

## CHAPTER 281

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**CHILDREN AND DOMESTIC MATTERS**

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**HOUSE BILL 00-1336**

BY REPRESENTATIVES Coleman, Ragsdale, Alexander, Gagliardi, George, Mace, Miller, Smith, Tapia, Tochtrop, S. Williams, Windels, and Zimmerman;  
also SENATORS Linkhart, Hernandez, Permuter, Rupert, Weddig, and Wham.

**AN ACT**

CONCERNING ACCESS TO ADOPTION RECORDS.

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

**SECTION 1.** 19-1-103 (28.5) and (63.5), Colorado Revised Statutes, are amended, and the said 19-1-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**19-1-103. Definitions.** As used in this title or in the specified portion of this title, unless the context otherwise requires:

(28.5) "Consent form", as used in section 19-5-305 (3), means a verified written statement signed by an adult adoptee or an adult adoptee's CONSENTING birth parent or an ~~adult~~ adoptive parent OF A MINOR ADOPTEE that has been notarized and that authorizes the release of adoption records or identifying information, to the extent available, by a licensed child placement agency.

(63.5) "Identifying information", as used in section 19-5-305 (3), means copies of any adoption records, as that term is defined in subsection (6.5) of this section, that are in the possession of the child placement agency. "Identifying information" also includes the name of the adoptee before placement in adoption, the name and address of each CONSENTING birth parent as they appear in the birth records, the current name, address, and telephone number of the adult adoptee, and the current name, address, and telephone number of each CONSENTING birth parent to the extent such information is available to the child placement agency.

(73.5) (a) "LEGAL REPRESENTATIVE", AS USED IN SECTIONS 19-5-304 AND 19-5-305, MEANS THE PERSON DESIGNATED BY A COURT TO ACT ON BEHALF OF ANY

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

PERSON DESCRIBED IN SECTION 19-5-304 (1) (b) (I) OR 19-5-305 (2).

(b) FOR PURPOSES OF THE TERM "LEGAL REPRESENTATIVE", AS USED IN SECTION 19-5-304 AND 19-5-305 AND AS DEFINED IN PARAGRAPH (a) OF THIS SUBSECTION (73.5), "LEGAL GUARDIAN" SHALL NOT INCLUDE A GOVERNMENTAL ENTITY OF ANY FOREIGN COUNTRY FROM WHICH A CHILD HAS BEEN ADOPTED OR ANY REPRESENTATIVE OF SUCH GOVERNMENTAL ENTITY.

(94.2) "REUNITED PARTIES", AS USED IN SECTION 19-5-305, MEANS ANY TWO PERSONS WHO QUALIFY AS AND MEET ANY SPECIFIED REQUIREMENTS FOR PARTIES UNDER THE LIST OF INDIVIDUALS IN SECTION 19-5-304 (1) (b) (I).

**SECTION 2.** 19-5-304 (1) and (2), Colorado Revised Statutes, are amended to read:

**19-5-304. Confidential intermediaries - confidential intermediary services.**

(1) (a) Any person who has completed a confidential intermediary training program that meets the standards set forth by the commission shall be responsible for notifying the commission that his or her name should be included on the list of confidential intermediaries to be maintained by the commission and made available to the judicial department. The commission shall adopt rules to determine when and under what conditions the name of a confidential intermediary shall be removed from the list available to the judicial department.

(b) Once a person is included on such list, he or she shall be:

(I) Authorized to inspect confidential relinquishment and adoption records and post-adoption records upon motion to the court by THE FOLLOWING PERSONS:

(A) An adult adoptee;

(B) AN adoptive parent, ~~or~~ CUSTODIAL grandparent, OR LEGAL GUARDIAN OF A MINOR ADOPTEE;

(C) A biological parent or ~~grandparent~~ AN adult biological sibling or half-sibling of an adult adoptee;

(D) AN adult descendant of the adoptee or the adoptive parent, ~~legal guardian of an adoptee~~, spouse of an adoptee, adult stepchild, OR ADOPTED ADULT SIBLING of an adoptee WITH THE NOTARIZED WRITTEN CONSENT OF THE ADULT ADOPTEE;

(E) A BIOLOGICAL GRANDPARENT OF AN ADOPTEE WITH THE NOTARIZED WRITTEN CONSENT OF THE BIOLOGICAL PARENT. NO WRITTEN CONSENT IS REQUIRED IF THE BIOLOGICAL PARENT IS DECEASED.

(F) ~~or~~ The legal representative of any ~~such individual~~ OF THE INDIVIDUALS LISTED IN SUB-SUBPARAGRAPHS (A) TO (E) OF THIS SUBPARAGRAPH (I).

(II) Available, subject to time constraints, for appointment by the court to act as a confidential intermediary for ~~an adult adoptee, adoptive parent or grandparent, biological parent or grandparent, adult biological sibling or half-sibling of an adult~~

~~adoptee, adult descendant of the adoptee or the adoptive parent, legal guardian of an adoptee, spouse of an adoptee, adult stepchild of an adoptee, or the legal representative of any such individual~~ ANY OF THE PARTIES LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b).

(2) ~~Any adult adoptee, adoptive parent or grandparent, biological parent or grandparent, adult biological sibling or half-sibling of an adult adoptee, adult descendant of the adoptee or the adoptive parent, legal guardian of an adoptee, spouse of an adoptee, or adult stepchild of an adoptee~~ ANY OF THE PARTIES LISTED IN SUBPARAGRAPH (I) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, any of whom are eighteen years of age or older, ~~or the legal representative of any such individual~~ may file a motion, with supporting affidavit, in the court where the adoption took place, to appoint one or more confidential intermediaries for the purpose of determining the whereabouts of such individual's unknown relative or relatives; except that no one shall seek to determine the whereabouts of a relative who is younger than eighteen years of age. The court may rule on said motion and affidavit without hearing and may appoint a trained confidential intermediary.

**SECTION 3.** 19-5-305 (2) (a) (I) (A), (2) (a) (I) (B), (2) (b) (I) (A), (2) (b) (I) (B), (2) (b) (I) (C), (2) (b) (II), (2) (c), (3), and (5), Colorado Revised Statutes, are amended to read:

**19-5-305. Access to adoption records - contact. (2) Determination of accessibility of records and contact.** Subject to the provisions of subsection (4) of this section, the accessibility of adoption records, in addition to inspection authorized by a court upon good cause shown pursuant to section 19-1-309, and the ability of a party to the adoption proceeding or the adoptee to contact the adoptee or another party shall be governed by the following provisions based upon the date on which the adoption was finalized:

(a) **Adoptions finalized prior to September 1, 1999.** (I) (A) Except to the extent disclosure is made in designated adoptions, all adoption records relating to adoptions finalized prior to September 1, 1999, shall remain confidential, and the names of the parties thereto and the name of the adoptee shall remain anonymous if the adoption was finalized on or after July 1, 1967. Such records shall be accessible by ~~an adult adoptee, an adoptee's biological parent or grandparent, an adoptee's adoptive parent or grandparent, an adult biological sibling or half-sibling of an adult adoptee, an adult descendant of the adoptee or the adoptive parent, an adoptee's legal guardian, an adoptee's spouse, an adult stepchild of the adoptee, or the legal representative of any such individual~~ ANY OF THE PARTIES LISTED IN SECTION 19-5-304 (1) (b) (I) through the appointment of a confidential intermediary pursuant to section 19-5-304 who successfully obtains consent from the person sought to release such adoption records or by mutual consent of the REUNITED parties upon proof of identification OR AS OTHERWISE PROVIDED BY LAW.

(B) ~~For purposes of sub-subparagraph (A) of this subparagraph (I), "legal guardian" shall not include a governmental entity of any foreign country from which a child has been adopted or any representative of such governmental entity.~~

(b) **Adoptions finalized on or after September 1, 1999.** (I) (A) All adoption records, as that term is defined in section 19-1-103 (6.5), relating to adoptions

finalized on or after September 1, 1999, shall be open to inspection and available for copying by an adult adoptee, an ~~adult~~ adoptive parent OF A MINOR ADOPTEE, A CUSTODIAL GRANDPARENT OF A MINOR ADOPTEE, or the legal representative of any such individual. In addition, all those records described in section 19-1-103 (6.5) (a) (I), (6.5) (a) (II), (6.5) (a) (IV), and (6.5) (a) (V) relating to adoptions finalized on or after September 1, 1999, shall be open to inspection and available for copying by an ~~adult~~ adoptee's adoptive grandparent OR BY an adult descendant of an adult adoptee or the adoptive parent ~~an adoptee's legal guardian~~ WITH THE NOTARIZED WRITTEN CONSENT OF THE ADULT ADOPTEE OR THE MINOR ADOPTEE'S ADOPTIVE PARENT. IN ADDITION, ALL THOSE RECORDS DESCRIBED IN SECTION 19-1-103 (6.5) (a) (I), (6.5) (a) (II), (6.5) (a) (IV), AND (6.5) (a) (V), RELATING TO ADOPTIONS FINALIZED ON OR AFTER SEPTEMBER 1, 1999, SHALL BE OPEN TO INSPECTION AND AVAILABLE FOR COPYING BY AN ADULT SIBLING OF AN ADULT ADOPTEE, an adoptee's spouse, or the legal representative of any such individual UPON NOTARIZED WRITTEN CONSENT OF THE ADULT ADOPTEE. No other person or entity shall have access to such records except as otherwise provided by law.

~~(B) For purposes of sub-subparagraph (A) of this subparagraph (I), "legal guardian" shall not include a governmental entity of any foreign country from which a child has been adopted or any representative of such governmental entity.~~

(C) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (I), the adoption records shall not be open for inspection or available for copying with respect to any identifying information concerning a birth parent if such birth parent has previously provided the court AND THE CHILD PLACEMENT AGENCY, IF APPLICABLE, with a signed and notarized written statement within three years after the final order of relinquishment or termination specifying that such parent wishes the identifying information concerning that parent to remain confidential. The written statement shall remain in the court's AND THE CHILD PLACEMENT AGENCY'S relinquishment or termination file unless later withdrawn by the parent. The birth parent submitting such a written statement may also submit to the court AND TO THE CHILD PLACEMENT AGENCY a letter of explanation that shall be released to the adoptee at the time that the adoptee makes a request for inspection of the adoption records. NO CHILD PLACEMENT AGENCY SHALL BE LIABLE TO ANY PERSON FOR THE FAILURE OF A BIRTH PARENT TO SUBMIT SUCH A WRITTEN STATEMENT TO THE COURT.

(II) For adoptions finalized on or after September 1, 1999, contact by an adult adoptee, an ~~adult~~ adoptive parent OF A MINOR ADOPTEE, or an adult descendant of the adoptee or the adoptive parent with a birth parent or biological relative may be attempted at any time directly or through another person or agency including, but not limited to, a confidential intermediary appointed pursuant to section 19-5-304; except that contact with a birth parent who has previously provided a written statement to the court AND TO THE CHILD PLACEMENT AGENCY as described in sub-subparagraph (C) of subparagraph (I) of this paragraph (b) may be attempted through a confidential intermediary appointed pursuant to section 19-5-304.

(c) (I) Notwithstanding paragraphs (a) and (b) of this subsection (2), if it is determined:

(A) That the ~~person about whom information is sought~~ BIRTH PARENT is deceased, then the person seeking the information, whether he or she is the adult adoptee, the

~~adult~~ adoptive parent OF A MINOR ADOPTEE, or the legal representative of any such individual, shall be allowed access to the adoption records. IF ONE OF THE BIRTH PARENTS IS DECEASED AND THE OTHER BIRTH PARENT IS LIVING BUT IS NONCONSENTING, THEN ACCESS TO THE RECORDS SHALL BE PERMITTED AS PROVIDED IN THIS PARAGRAPH (c) WITHOUT THE NAME OF THE NONCONSENTING BIRTH PARENT. In addition, an ~~adult~~ adoptee's adoptive grandparent, an adult descendant of an adult adoptee, ~~or the adoptive parent, an adoptee's legal guardian,~~ an adoptee's spouse, or the legal representative of any such individual shall be allowed access to those records described in section 19-1-103 (6.5) (a) (I), (6.5) (a) (II), (6.5) (a) (IV), and (6.5) (a) (V) IF SUCH PERSON SEEKING THE INFORMATION HAS THE NOTARIZED WRITTEN CONSENT OF THE ADULT ADOPTEE OR THE ADOPTIVE PARENT IF THE ADOPTEE IS A MINOR.

(B) THAT THE ADOPTEE IS DECEASED, THEN THE PERSON SEEKING THE INFORMATION, WHETHER HE OR SHE IS THE ADOPTIVE PARENT, AN ADULT DESCENDANT OF THE ADOPTEE, OR THE LEGAL REPRESENTATIVE OF ANY SUCH INDIVIDUAL SHALL BE ALLOWED ACCESS TO THE ADOPTION RECORDS. IN ADDITION, AN ADOPTEE'S ADOPTIVE GRANDPARENT, AN ADULT DESCENDANT OF THE ADOPTIVE PARENT, AN ADOPTEE'S SPOUSE, OR THE LEGAL REPRESENTATIVE OF ANY SUCH INDIVIDUAL SHALL BE ALLOWED ACCESS TO THOSE RECORDS DESCRIBED IN SECTION 19-1-103 (6.5) (a) (I), (6.5) (a) (II), (6.5) (a) (IV), AND (6.5) (a) (V).

(II) For purposes of subparagraph (I) of this paragraph (c), "legal guardian" shall not include a governmental entity of any foreign country from which a child has been adopted or any representative of such governmental entity.

**(3) Access to identifying information through child placement agencies.**

(a) Upon proof of identity of the person submitting the consent form, a licensed child placement agency shall accept AND MAY SEEK a consent form, as that term is defined in section 19-1-103 (28.5), from an adult adoptee or from either adult adoptee's birth parent or from an ~~adult~~ adoptive parent OF A MINOR ADOPTEE OR FROM THE LEGAL REPRESENTATIVE OF A MINOR ADOPTEE authorizing the release of identifying information, as that term is defined in section 19-1-103 (63.5), concerning the person submitting the consent form, to the extent such information is available to the child placement agency. IF ONLY ONE BIRTH PARENT HAS FILED A CONSENT FORM WITH THE CHILD PLACEMENT AGENCY, THE CHILD PLACEMENT AGENCY OR ANY SUCCEEDING CUSTODIAN OF THE RECORDS SHALL PROVIDE A COPY OF THE IDENTIFYING INFORMATION WITHOUT THE NAME OF AND WITHOUT IDENTIFYING INFORMATION ABOUT THE NONCONSENTING BIRTH PARENT.

(b) (I) Upon inquiry by an adult adoptee or an adult adoptee's birth parent or an ~~adult~~ adoptive parent OF A MINOR ADOPTEE seeking information about another party from a licensed child placement agency, the child placement agency shall be authorized to release identifying information to the inquiring person, upon proof of identity by the inquiring person, if the licensed child placement agency is in possession of a consent form from the party about whom information is sought authorizing such release.

(II) In those circumstances in which a child placement agency has released identifying information pursuant to paragraph (a) of this subsection (3), the child placement agency may attempt to locate AT THE LAST KNOWN ADDRESS the person

who had originally submitted the consent form and, upon locating such person, advise him or her of the release. If the inquiring person also submitted a consent form authorizing the release of identifying information about him or her, the child placement agency may provide such identifying information to the person located.

(III) A CHILD PLACEMENT AGENCY THAT ACCEPTS A CONSENT FORM MAY PERFORM A SEARCH FOR THE SOUGHT PARTY, SUBJECT TO THE REQUIREMENT THAT AN EMPLOYEE DESIGNATED BY THE CHILD PLACEMENT AGENCY TO PERFORM A SEARCH AND TO CONTACT THE SOUGHT PARTY SHALL HAVE COMPLETED TRAINING THAT MEETS THE STANDARDS SET FORTH BY THE ADOPTION INTERMEDIARY COMMISSION.

(c) A licensed child placement agency that accepts a consent form may charge a reasonable fee to cover the direct and indirect costs associated with the services provided pursuant to this subsection (3), if a written fee agreement has been signed by the agency and the party submitting the consent form prior to the provision of any service. IF A CHILD PLACEMENT AGENCY CHARGES A FEE, THEN THE CHILD PLACEMENT AGENCY SHALL MAKE REASONABLE EFFORTS TO LOCATE THE PERSON BEING SOUGHT AND TO RELEASE THE INFORMATION THE CHILD PLACEMENT AGENCY OBTAINED TO THE PERSON LOCATED. The licensed child placement agency shall be required to provide a list of names, addresses, and telephone numbers of organizations performing similar services prior to signing any fee agreement with any party submitting a consent form. Information in the post-adoption record is confidential and shall not be disclosed by the department of human services a licensed child placement agency OR ANY SUCCEEDING CUSTODIAN OF THE RECORDS, or a court except as specifically permitted in this part 3, or ~~as may be deemed necessary by the department of human services in performing its duties under this part 3~~ AS OTHERWISE PERMITTED BY LAW.

(d) The release of any information by a licensed child placement agency pursuant to this subsection (3) shall be subject to the provisions of subsection (4) of this section.

(5) **Adult adoptee's restriction on access to records.** Notwithstanding the provisions of subsection (2) of this section, an adult adoptee may, at any time, provide the court that finalized the adoption AND THE CHILD PLACEMENT AGENCY with a signed and notarized written statement specifying that such adult adoptee wishes to maintain the identifying information concerning that adoptee confidential. The written statement shall remain in the court's adoption file unless later withdrawn by the adoptee. Nothing in this subsection (5) shall be construed to affect access to records through the confidential intermediary process.

**SECTION 4.** Part 3 of article 5 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**19-5-307. Child placement agency - transfer of records.** IF A CHILD PLACEMENT AGENCY TERMINATES ITS CHILD PLACEMENT ACTIVITIES, PRIOR TO TERMINATION OF SERVICES, THE CHILD PLACEMENT AGENCY SHALL MICROFILM OR PRESERVE WITH STATE-OF-THE-ART RECORD STORAGE METHODS AS PRESCRIBED BY THE DEPARTMENT OF HUMAN SERVICES ANY RELEVANT FILES ON ADOPTIONS AND TRANSFER THEM TO THE DIVISION IN THE DEPARTMENT OF HUMAN SERVICES RESPONSIBLE FOR CHILD CARE LICENSING.

**SECTION 5.** 19-5-303 (1) and (2), Colorado Revised Statutes, are amended to read:

**19-5-303. Commission created - duties.** (1) There is hereby created in the department ~~a~~ THE ADOPTION INTERMEDIARY commission, REFERRED TO IN THIS SECTION AS THE "COMMISSION", THAT SHALL CONSIST OF ~~eleven~~ THIRTEEN members. The commission shall exercise its powers and perform the duties and functions specified by this part 3 as if the same were transferred to the department by a **type 1** transfer, as such transfer is defined in article 1 of title 24, C.R.S. Representation and appointment of such members shall be as follows:

(a) Three members shall represent the judicial department and shall be appointed by the chief justice or his or her designee.

(b) Two members shall represent the department and shall be appointed by the executive director of such department or his or her designee.

(c) Three members shall represent licensed adoption agencies and shall be appointed by a representative of a private adoption agency. Such representative shall be selected by the executive director of the department.

(d) Three members shall represent either adoptees, adoptive parents, biological parents of adoptees, or biological siblings of adoptees and shall be selected by the executive director of the department.

(e) TWO MEMBERS SHALL REPRESENT CONFIDENTIAL INTERMEDIARIES AND SHALL HAVE COMPLETED TRAINING AS CONFIDENTIAL INTERMEDIARIES. SUCH MEMBERS SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

(2) The commission shall have responsibility for:

(a) Drafting a manual of standards for training confidential intermediaries AND LICENSED CHILD PLACEMENT AGENCIES THAT PERFORM SEARCHES AND CONTACT PERSONS PURSUANT TO SECTION 19-5-305 (3) (b) (III);

(b) Monitoring confidential intermediary training programs AND CHILD PLACEMENT AGENCIES WITH SEARCH AND CONSENT PROGRAMS to ensure compliance with the standards set forth in the manual, with authority to approve or deny such programs based upon compliance with such standards;

(c) Maintaining an up-to-date list of persons who have completed training as confidential OR AS PERSONS WHO CONDUCT SEARCHES FOR CHILD PLACEMENT AGENCIES and communicating such list to the judicial department.

**SECTION 6.** 19-5-103 (2) (g), Colorado Revised Statutes, is amended to read:

**19-5-103. Relinquishment procedure - petition - hearings.** (2) The counseling specified in paragraph (a) of subsection (1) of this section and provided by the department or the child placement agency shall include, but not be limited to, the following:

(g) The confidentiality of all information, except for nonidentifying information as defined in section 19-1-103 (80) that may be accessed as provided in part 4 of this article, obtained by the department and the child placement agency in the course of relinquishment counseling unless the parent provides written permission or a release of information is ordered by a court of competent jurisdiction. THE COUNSELING SHALL ALSO INCLUDE NOTICE THAT A BIRTH PARENT HAS THE OPPORTUNITY TO FILE A WRITTEN STATEMENT SPECIFYING THAT THE BIRTH PARENT'S INFORMATION REMAIN CONFIDENTIAL AND AN EXPLANATION OF THE RIGHTS AND RESPONSIBILITIES OF BIRTH PARENTS WHO DISAGREE ABOUT CONSENT AS SET FORTH IN SECTION 19-5-305 (2).

**SECTION 7. Effective date.** This act shall take effect July 1, 2000.

**SECTION 8. 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.

Approved: May 30, 2000