

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 18-0152.01 Jane Ritter x4342

SENATE BILL 18-095

SENATE SPONSORSHIP

Zenzinger and Martinez Humenik, Moreno, Tate

HOUSE SPONSORSHIP

Hooton and McKean, Arndt, Thurlow

Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE REMOVAL OF STATUTORY REFERENCES TO THE
102 MARITAL STATUS OF PARENTS OF A CHILD.

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/>.)

Statutory Revision Committee. The bill removes or modernizes outdated statutory references to a "legitimate" or "illegitimate" child and a "child born out of wedlock". Colorado only recognizes parentage of a child and acknowledges that the parent and child relationship extends equally to every child and every parent, regardless of the marital status of the parents.

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.

SENATE
Amended 2nd Reading
February 12, 2018

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that its intent in enacting Senate Bill 18-095, enacted in 2018, is
4 to effect a nonsubstantive change in statute to eliminate and modernize
5 the outdated use of the terms "illegitimate child" or "legitimate child" or
6 related terms. The general assembly further declares that these
7 terminology changes do not in any way alter the scope or applicability of
8 the statutory sections in which the terminology appears.

9 **SECTION 2.** In Colorado Revised Statutes, **amend** 8-41-505 as
10 follows:

11 **8-41-505. Minor children.** ~~Illegitimate minor children~~ A MINOR
12 CHILD of a deceased putative father ~~shall be~~ IS entitled to compensation
13 ~~in the same respect as a legitimate minor child of said decedent~~ when it
14 is proved to the satisfaction of the director that the father, during his
15 lifetime, has acknowledged ~~said children to be~~ THE CHILD AS his and has
16 regularly contributed to ~~their~~ HIS OR HER support and maintenance for a
17 reasonable period of time prior to his death.

18 **SECTION 3.** In Colorado Revised Statutes, 10-16-104, **amend**
19 (6)(b) as follows:

20 **10-16-104. Mandatory coverage provisions - definitions -**
21 **rules.** (6) **Dependent children.** (b) ~~No~~ AN entity described in ~~paragraph~~
22 ~~(a) of this subsection (6) shall~~ SUBSECTION (6)(a) OF THIS SECTION MUST
23 NOT refuse to provide coverage for a dependent child under the health
24 plan of the child's parent for the sole reason that: ~~the child:~~

25 (I) THE CHILD does not live in the home of the parent applying for
26 the policy; or

1 (II) THE CHILD does not live in the insurer's service area,
2 notwithstanding any other provision of law restricting enrollment to the
3 persons who reside in an insurer's service area; or

4 (III) ~~Was born out of wedlock~~ THE CHILD'S PARENTS WERE NOT
5 MARRIED AT THE TIME OF HIS OR HER BIRTH; or

6 (IV) THE CHILD is not claimed as a dependent on the CHILD'S
7 PARENT'S federal or state income tax return. ~~of the child's parent.~~

8 **SECTION 4.** In Colorado Revised Statutes, 13-25-126, **amend**
9 (1)(i) as follows:

10 **13-25-126. Genetic tests to determine parentage.** (1) (i) The
11 presumption of ~~legitimacy~~ PARENTAGE of a child born during ~~wedlock~~ A
12 MARRIAGE may be overcome, as provided in section 19-4-105 (2)(a),
13 ~~C.R.S.~~, if the court finds that the conclusion of the experts conducting the
14 tests, as disclosed by the evidence based upon the tests, shows that ~~the~~
15 ~~husband or wife~~ ONE OF THE SPOUSES is not the parent of the child.

16 **SECTION 5.** In Colorado Revised Statutes, 14-2-110, **repeal** (2)
17 as follows:

18 **14-2-110. Prohibited marriages.** (2) ~~Children born of a~~
19 ~~prohibited marriage are legitimate.~~

20 **SECTION 6.** In Colorado Revised Statutes, **amend** 14-2-111 as
21 follows:

22 **14-2-111. Putative spouse.** ~~Any~~ A person who has cohabited with
23 another to whom he OR SHE is not legally married in the good faith belief
24 that he OR SHE was married to that person is a putative spouse until
25 knowledge of the fact that he OR SHE is not legally married terminates his
26 OR HER status and prevents acquisition of further rights. ~~Children born of~~
27 ~~putative spouses are legitimate.~~ A putative spouse acquires the rights

1 conferred upon a legal spouse, including the right to maintenance
2 following termination of his OR HER status, whether or not the marriage
3 is prohibited under section 14-2-110, declared invalid, or otherwise
4 terminated by court action. If there is a legal spouse or other putative
5 spouses, rights acquired by a putative spouse do not supersede the rights
6 of the legal spouse or those acquired by other putative spouses, but the
7 court shall apportion property, maintenance, and support rights among the
8 claimants as appropriate in the circumstances and in the interests of
9 justice.

10 **SECTION 7.** In Colorado Revised Statutes, **amend** 14-6-108 as
11 follows:

12 **14-6-108. Citizenship - residence.** FOR ALL THE PURPOSES OF
13 THIS ARTICLE 6, citizenship or residence once acquired in this state by any
14 parent of ~~any legitimate or illegitimate~~ A child living in this state ~~shall be~~
15 ~~deemed for all the purposes of this article to continue~~ CONTINUES until
16 ~~such~~ THE child has arrived at the age of sixteen years, so long as ~~said~~ THE
17 child continues to live in this state. In case of prosecution under this
18 ~~article~~ ARTICLE 6 for the violation of any of the provisions of this ~~article~~
19 ARTICLE 6, such citizenship or residence ~~shall likewise be deemed to~~
20 ~~continue~~ CONTINUES so long as ~~such~~ THE spouse or parent resides in this
21 state and is entitled to the support or maintenance provided for in section
22 14-6-101.

23 **SECTION 8.** In Colorado Revised Statutes, 14-10-111, **repeal** (4)
24 as follows:

25 **14-10-111. Declaration of invalidity.** (4) ~~Children born of a~~
26 ~~marriage declared invalid are legitimate.~~

27 **SECTION 9.** In Colorado Revised Statutes, 14-10.5-102, **amend**

1 (1) as follows:

2 **14-10.5-102. Legislative declaration.** (1) The general assembly
3 ~~hereby~~ finds and declares that in most situations it is important to the
4 healthy development of children that the children spend quality time with
5 both parents. The general assembly further finds that due to dissolution
6 of marriage, legal separation, and ~~out-of-wedlock births~~ CHILDREN BORN
7 TO SINGLE PARENTS, families are often divided. ~~and~~ As a result, many
8 children do not have the opportunity to spend the time with both parents
9 that a court may have determined is in their best interests.

10 **SECTION 10.** In Colorado Revised Statutes, 14-14-112, **amend**
11 (2) introductory portion and (2)(c) as follows:

12 **14-14-112. Deductions for health insurance.** (2) THE OBLIGEE
13 OR THE OBLIGEE'S REPRESENTATIVE SHALL MAIL notice of the deduction
14 for health insurance ~~shall be mailed by first-class mail by the obligee or~~
15 ~~the obligee's representative~~ to the obligor's employer. The notice of the
16 deduction for health insurance ~~shall~~ MUST contain:

17 (c) A statement that the employer shall enroll an obligor's child in
18 the health insurance plan in which the obligor is enrolled if the child can
19 be covered under that plan or, if the obligor is not enrolled, in the least
20 costly plan otherwise available to the child, regardless of ~~whether the~~
21 ~~child was born out of wedlock~~, THE MARITAL STATUS OF THE CHILD'S
22 PARENTS WHEN HE OR SHE WAS BORN OR WHETHER THE CHILD IS claimed
23 as a dependent on the obligor's federal or state income tax return, lives
24 with the obligor, or lives within the insurer's service area, notwithstanding
25 any other provision of law restricting enrollment to persons who reside in
26 an insurer's service area;

27 **SECTION 11.** In Colorado Revised Statutes, 19-5-203, **amend**

1 (1)(f) as follows:

2 **19-5-203. Availability for adoption.** (1) A child may be
3 available for adoption only upon:

4 (f) Written and verified consent of the parent or parents as defined
5 in section 19-1-103 (82) in a stepparent adoption where the ~~child is~~
6 ~~conceived and born out of wedlock~~ CHILD'S PARENTS WERE NOT MARRIED
7 AT THE TIME THE CHILD WAS CONCEIVED AND BORN;

8 **SECTION 12.** In Colorado Revised Statutes, 19-5-211, **amend**
9 (1) as follows:

10 **19-5-211. Legal effects of final decree.** (1) After the entry of a
11 final decree of adoption, the person adopted ~~shall be,~~ **IS,** FOR all intents
12 and purposes, the child of the petitioner. He ~~shall be~~ **OR SHE IS** entitled to
13 all the rights and privileges and ~~be~~ **IS** subject to all the obligations of a
14 child born ~~in lawful wedlock~~ to the petitioner.

15 **SECTION 13.** In Colorado Revised Statutes, **amend** 25-2-107 as
16 follows:

17 **25-2-107. Reports of adoption, dissolution of marriage,**
18 **parentage, and other court proceedings affecting vital statistics - tax**
19 **on court action affecting vital statistics.** (1) The clerk of each court or,
20 for parentage proceedings, the clerk of the court or a delegate child
21 support enforcement unit, shall prepare a report containing ~~such~~
22 information and using ~~such form~~ **FORMS** as may be prescribed and
23 furnished by the state registrar with respect to every decree entered by the
24 court with respect to parentage, ~~legitimacy,~~ adoption, change of name,
25 dissolution of marriage, legal separation, or declaration of invalidity of
26 marriage, and every decree amending or nullifying such a decree and also
27 with respect to every decree entered pursuant to section 25-2-114. On or

1 before the tenth day of each month, or more frequently if so requested by
2 the state registrar, ~~such~~ THE clerk shall forward to the state registrar the
3 reports for all such decrees entered during the preceding period.

4 (2) In order to help defray the maintenance of vital statistics
5 records, ~~there shall be levied~~; AND in addition to the tax levied under
6 section 2-5-119, ~~C.R.S.~~, a tax of three dollars SHALL BE LEVIED upon each
7 action with respect to parentage, ~~legitimacy~~, adoption, change of name,
8 dissolution of marriage, legal separation, or declaration of invalidity of
9 marriage that is filed in the office of each clerk of a court of record in this
10 state on or after July 1, 1985. The tax ~~shall~~ MUST be paid at the time of ~~the~~
11 ~~filing of such action~~ THE ACTION IS FILED, and the clerk shall keep ~~such~~
12 THE tax in a separate fund and ~~shall~~ transmit ~~such~~ THE tax monthly to the
13 state treasurer, who shall credit the same to the vital statistics records cash
14 fund pursuant to section 25-2-121. A delegate child support enforcement
15 unit acting pursuant to article 13 of title 26 ~~C.R.S.~~, ~~shall be~~ IS exempt
16 from paying the tax authorized in this subsection (2).

17 **SECTION 14.** In Colorado Revised Statutes, 25-2-113, **amend**
18 (1)(a) and (3) as follows:

19 **25-2-113. New certificates of birth following adoption -**
20 **parentage determination.** (1) (a) THE STATE REGISTRAR SHALL PREPARE
21 a new certificate of birth ~~shall be prepared by the state registrar~~ as to any
22 person born in this state whenever he OR SHE receives, with respect to
23 such a person, any of the following: A report concerning adoption
24 ~~legitimacy~~, or parentage as required by section 25-2-107; or a report or
25 certified copy of a decree concerning the adoption ~~legitimacy~~, or
26 parentage of ~~such a~~ THE person from a court of competent jurisdiction
27 outside this state; or a certified copy of the marriage certificate of the

1 parents, together with a statement of the husband, executed after ~~such~~ THE
2 marriage, in which the husband acknowledges paternity. ~~but with respect~~
3 ~~to adoptions~~ no THE STATE REGISTRAR SHALL NOT PREPARE A new
4 certificate of birth ~~shall be prepared if the state registrar is requested not~~
5 ~~to do so by~~ FOR AN ADOPTION IF the court that has decreed the adoption,
6 ~~by an adoptive parent, or by the adopted person HAS REQUESTED THAT~~
7 THE STATE REGISTRAR NOT PREPARE SUCH NEW CERTIFICATE OF BIRTH.
8 Each new certificate ~~shall~~ MUST show all information shown on the
9 original certificate of birth, except information for which substitute
10 information is included as a result of the report or decree which prompts
11 the preparation of the new certificate.

12 (3) Thereafter, the original certificate and evidence concerning
13 adoption ~~legitimacy~~, or parentage ~~shall~~ MUST be sealed and ~~not be~~ IS NOT
14 subject to inspection, except as provided in section 25-2-113.5 or in part
15 3 of article 5 of title 19, ~~C.R.S.~~, by regulation, or upon order of a court of
16 competent jurisdiction after the court has satisfied itself that the interests
17 of the child or the child's descendants or the parents will best be served
18 by opening ~~said~~ THE seal. The information obtained from opening ~~said~~
19 THE seal may be withheld from public view or from being presented as
20 evidence at the discretion of the judge.

21 **SECTION 15.** In Colorado Revised Statutes, 25-2-115, **amend**
22 (1) as follows:

23 **25-2-115. Alteration of reports and certificates - amended**
24 **reports and certificates.** (1) ~~No~~ A vital statistics report or certificate
25 shall NOT ever be altered in any way except in accordance with this ~~article~~
26 ARTICLE 2 and applicable ~~regulations~~ RULES. The date of alteration and a
27 summary description of the evidence submitted in support of the

1 alteration ~~shall~~ MUST be endorsed on or made a part of each vital statistics
2 certificate that is altered. Every vital statistics report or certificate that is
3 altered in any way ~~shall~~ MUST be marked "Amended" except the birth
4 report or certificate of ~~any illegitimate~~ A child altered by the addition of
5 a father's name pursuant to section 25-2-112 (3), in which case, upon
6 request of the parents, the surname of the child shall be changed on the
7 report and certificate to that of the father, and also except additions and
8 minor corrections made within one year after the date of the statistical
9 event as may be specified by applicable ~~regulations~~ RULES. A child's
10 surname may be changed upon affidavit of the parent that the change is
11 being made to conform ~~such~~ THE child's surname to the parent's legal
12 surname.

13 **SECTION 16.** In Colorado Revised Statutes, 26-2-705, **amend**
14 (2)(c) as follows:

15 **26-2-705. Works program - purposes.** (2) The purposes of the
16 works program are to:

17 (c) Prevent and reduce the incidence of ~~out-of-wedlock~~
18 pregnancies OF WOMEN AND MEN WHO ARE NOT MARRIED and to establish
19 annual numerical goals for preventing and reducing the incidences of
20 these pregnancies;

21 **SECTION 17.** In Colorado Revised Statutes, 26-2-712, **amend**
22 (5) introductory portion and (5)(d) as follows:

23 **26-2-712. State department duties - authority.** (5) **Oversight.**
24 In connection with overseeing the works program, the SPECIFIC DUTIES OF
25 THE state department ~~shall have the specific duties~~ ARE to:

26 (d) Establish statewide goals and monitor the state's progress
27 toward meeting such goals for the reduction in the incidence of

1 ~~out-of-wedlock~~ pregnancies OF WOMEN AND MEN WHO ARE NOT MARRIED;

2 **SECTION 18. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2018 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.