

CHAPTER 228

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 97-083

BY SENATORS Wham and Hopper;
also REPRESENTATIVES George, Alexander, and Keller.

AN ACT

CONCERNING PROCEDURES UNDER ARTICLE 5 OF THE "COLORADO CHILDREN'S CODE" RELATING TO A PERSON'S LEGAL STATUS AS A PARENT, AND, IN CONNECTION THEREWITH, AFFECTING THE PROCEDURES FOR RELINQUISHMENT, TERMINATION, AND ADOPTION.

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

SECTION 1. 19-5-103, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-5-103. Relinquishment procedure - petition - hearings. (1) Any parent desiring to relinquish his OR HER child shall:

(a) Obtain counseling FOR HIMSELF OR HERSELF AND THE CHILD TO BE RELINQUISHED AS THE COURT DEEMS APPROPRIATE from the county department of social services in the county where such parent resides or from a licensed child placement agency, AND IF THE PETITIONER HAS NOT RECEIVED THE COUNSELING REQUIRED BY THE COURT, THE PETITION SHALL BE CONTINUED UNTIL COUNSELING IS OBTAINED, AND THE PETITIONER SHALL BE REFERRED TO COUNSELING BY THE COURT;

(b) (I) Petition the juvenile court upon ~~forms supplied~~ A STANDARDIZED FORM PRESCRIBED by the ~~court~~ JUDICIAL DEPARTMENT giving the following information: The name of both natural parents, if known; the name of the child, if named; the ages of all parties concerned; and the reasons for which relinquishment is desired.

(II) The petition shall be accompanied by ~~an~~ A STANDARDIZED affidavit OF RELINQUISHMENT COUNSELING PRESCRIBED BY THE JUDICIAL DEPARTMENT THAT

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

INCLUDES:

(A) A STATEMENT indicating the nature and extent of counseling furnished to the petitioner, if any, and the recommendations of the counselor; ~~If the petitioner has not received the counseling required by paragraph (a) of this subsection (1), the petition shall be continued, and the petitioner shall be referred for counseling by the court.~~

(B) A COPY OF THE ORIGINAL BIRTH CERTIFICATE OR A COPY OF THE APPLICATION THEREFOR; AND

(C) A STATEMENT DISCLOSING ANY AND ALL PAYMENTS, GIFTS, ASSISTANCE, GOODS, OR SERVICES RECEIVED, PROMISED, OR OFFERED TO THE RELINQUISHING PARENT IN CONNECTION WITH THE PREGNANCY, BIRTH, OR PROPOSED RELINQUISHMENT OF THE CHILD AND THE SOURCE OR SOURCES OF SUCH PAYMENTS, GIFTS, ASSISTANCE, GOODS, OR SERVICES.

(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:

(a) INFORMATION TO THE RELINQUISHING PARENT CONCERNING THE PERMANENCE OF THE DECISION AND THE IMPACT OF SUCH DECISION ON THE RELINQUISHING PARENT NOW AND IN THE FUTURE;

(b) INFORMATION CONCERNING EACH PARENT'S COMPLETE MEDICAL AND SOCIAL HISTORIES;

(c) IN THE CASE OF PREGNANCY, REFERRAL OF THE WOMAN FOR MEDICAL CARE AND FOR DETERMINATION OF ELIGIBILITY FOR MEDICAL ASSISTANCE;

(d) INFORMATION CONCERNING ALTERNATIVES TO RELINQUISHMENT AND REFERRAL TO PRIVATE AND PUBLIC RESOURCES THAT MAY MEET THE PARENT'S NEEDS;

(e) RELINQUISHMENT SERVICES NECESSARY TO PROTECT THE INTERESTS AND WELFARE OF A CHILD BORN IN A STATE INSTITUTION;

(f) INFORMATION TO THE CHILD'S PARENT THAT IF HE OR SHE APPLIES FOR PUBLIC ASSISTANCE FOR HIMSELF OR HERSELF AND THE CHILD, HE OR SHE MUST COOPERATE WITH THE CHILD SUPPORT ENFORCEMENT UNIT FOR THE ESTABLISHMENT AND ENFORCEMENT OF A CHILD SUPPORT ORDER; AND

(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.

~~(2)~~ (3) Upon receipt of the petition FOR RELINQUISHMENT, the court shall set the same for hearing on the condition that the requirements of subsection (1) of this section have been complied with by the petitioner.

~~(3)~~ (4) (a) The parent-child legal relationship of a parent shall not be terminated by relinquishment proceedings unless the parent joins in the petition.

(b) THE RELINQUISHING PARENT, CHILD PLACEMENT AGENCY, AND COUNTY DEPARTMENT OF SOCIAL SERVICES SHALL PROVIDE THE COURT ANY AND ALL INFORMATION DESCRIBED IN SECTION 19-1-103 (80) THAT IS AVAILABLE TO SUCH RELINQUISHING PARENT, AGENCY, OR COUNTY DEPARTMENT.

~~(4)~~ (5) The court shall not issue an order of relinquishment until it is satisfied that the relinquishing parent and the child, if ~~twelve years of age or older~~ DETERMINED APPROPRIATE BY THE COURT, have been counseled pursuant to subsection (1) of this section AND THIS SUBSECTION (5) and fully advised of the consequences of the parent's act. THE COURT MAY ORDER COUNSELING FOR ANY AGE CHILD TO BE RELINQUISHED IF THE COURT DEEMS SUCH COUNSELING WOULD BE IN THE CHILD'S BEST INTERESTS. THE COURT MAY ORDER THAT A CHILD YOUNGER THAN TWELVE YEARS OF AGE BE PREPARED FOR RELINQUISHMENT, TERMINATION OF PARENTAL RIGHTS, OR ADOPTION.

~~(5)~~ (6) If the court ~~believes~~ FINDS after the hearing that it is in the best interests of the ~~parties concerned, including the child~~ that no relinquishment be granted, the court shall enter an order dismissing the action.

~~(6)~~ (7) (a) THE COURT SHALL ENTER AN ORDER OF RELINQUISHMENT if the court ~~is satisfied~~ FINDS after the hearing that:

(I) The relinquishing parent or parents and ~~the child, if twelve years of age or older~~, ANY CHILD THAT THE COURT DIRECTED INTO COUNSELING have been counseled as provided in ~~subsection~~ SUBSECTIONS (1) AND (5) of this section; and ~~that~~

(II) THE PARENT'S DECISION TO RELINQUISH IS KNOWING AND VOLUNTARY AND NOT THE RESULT OF ANY THREATS, COERCION, OR UNDUE INFLUENCE OR INDUCEMENTS; AND

(III) The relinquishment would best serve the interests of ~~all parties concerned, including the child, it shall enter an order of relinquishment~~ THE CHILD TO BE RELINQUISHED.

(b) THERE SHALL BE A REBUTTABLE PRESUMPTION THAT A RELINQUISHMENT WOULD NOT BE IN THE CHILD'S BEST INTERESTS IF THE CHILD IS TWELVE YEARS OF AGE OR OLDER AND OBJECTS TO THE RELINQUISHMENT.

~~(7)~~ (8) If the court is not satisfied that the relinquishing parents and the child, if twelve years of age or older, have been offered proper and sufficient counsel and advice, it shall continue the matter for such time as the court deems necessary.

~~(8)~~ (9) (a) The court may appoint a guardian ad litem to protect the interests of the child if:

(I) The court finds that there is a conflict of interest between the child and his OR HER parents, guardian, or legal custodian;

(II) The court finds that such appointment would be in the best interests of the child; or

(III) The court determines that the child is twelve years of age or older and that the welfare of the child mandates such appointment.

(b) Reasonable fees for guardians ad litem appointed pursuant to this subsection ~~(8)~~ (9) shall be paid by the relinquishing parent or parents; except that, in the case of an indigent parent or parents, such fees shall be paid as an expense of the state from annual appropriations to the office of the state court administrator.

~~(9)~~ (10) The court may interview the child in chambers to ascertain the child's wishes as to the relinquishment proceedings. The court may permit counsel to be present at such an interview. The court shall cause a record of the interview to be made, and it shall be made a part of the record in the case.

~~(10)~~ (11) The court may seek the advice of professional personnel whether or not said personnel are employed on a regular basis by the court. Any advice given by professional persons shall be in writing and shall be made available by the court to attorneys of record, to the parties, and to any other expert witnesses upon request, but it shall be considered confidential for any other purposes, shall be sealed, and shall not be open to inspection except by consent of the court. Attorneys of record may call for the cross-examination of any professional persons consulted by the court.

(12) THE PROVISIONS OF THIS SECTION, INCLUDING BUT NOT LIMITED TO RELINQUISHMENT COUNSELING, NOTIFICATION, AND THE RELINQUISHMENT HEARING, SHALL APPLY IN ANY CASE INVOLVING A CHILD IN COLORADO OR FOR WHOM COLORADO IS THE HOME STATE AS DESCRIBED IN SECTION 14-13-103 (5), C.R.S., INCLUDING ANY CASE IN WHICH IT IS PROPOSED THAT THE CHILD TO BE RELINQUISHED WILL BE RELINQUISHED OR ADOPTED OUTSIDE THE STATE OF COLORADO.

SECTION 2. 19-5-104, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-5-104. Final order of relinquishment. (1) If the court terminates the parent-child legal relationship of both parents or of the only living parent, the court, after taking into account the racial, cultural, and religious background of the child, shall order guardianship of the person and legal custody transferred to:

(a) The county department of social services; or

(b) A licensed child placement agency; or

(c) A relative of the child; or

(d) An individual DETERMINED TO BE of good moral character THROUGH A PROCESS THAT INCLUDES THE ASSESSMENT MADE PURSUANT TO SECTION 19-5-206 (2) (a), if such individual shall have had the child living in his OR HER home for ~~a year~~ SIX MONTHS or more, including a foster parent OR A DESIGNATED ADOPTIVE PARENT.

(2) The court shall consider, but shall not be bound by, a request that custody of

the child, with the option of applying for adoption, be placed in a grandparent, aunt, uncle, brother, or sister of the child or a foster parent. When ordering legal custody of the child, the court shall give preference to a grandparent, aunt, uncle, brother, or sister of the child when such relative has made a TIMELY request therefor and the court determines that such placement is in the best interests of the child. Such request must be submitted to the court prior to commencement of the hearing on the petition for relinquishment. If such legal custody is granted, guardianship of the child shall remain with the parent, if the legal parent-child relationship has not been terminated, or the guardianship shall be transferred pursuant to subsection (1) of this section. Nothing in this section shall be construed to require the birth parents or the child placement agency with custody of the child to notify said relatives described in this subsection (2) of the pending relinquishment of parental rights. This subsection (2) shall not apply in cases where the birth parents have designated an adoptive family for the child or the birth parents have designated that legal custody of the child shall not be in a person described in this subsection (2) and where the child has not been in legal custody of a relative requesting guardianship or custody as described in this section or the child has not been in the physical custody of such relative for more than six months.

~~(2.5)~~ (3) No person shall be precluded from adopting a child solely because ~~they~~ ~~have~~ THAT PERSON HAS been a child's foster parent.

~~(3)~~ (4) The order of relinquishment shall set forth all pertinent facts brought at the hearing, and, in addition, it shall state that the court is satisfied that the counsel and guidance provided for in section 19-5-103 (1) AND (5) has been offered the relinquishing parent or parents and ~~the ANY child if twelve years of age or older,~~ FOR WHOM THE COURT HAS ORDERED COUNSELING.

~~(4)~~ (5) A final order of relinquishment shall divest the relinquishing parent or parents of all legal rights and obligations they may have with respect to the child relinquished, but it shall not modify the child's status as an heir at law which shall cease only upon a subsequent final decree of adoption; except that the relinquishing parent's or parents' obligation to pay for services received by the child through the department, ~~of human services,~~ or other support received, shall be terminated upon a subsequent final decree of adoption or by order of the court at the time of relinquishment. The order of relinquishment shall release the relinquished child from all legal obligations with respect to the relinquishing parent or parents.

~~(4.3)~~ (6) If one parent files a petition for the relinquishment of a child and the agency or person having custody of the child files a petition to terminate the rights of the other parent pursuant to section 19-5-105, the court shall set a hearing, as expeditiously as possible, on the relinquishment petition. A court may enter an order of relinquishment for the purpose of adoption prior to the relinquishment or termination of the other parent's parental rights. Except as otherwise provided in subsection ~~(4.5)~~ (7) of this section, an order of relinquishment is final and irrevocable.

~~(4.5)~~ (7) (a) A relinquishment may be revoked only if, within ninety days after the entry of the relinquishment order, the relinquishing parent establishes by clear and convincing evidence that such relinquishment was obtained by fraud or duress.

(b) Notwithstanding paragraph (a) of this subsection ~~(4.5)~~ (7), a relinquishment may not be revoked on the basis that the relinquishment or termination of the other parent's parental rights was not obtained because the relinquishing parent knew, but did not disclose, the name or whereabouts of such other parent.

~~(4.7)~~ (8) If the relinquishment by an individual is revoked pursuant to subsection ~~(4.5)~~ (7) of this section and no grounds exist under section 19-5-105 or under part 6 of article 3 of this title for terminating the parental rights of that individual, the court shall dismiss any proceeding for adoption and shall provide for the care and custody of the child according to the child's best interests.

~~(5)~~ (9) The fact that the relinquishing parent or parents are minors shall in no way affect the validity of the final order of relinquishment.

SECTION 3. The introductory portion to 19-5-105 (3) and 19-5-105 (3.1) (c) (I) and (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

19-5-105. Proceeding to terminate parent-child legal relationship. (3) If, after the inquiry, the other birth parent is identified to the satisfaction of the court or if more than one person is identified as a possible parent, each shall be given notice of the proceeding in accordance with subsection (5) of this section, INCLUDING NOTICE OF THE PERSON'S RIGHT TO WAIVE HIS OR HER RIGHT TO APPEAR AND CONTEST. If any of them WAIVES HIS OR HER RIGHT TO APPEAR AND CONTEST OR fails to appear or, if appearing, cannot personally assume legal and physical custody ~~promptly~~, taking into account the child's age, needs, and individual circumstances, such person's parent-child legal relationship with reference to the child shall be terminated. If the other birth parent or a person representing himself or herself to be the other birth parent appears and demonstrates the desire and ability to personally assume legal and physical custody of the child ~~promptly~~, taking into account the child's age, needs, and individual circumstances, the court shall proceed to determine parentage under article 4 of this title. If the court determines that the person is the other birth parent, the court shall set a hearing, as expeditiously as possible, to determine whether the interests of the child or of the community require that the other parent's rights be terminated or, if they are not terminated, to determine whether:

(3.1) The court may order the termination of the other birth parent's parental rights upon a finding that termination is in the best interests of the child and that there is clear and convincing evidence of one or more of the following:

(c) That the parent has not promptly taken substantial parental responsibility for the child. In making this determination the court shall consider, but shall not be limited to, the following:

(I) Whether the parent who is the subject of the petition is served with notice and fails to file an answer ~~pursuant to rule 12 of the Colorado rules of civil procedure~~, WITHIN THIRTY DAYS AFTER SERVICE OF THE NOTICE AND PETITION TO TERMINATE THE PARENT-CHILD LEGAL RELATIONSHIP or fails to file a paternity action, pursuant to article 4 of this title, within thirty days after the birth of the child or within thirty days after receiving notice that he is the father or likely father of the child;

(5) Notice of the proceeding shall be given to every person identified as the other birth parent or a possible birth parent in the manner appropriate under the Colorado rules of juvenile procedure for the service of process or in any manner the court directs. The notice shall inform the parent or alleged parent whose rights are to be determined that failure to file an answer or to appear within ~~twenty~~ THIRTY days after service and, in the case of an alleged father, failure to file a claim of paternity under article 4 of this title within thirty days after service, if a claim has not previously been filed, may likely result in termination of the parent's or the alleged parent's parental rights to the minor. THE NOTICE ALSO SHALL INFORM THE PARENT OR ALLEGED PARENT WHOSE RIGHTS ARE TO BE DETERMINED THAT SUCH PERSON HAS THE RIGHT TO WAIVE HIS OR HER RIGHT TO APPEAR AND CONTEST AND THAT FAILURE TO APPEAR AND CONTEST MAY LIKELY RESULT IN TERMINATION OF THE PARENT'S OR THE ALLEGED PARENT'S PARENTAL RIGHTS TO THE MINOR. Proof of giving the notice shall be filed with the court before the petition is heard. If no person has been identified as the birth parent, the court shall order that notice be provided to all possible parents by publication or public posting of the notice at times and in places and manner the court deems appropriate.

SECTION 4. 19-5-203 (1) (d) (II), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

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

(d) (II) Written and verified consent of the parent in a stepparent adoption, ~~where~~ ACCOMPANIED BY AN AFFIDAVIT OR SWORN TESTIMONY OF SUCH PARENT, THAT the other BIRTH parent has abandoned the child for a period of one year or more or ~~where~~ ~~he~~ THAT THE OTHER BIRTH PARENT has failed without cause to provide reasonable support for such child for a period of one year or more. Upon filing of the petition in adoption, the court shall issue a notice directed to the other parent, which notice shall state the nature of the relief sought, the names of the petitioner and the child, and the time and place set for hearing on the petition. If the address of the other parent is known, service of such notice shall be in the manner provided by the Colorado rules of civil procedure for service of process. Upon affidavit by the petitioner that, after diligent search, the address of the other parent remains unknown, the court shall order service upon the other parent by one publication of the notice in a newspaper of general circulation in the county in which the hearing is to be held. The hearing shall not be held sooner than thirty days after service of the notice is complete, and, at such time, the court may enter a final decree of adoption notwithstanding the time limitation in section 19-5-210 (2).

SECTION 5. 19-5-205 (1) (b) and (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 19-5-205 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-5-205. Adoption decree of foreign country approved. (1) (b) The petition shall contain all information required in section 19-5-207 (2); EXCEPT THAT THE COURT SHALL NOT REQUIRE THE PETITION TO CONTAIN OR BE ACCOMPANIED BY THE WRITTEN CONSENT DESCRIBED IN SECTION 19-5-207 (1), THE WRITTEN REPORT DESCRIBED IN THE INTRODUCTORY PORTION TO SECTION 19-5-207 (2), THE FEES DESCRIBED IN SECTION 19-5-207 (6), OR A WRITTEN LEGAL MEMORANDUM WITH

SPECIFIC REFERENCES TO THE APPLICABLE LAW OF THE FOREIGN COUNTRY.

(2) The court shall issue a decree declaring valid an adoption granted by a court of competent jurisdiction OR OTHER AUTHORIZED INDIVIDUAL OR ENTITY of a country other than the United States of America upon a finding that:

(a) At the time the petition is ~~sought~~ FILED, THE PETITION CONTAINS A VERIFIED STATEMENT THAT AT LEAST ONE OF THE ADOPTING PARENTS IS A CITIZEN AND RESIDENT OF THE STATE OF COLORADO OR OTHER EVIDENCE THAT at least one of the adopting parents is a citizen and resident of the state of Colorado;

(b) The original or a certified copy of a valid foreign adoption decree, together with a notarized translation, is presented to the court; and

(c) The child is either a permanent resident or a naturalized citizen of the United States. A PHOTOCOPY OF THE CHILD'S RESIDENT ALIEN CARD ISSUED BY THE IMMIGRATION AND NATURALIZATION SERVICE OF THE UNITED STATES DEPARTMENT OF JUSTICE, OR ANY SUCCESSOR ENTITY, SHALL BE SUFFICIENT EVIDENCE THAT THE CHILD IS EITHER A PERMANENT RESIDENT OR A NATURALIZED CITIZEN OF THE UNITED STATES.

(2.5) THE ADOPTING PARTIES FILING A PETITION PURSUANT TO THIS SECTION SHALL NOT BE REQUIRED TO BE REPRESENTED BY AN ATTORNEY.

SECTION 6. 19-5-205.5 (2) (a), the introductory portion to 19-5-205.5 (2) (b), and 19-5-205.5 (2) (b) (I), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 19-5-205.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-5-205.5. Nonpublic agency interstate and foreign adoptions - legislative declaration - authority for department to select agencies. (2) (a) The department ~~of human services~~ is authorized to select nonpublic, licensed child placement agencies authorized to handle adoptions or nonpublic agencies that meet the qualifying criteria to be licensed child placement agencies pursuant to article 6 of title 26, C.R.S., and any implementing rules or regulations promulgated by the department ~~of human services~~ for the provision of services to individuals seeking assistance in nonpublic agency interstate or foreign adoption cases pursuant to this part 2. The department ~~of human services~~ shall, by rule, establish qualifying criteria by which such nonpublic agencies shall be selected for this purpose.

(b) The department ~~of human services~~ shall further promulgate rules creating standards by which the department ~~of human services~~ may evaluate the delivery of services by the selected nonpublic agencies and identifying the services and functions to be rendered by the nonpublic agencies selected pursuant to paragraph (a) of this subsection (2) including, but not limited to, the following:

(I) The review of all background information concerning the birth parents and individual case material on the adopting family's ~~homestudy~~ ASSESSMENT;

(5) FOR PURPOSES OF THIS SECTION, "NONPUBLIC AGENCY INTERSTATE AND FOREIGN ADOPTION" IS DEFINED IN SECTION 19-1-103 (81).

SECTION 7. 19-5-206 (2) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-5-206. Placement for purposes of adoption. (2) (b) The court may waive the assessment and approval requirements of paragraph (a) of this subsection (2) in cases where the birth parent or parents have designated the child's grandparent, aunt, uncle, brother, or sister as the person with whom they wish to place their child for purposes of adoption. The court may proceed to finalize such adoptive placement upon finding that the placement is in the best interests of the child.

SECTION 8. 19-5-207, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-5-207. Written consent and report. (1) When a child is placed for adoption by the county department of social services, a licensed child placement agency, or an individual, such department, agency, or individual shall file, with the petition to adopt, its written and verified consent to such adoption in addition to any notices received or sent pursuant to the terms of the "Interstate Compact on Placement of Children" set forth in part 18 of article 60 of title 24, C.R.S.

(2) In all petitions for adoption, whether by the court, the county department of social services, or child placement agencies, in addition to such written consent, the court shall require a written report FROM EITHER THE COUNTY DEPARTMENT OF SOCIAL SERVICES OR THE CHILD PLACEMENT AGENCY showing the following:

(a) The physical and mental health, emotional stability, and moral integrity of the petitioner and the ability of the petitioner to promote the welfare of the child; but no physical examination shall be required of any person who in good faith relies upon spiritual means or prayer in the free exercise of religion to prevent or cure disease unless there is reason to believe such person's physical condition is such that he OR SHE would be unable to take care of such child;

(b) CONFIRMATION THAT THE PETITIONER HAS PARTICIPATED IN ADOPTION COUNSELING IF THE COURT DEEMS APPROPRIATE. THE COUNSELING MAY ADDRESS THE PERMANENCE OF THE DECISION, THE IMPACT OF THE DECISION ON THE ADOPTING PARENT AND THE ADOPTING PARENT'S FAMILY NOW AND IN THE FUTURE, AND THE ISSUES THAT MAY ARISE IN THE EVENT THAT THE ADOPTEE AT SOME TIME IN THE FUTURE DESIRES TO CONTACT THE RELINQUISHING PARENT.

~~(b)~~ (c) The physical and mental condition of the child;

~~(c)~~ (d) The child's family background, including the names of parents and other identifying data regarding the parents, if obtainable;

~~(d)~~ (e) Reasons for the termination of the parent-child legal relationship;

~~(e)~~ (f) The suitability of the adoption of this child by this petitioner and the child's own disposition toward the adoption in any case in which the child's age makes this feasible; and

~~(f)~~ (g) The length of time the child has been in the care and custody of the

petitioner.

(3) IN PROPOSED RELATIVE ADOPTIONS, THE COURT SHALL REVIEW THE REPORT PREPARED PURSUANT TO SUBSECTION (2) OF THIS SECTION. THE COURT MAY ORDER FURTHER ASSESSMENT IF THE COURT DEEMS IT NECESSARY.

~~(3)~~ (4) Any party to the adoption proceeding may be entitled to see the report required by subsection (2) of this section; except that the names of parents and adoptive parents and any means of identifying either shall not be made available except upon order of the court.

~~(4)~~ (5) Any person who, by his OR HER own request or by order of the court as provided in section 19-5-209, is the subject of a written report and investigation conducted pursuant to subsection (2) of this section by the county department of social services or by the probation department of the court shall be required to pay, based on an ability to pay, the cost of such written report and investigation.

~~(5)~~ (6) The department of human services shall establish rules and regulations which THAT provide for county departments of social services to charge a fee, not to exceed five hundred dollars in the case of a first adoption and not to exceed two hundred fifty dollars for a second or subsequent adoption by the same party or parties, for reports and investigations provided in accordance with this article.

~~(6)~~ (7) The department of human services may waive the fee provided for in subsection ~~(4)~~ SUBSECTION (6) of this section if such fee poses a barrier to the adoption of a child for whom the county department of social services has financial responsibility.

~~(7)~~ (8) If a court orders a county department of social services to counsel a birth parent concerning relinquishment of a child pursuant to the provisions of sections 19-5-103 and 19-5-104, the county department shall charge a fee to meet the full cost of the counseling.

(9) IF THE CHILD IS BEING PLACED IN AN ADOPTIVE HOME BY A LICENSED CHILD PLACEMENT AGENCY, SUCH AGENCY SHALL FILE AN AFFIDAVIT WITH THE COURT STATING THAT THE AGENCY'S LICENSE IS IN GOOD STANDING WITH THE DEPARTMENT. A LICENSED CHILD PLACEMENT AGENCY INVOLVED IN AN ADOPTION PROCEEDING PURSUANT TO THIS ARTICLE SHALL IMMEDIATELY NOTIFY THE COURT IN WRITING OF ANY SUSPENSION, REVOCATION, OR DENIAL OF ITS LICENSE OR OF ANY DISCIPLINARY ACTION TAKEN AGAINST THE AGENCY BY THE STATE OF COLORADO. FAILURE OF THE AGENCY TO PROVIDE SUCH NOTIFICATION SHALL BE A CLASS 3 MISDEMEANOR PUNISHABLE BY A FINE OF FIVE THOUSAND DOLLARS. THE DEPARTMENT SHALL, BY RULE, ADOPT A MECHANISM BY WHICH A CHILD PLACEMENT AGENCY SHALL NOTIFY THE COURT OF ANY DISCIPLINARY ACTION AGAINST THE AGENCY.

SECTION 9. 19-5-208 (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-5-208. Petition for adoption. (4) ~~A statement of all fees, costs, or expenses charged by any person or agency relative to the adoption shall be submitted to the court with the petition and shall state what additional fees, if any, shall be charged.~~

THE PETITION SHALL BE ACCOMPANIED BY A STANDARDIZED AFFIDAVIT FORM PRESCRIBED BY THE JUDICIAL DEPARTMENT DISCLOSING ANY AND ALL FEES, COSTS, OR EXPENSES CHARGED OR TO BE CHARGED BY ANY PERSON OR AGENCY IN CONNECTION WITH THE ADOPTION.

SECTION 10. The introductory portion to 19-5-210 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-5-210. Hearing on petition. (2) No sooner than six months ~~from~~ AFTER the date of the ~~hearing~~ PLACEMENT, unless for good cause shown that time is extended or shortened by the court, the court ~~may~~ SHALL HOLD A HEARING ON THE PETITION AND SHALL enter a decree setting forth its findings and grant to the petitioner a final decree of adoption if it is satisfied as to:

SECTION 11. 19-5-211, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-5-211. Legal effects of final decree. (2.5) THE CHILD SHALL BE ELIGIBLE FOR ENROLLMENT AND COVERAGE BY ANY MEDICAL OR DENTAL INSURANCE HELD BY THE PROSPECTIVE ADOPTIVE PARENTS IF, AND ON SUCH A BASIS AS, SUCH COVERAGE WOULD BE AVAILABLE TO A CHILD NATURALLY BORN TO THE PROSPECTIVE ADOPTIVE PARENTS.

SECTION 12. 19-5-303 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-5-303. Commission created - duties. (1) There is hereby created in the department ~~of human services~~ a commission of ~~seven~~ ELEVEN 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) ~~Two~~ THREE members shall represent the judicial department and shall be appointed by the chief justice or his OR HER designee.

(b) ~~One member~~ TWO MEMBERS shall represent the department ~~of human services~~ and shall be appointed by the executive director of such department or his OR HER designee.

(c) ~~Two~~ 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. ~~of human services.~~

(d) ~~Two~~ 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. ~~of human services.~~

SECTION 13. 19-5-304 (1) and (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

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

(1) (a) Any person who has completed a confidential intermediary training program ~~which~~ 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 upon motion to the court by an adult adoptee, adoptive parent, biological parent, ~~or~~ biological sibling, OR HALF-SIBLING;

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

(2) Any adult adoptee, adoptive parent, biological parent, ~~or~~ biological sibling, OR HALF-SIBLING who is ~~twenty-one~~ EIGHTEEN years of age or older 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 his OR HER unknown relative or relatives; except that no one shall seek to determine the whereabouts of a relative who is younger than ~~twenty-one~~ EIGHTEEN years of age. The court may rule on said motion and affidavit without hearing and may appoint a trained confidential intermediary.

SECTION 14. 19-1-103 (8) and (37), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 19-1-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

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

(8) (a) "Adult" means a person eighteen years of age or older; except that any person eighteen years of age or older who is under the continuing jurisdiction of the court, who is before the court for an alleged delinquent act committed prior to the person's eighteenth birthday, or concerning whom a petition has been filed for the person's adoption other than under this title shall be referred to as a juvenile.

(b) ~~"Adult", as used in part 3 of article 5 of this title, means a person twenty-one years of age or older.~~

(37) "Department", as used in ~~part 4~~ of article 5 of this title, means the department of human services.

(61.5) "HALF-SIBLING" SHALL HAVE THE SAME MEANING AS "BIOLOGICAL SIBLING" PROVIDED IN SUBSECTION (14) OF THIS SECTION.

SECTION 15. No appropriation. The general assembly has determined that this

act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 16. Effective date. This act shall take effect July 1, 1997.

SECTION 17. 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 28, 1997