

CHAPTER 96

**CHILDREN AND DOMESTIC MATTERS**

SENATE BILL 18-095

BY SENATOR(S) Zenzinger and Martinez Humenik, Moreno, Tate, Kerr, Priola, Smallwood;  
also REPRESENTATIVE(S) Hooton and McKean, Arndt, Thurlow, Becker K., Esgar, Exum, Garnett, Gray, Hamner, Hansen,  
Herod, Lontine, McLachlan, Melton, Michaelson Jenet, Roberts, Salazar, Valdez, Winter, Young.

**AN ACT**

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

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

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Senate Bill 18-095, enacted in 2018, is to effect a nonsubstantive change in statute to eliminate and modernize the outdated use of the terms "illegitimate child" or "legitimate child" or related terms.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

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

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

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

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

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*Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

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

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

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

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

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

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

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

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

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

**14-2-111. Putative spouse.** ~~Any~~ A person who has cohabited with another to whom he OR SHE is not legally married in the good faith belief that he OR SHE was married to that person is a putative spouse until knowledge of the fact that he OR SHE is not legally married terminates his OR HER status and prevents acquisition of further rights. ~~Children born of putative spouses are legitimate.~~ A putative spouse acquires the rights conferred upon a legal spouse, including the right to maintenance following termination of his OR HER status, whether or not the marriage is prohibited under section 14-2-110, declared invalid, or otherwise terminated by court action. If there is a legal spouse or other putative spouses, rights acquired by a putative spouse do not supersede the rights of the legal spouse or those acquired by other putative spouses, but the court shall apportion property, maintenance, and support rights among the claimants as appropriate in the circumstances and in the interests of justice.

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

**14-6-108. Citizenship - residence.** FOR ALL THE PURPOSES OF THIS ARTICLE 6, citizenship or residence once acquired in this state by any parent of ~~any legitimate or illegitimate~~ A child living in this state ~~shall be deemed for all the purposes of this article to continue~~ CONTINUES until ~~such~~ THE child has arrived at the age of sixteen years, so long as ~~said~~ THE child continues to live in this state. In case of prosecution under this ~~article~~ ARTICLE 6 for the violation of any of the provisions of this ~~article~~

ARTICLE 6, such citizenship or residence shall likewise ~~be deemed to continue~~ CONTINUES so long as ~~such~~ THE spouse or parent resides in this state and is entitled to the support or maintenance provided for in section 14-6-101.

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

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

**SECTION 9.** In Colorado Revised Statutes, 14-10.5-102, **amend** (1) as follows:

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

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

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

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

**SECTION 11.** In Colorado Revised Statutes, 19-5-203, **amend** (1)(f) as follows:

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

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

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

**19-5-211. Legal effects of final decree.** (1) After the entry of a final decree of

adoption, the person adopted ~~shall be, to~~ IS, FOR all intents and purposes, the child of the petitioner. He ~~shall be~~ OR SHE IS entitled to all the rights and privileges and ~~be~~ IS subject to all the obligations of a child born ~~in lawful wedlock~~ to the petitioner.

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

**25-2-107. Reports of adoption, dissolution of marriage, parentage, and other court proceedings affecting vital statistics - tax on court action affecting vital statistics.** (1) The clerk of each court or, for parentage proceedings, the clerk of the court or a delegate child support enforcement unit, shall prepare a report containing ~~such~~ information and using ~~such form~~ FORMS as may be prescribed and furnished by the state registrar with respect to every decree entered by the court with respect to parentage, ~~legitimacy~~, adoption, change of name, dissolution of marriage, legal separation, or declaration of invalidity of marriage, and every decree amending or nullifying such a decree and also with respect to every decree entered pursuant to section 25-2-114. On or before the tenth day of each month, or more frequently if so requested by the state registrar, ~~such~~ THE clerk shall forward to the state registrar the reports for all such decrees entered during the preceding period.

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

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

**25-2-113. New certificates of birth following adoption - parentage determination.** (1) (a) THE STATE REGISTRAR SHALL PREPARE a new certificate of birth ~~shall be prepared by the state registrar~~ as to any person born in this state whenever he OR SHE receives, with respect to such a person, any of the following: A report concerning adoption ~~legitimacy~~, or parentage as required by section 25-2-107; or a report or certified copy of a decree concerning the adoption ~~legitimacy~~; or parentage of ~~such a~~ THE person from a court of competent jurisdiction outside this state; or a certified copy of the marriage certificate of the parents, together with a statement of the husband, executed after ~~such~~ THE marriage, in which the husband acknowledges paternity. ~~but with respect to adoptions no~~ THE STATE REGISTRAR SHALL NOT PREPARE A new certificate of birth ~~shall be prepared if the state registrar is requested not to do so by~~ FOR AN ADOPTION IF the court that has decreed the adoption, ~~by~~ an adoptive parent, or ~~by~~ the adopted person HAS REQUESTED THAT THE STATE REGISTRAR NOT PREPARE SUCH NEW CERTIFICATE OF BIRTH. Each new certificate ~~shall~~ MUST show all information shown on the original certificate of birth, except information for which substitute information is included

as a result of the report or decree which prompts the preparation of the new certificate.

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

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

**25-2-115. Alteration of reports and certificates - amended reports and certificates.** (1) ~~No~~ A vital statistics report or certificate shall NOT ever be altered in any way except in accordance with this ~~article~~ ARTICLE 2 and applicable ~~regulations~~ RULES. The date of alteration and a summary description of the evidence submitted in support of the alteration ~~shall~~ MUST be endorsed on or made a part of each vital statistics certificate that is altered. Every vital statistics report or certificate that is altered in any way ~~shall~~ MUST be marked "Amended" except the birth report or certificate of ~~any illegitimate~~ A child altered by the addition of a father's name pursuant to section 25-2-112 (3), in which case, upon request of the parents, the surname of the child shall be changed on the report and certificate to that of the father, and also except additions and minor corrections made within one year after the date of the statistical event as may be specified by applicable ~~regulations~~ RULES. A child's surname may be changed upon affidavit of the parent that the change is being made to conform ~~such~~ THE child's surname to the parent's legal surname.

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

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

(c) Prevent and reduce the incidence of ~~out-of-wedlock~~ pregnancies OF UNMARRIED INDIVIDUALS and to establish annual numerical goals for preventing and reducing the incidences of these pregnancies;

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

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

(d) Establish statewide goals and monitor the state's progress toward meeting such goals for the reduction in the incidence of ~~out-of-wedlock~~ pregnancies OF WOMEN AND MEN WHO ARE NOT MARRIED;

**SECTION 18. Act subject to petition - effective date.** This act takes 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 8, 2018, if adjournment sine die is on May 9, 2018); 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 will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 2, 2018