, rescue unit peer support team member, District Attorney peer support team member, Public Defender peer support team member to the list of who must not be examined without the consent of the person to whom services were provided.
- Also states that recipients of group peer support services must not be examined as to any knowledge gained from other recipients of group peer support services without the consent of the person to whom the knowledge relates.
- C.R.S. 13-90-107



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Confidentiality & Privilege

Colorado Sun v. Brubaker

542 P.3d 639 (Colo. App. 2023)

- Case involved CORA request for CDHS' records showing total number of child abuse reports received over 3 yrs from certain residential facilities
- CDHS rejected request, claiming disclosure of aggregated information would necessarily reveal addresses of children involved, and was therefore prohibited by 19-1-307(1)(a).
- On appeal, COA determined that statute was ambiguous and looked to legislative history to determine correct interpretation,
- Held that legislature intended only to prevent release of information that could reveal a person's or family's identity, which aggregated information requested by Colorado Sun would not do.

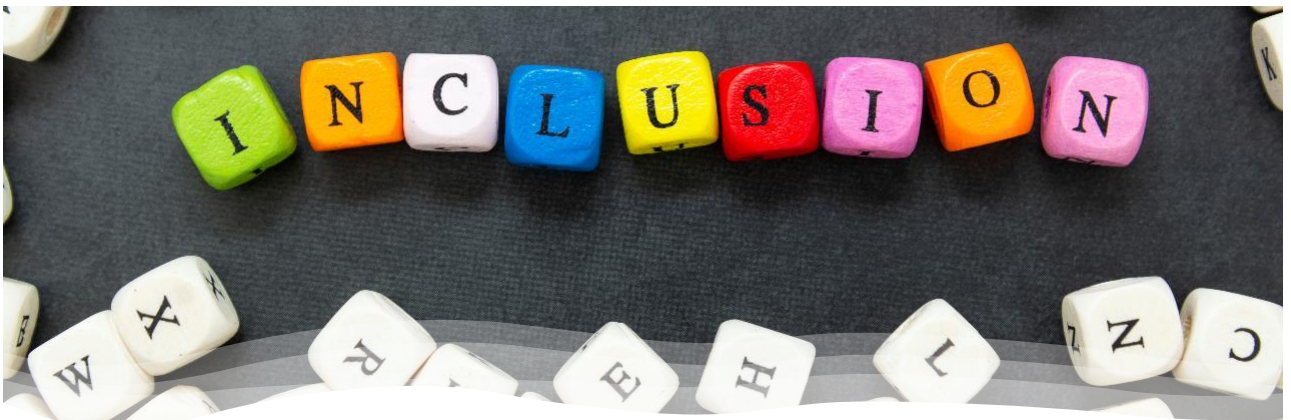
People in Interest of JP, JP, JP

538 P.3d 337 (Colo. 2023)

- Respondent served subpoena duces tecum on county, and county provided privilege log identifying eight emails withheld/redacted, referencing attorney-client privilege.
- Trial court granted request for in camera review of withheld information, and the county filed a Rule 21 petition with Colorado SC
- SC determined that the appropriate test for determining when an in camera review of documents should occur is civil case, *Alcon v. Spicer*, 113 P.3d 735, 742 (Colo. 2005), which requires privilege logs describe "with sufficient detail so that the opposing party and, if necessary, the trial court can assess the claim of privilege as to each withheld communication."
- SC determined that privilege log in this case did not contain sufficient level of specificity and in camera review as appropriate.



19



SB24-200 Equity, Diversity, & Inclusion in Child Welfare

- Adds training requirements for the academy.
- Requires updating the EDI report annually.
- Includes data collection and analysis.

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ICWA Notice

HJB v. People in Interest A-JAB 535 P.3d 67 (Colo. 2023)

- Long procedural history. Case went up to COA twice and Colorado SC once on ICWA notice issues.
- Addressed the split in authority between different COA divisions on the due diligence requirements under Colorado's ICWA statute, 19-1-126(3).
- SC held that due diligence must be flexible enough to allow court to examine department's investigation based on specific circumstances and must necessarily vary with circumstances. "Whether the department has satisfied its due diligence obligation in any case will ultimately be left to the sound discretion of the juvenile court, which necessarily requires the court to make credibility determinations regarding the source of the information and the basis for the source's knowledge."
- Applying flexible standard, SC determined that court could have based decision on credibility, and therefore, department was not required to contact certain relative or tribes, even if that might be best practice.
- "[W]e cannot conclude on this record that the division erred in concluding that the Department satisfied its due diligence obligation under section 19-1-126(3). And even if the Department erred, any error is harmless because we now know, definitively, that the child is not an Indian child."



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SB24-202

Assignment of Child Support Foster Youth

effective May 22, 2024

- Removes the requirement to refer parents to the child support enforcement unit when a child is put into county custody.
- Now the county may determine if a referral is appropriate based on rules that are going to be promulgated.



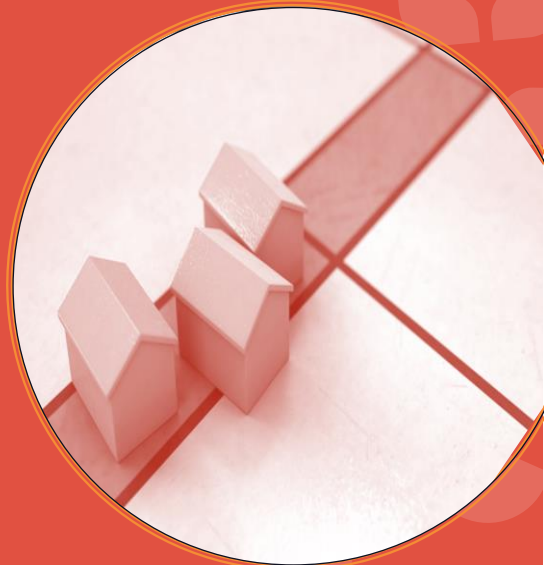
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SB24-191

Host Homes for Youth

effective August 7, 2024

- NOT host homes for youth with IDD/DD
- Is overseen by CDHS but these are NOT foster homes.
- Allows youth to reside in a host home for up to 21 days if under 18 (can be longer if 18-23 and consents).
- Youth under 11 require written consent from a parent or legal guardian and if the youth has resided in the home for 21 days then the child must be referred to DHS.
- Youth under 15 require notification to the county DHS within 72 hours.
- C.R.S. 26-5.7-110



23

SB24-006

Diversion

Requires diversion programs/prosecutors to *consider* the use of a juvenile diversion program to prevent youth who are demonstrating behaviors or symptoms consistent with intellectual disabilities, developmental disabilities, mental health issues, behavioral health issues, or lack of mental capacity from further delinquency involvement.



24

HB24-1431

Stable Housing for Survivors of Abuse Program

effective June 6, 2024

- Creates a new department in CDHS to provide stable housing support to survivors of domestic or sexual violence who are eligible for assistance provided pursuant to the Colorado Works Program.
- Provides short term assistance payment.



25

Victims

HB24-1072

Protection of Victims of Sexual Offenses

effective April 24, 2024

- Adds to the lists of evidence that is not allowed or is presumed irrelevant. Includes things like sexual activity, reputation related to sexual conduct and manner of dress. Also has new guidance around prior instances of false reporting.
- C.R.S. 18-3-407

HB24-1122

Protection Orders for Victims of Crimes

effective January 1, 2025

- Updated definitions of Domestic Violence in C.R.S. 13-14-101.
- Changes imminent danger standard in 13-14-103 (2)(a) to "the risk of threat of physical harm or the threat of psychological or emotional harm exists in close proximity to one or more persons or that the risk or threat of physical harm or the threat of psychological or emotional harm exists to the life or health of the minor child in the foreseeable future."
- Makes similar changes in C.R.S.13-14-104.5 (TPO) and allows the Judge or Magistrate to continue the temporary protection order for up to a year after the permanent protection order hearing date.
- Makes changes to municipal courts civil protection orders in 13-14-105 and allows parenting time decisions.
- Also changes permanent protection orders in 13-14-106.
- Limits awards of attorney's fees against petitioners.
- Adds requirements about wireless telephone services in C.R.S. 13-14-111.



26

Criminal-World: *Batson* Challenges

People v. Owens

544 P.3d 1202 (Colo. 2024)

- Court did not violate defendant's right to trial by impartial jury by preventing him from:
 - inquiring into prospective jurors' attitudes on race
 - informing prospective jurors of race of one victim
- Prosecution's use of peremptory strike to excuse Black juror who expressed views of death penalty and distrust of police was not purposeful discrimination under *Batson*

People v. Johnson

549 P.3d 985 (Colo. 2024)

- Companion case to *People v. Austin* above
- Applying *Batson* test, Black prospective juror's perceived distrust of law enforcement was valid, race-neutral explanation for prosecution's use of peremptory challenge

People v. Austin

549 P.3d 977 (Colo. 2024)

- Prosecutor's stated reason for use of peremptory strike, ie juror's activism against racist policing, was not plain error
- Record was insufficient for appellate review of court's determination that defendant did not show that use of peremptory challenge was purposeful discrimination
- As in *People v. Johnson* (below), Justice Marquez writes special concurrence suggesting support of elimination of peremptory challenges



27

Other Notable Cases

People v Zoller

544 P.3d 1251 (Colo. App. 2023)

- Court must make findings that child's safety and protection cannot be accomplished through less restrictive means when maintaining no-contact provisions of mandatory protection order between parent and child

Marriage of Gonzales Morales

546 P.3d 639 (Colo. App 2024)

- Under Hague Convention, party who only has right of access to child, not right of custody, does not have specific remedy for return of child to country of origin
- Court interpreted concept of "patria potestas" under Mexican law to determine if father had right of custody under parties' divorce decree issued in Mexico



28

HB24-1471**Electroconvulsive Treatment for Minors***effective June 3rd, 2024*

- Allowed for youth 16-18 if two licensed medical providers specializing in psychiatry approve the treatment and the parent/guardian consents.
- Allowed for youth 15 and younger if two licensed medical providers specializing in psychiatry approve the treatment and other less invasive treatments have failed, it is medically necessary to treat life threatening malignant catatonia, and parent/guardian consent.



29

HB24-1445

Probation and Parole Reporting

- Requires probation and parole meetings through phone calls or other audio-visual means.
- Also requires scheduling, in good faith, a mutually agreeable time that doesn't interfere with "essential functions" of supervisee's life.
- Prohibits charging for supervision fees on more than one case if client is on concurrent probation/parole.
- And non-payment of fees for probation/parole can't be the sole basis for revocation.

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HB24-1374

Judicial Contractor Loan Forgiveness Eligibility

effective May 15th, 2024

- Allows OCR to sign a certificate for any current or past independent contractor that certifies that the contractor appears to be eligible for Federal Public Service Loan Forgiveness.
- Also allows information sharing between agencies.