

CHAPTER 270

**CHILDREN AND DOMESTIC MATTERS**

**HOUSE BILL 99-1218**

BY REPRESENTATIVES Mace, Alexander, Bacon, Chavez, Coleman, Decker, Fairbank, Gagliardi, Gotlieb, Hefley, Kaufman, Keller, Larson, Lee, May, Miller, Morrison, Paschall, Ragsdale, Scott, Smith, Tapia, Tochtrop, Veiga, Vigil, S. Williams, T. Williams, Windels, and Zimmerman;  
also SENATORS Feeley, Dyer, Epps, Hernandez, Linkhart, Martinez, Nichol, Pascoe, Perlmutter, Reeves, Rupert, and Wham.

**AN ACT**

CONCERNING EXPEDITED METHODS OF ADOPTING CHILDREN.

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

**SECTION 1.** 19-1-103, Colorado Revised Statutes, is 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:

(34.7) "CUSTODIAL ADOPTION", AS USED IN PART 2 OF ARTICLE 5 OF THIS TITLE, MEANS AN ADOPTION OF A CHILD BY ANY PERSON AND SUCH PERSON'S SPOUSE, AS REQUIRED UNDER SECTION 19-5-202 (3), WHO:

(a) HAS BEEN AWARDED CUSTODY OR ALLOCATED PARENTAL RESPONSIBILITIES BY A COURT OF LAW IN A DISSOLUTION OF MARRIAGE, CUSTODY OR ALLOCATION OF PARENTAL RESPONSIBILITIES PROCEEDING, OR HAS BEEN AWARDED GUARDIANSHIP OF THE CHILD BY A COURT OF LAW IN A PROBATE ACTION, SUCH AS PURSUANT TO PART 2 OF ARTICLE 14 OF TITLE 15; AND

(b) HAS HAD PHYSICAL CUSTODY OF THE CHILD FOR A PERIOD OF ONE YEAR OR MORE.

(71.5) "KINSHIP ADOPTION", AS USED IN PART 2 OF ARTICLE 5 OF THIS TITLE, MEANS AN ADOPTION OF A CHILD BY A RELATIVE OF THE CHILD AND SUCH RELATIVE'S SPOUSE, AS REQUIRED UNDER SECTION 19-5-202 (3), WHO:

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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.*

(a) IS EITHER A GRANDPARENT, BROTHER, SISTER, HALF-SIBLING, AUNT, UNCLE, OR FIRST COUSIN; AND

(b) HAS HAD PHYSICAL CUSTODY OF THE CHILD FOR A PERIOD OF ONE YEAR OR MORE AND THE CHILD IS NOT THE SUBJECT OF A PENDING DEPENDENCY AND NEGLECT PROCEEDING PURSUANT TO ARTICLE 3 OF THIS TITLE.

**SECTION 2.** 19-1-103 (107), Colorado Revised Statutes, is amended to read:

**19-1-103. Definitions.** (107) "Termination of the parent-child legal relationship", as used in ~~article~~ ARTICLES 3 AND 5 of this title, means the permanent elimination by court order of all parental rights and duties, including residual parental rights and responsibilities, as provided in section 19-3-608.

**SECTION 3.** 19-5-203 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

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

(j) SUBMISSION OF AN AFFIDAVIT OR SWORN TESTIMONY OF THE ADOPTIVE RELATIVE IN A KINSHIP ADOPTION THAT THE BIRTH PARENT OR BIRTH PARENTS HAVE ABANDONED THE CHILD FOR A PERIOD OF ONE YEAR OR MORE OR THAT THE BIRTH PARENT OR BIRTH PARENTS HAVE FAILED WITHOUT CAUSE TO PROVIDE REASONABLE SUPPORT FOR SUCH CHILD FOR A PERIOD OF ONE YEAR OR MORE, AND THAT THE RELATIVE SEEKING THE KINSHIP ADOPTION HAS HAD PHYSICAL CUSTODY OF THE CHILD FOR A PERIOD OF ONE YEAR OR MORE AND THE CHILD IS NOT THE SUBJECT OF A PENDING DEPENDENCY AND NEGLECT PROCEEDING PURSUANT TO ARTICLE 3 OF THIS TITLE. UPON FILING OF THE PETITION IN ADOPTION, THE COURT SHALL ISSUE A NOTICE DIRECTED TO THE BIRTH PARENT OR BIRTH PARENTS, 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 BIRTH 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 DESCRIBES WITH SPECIFICITY THE DILIGENT SEARCH MADE BY THE PETITIONER, AND THAT STATES THAT, AFTER DILIGENT SEARCH, THE ADDRESS OF THE BIRTH PARENT OR BIRTH PARENTS REMAINS UNKNOWN, THE COURT SHALL ORDER SERVICE UPON THE BIRTH PARENT OR BIRTH PARENTS 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 HEARING, THE COURT MAY ENTER A FINAL DECREE OF ADOPTION NOTWITHSTANDING THE TIME LIMITATION IN SECTION 19-5-210 (2).

(k) SUBMISSION OF AN AFFIDAVIT OR SWORN TESTIMONY OF THE LEGAL CUSTODIAN OR LEGAL GUARDIAN IN A CUSTODIAL ADOPTION THAT THE BIRTH PARENT OR BIRTH PARENTS HAVE ABANDONED THE CHILD FOR A PERIOD OF ONE YEAR OR MORE OR THAT THE BIRTH PARENT OR BIRTH PARENTS HAVE FAILED WITHOUT CAUSE TO PROVIDE REASONABLE SUPPORT FOR SUCH CHILD FOR A PERIOD OF ONE YEAR OR MORE AND THAT THE LEGAL CUSTODIAN OR LEGAL GUARDIAN SEEKING THE CUSTODIAL ADOPTION HAS HAD THE CHILD IN HIS OR HER PHYSICAL CUSTODY FOR A PERIOD OF ONE YEAR OR

MORE. UPON FILING OF THE PETITION IN ADOPTION, THE COURT SHALL ISSUE A NOTICE DIRECTED TO THE BIRTH PARENT OR BIRTH PARENTS, 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 BIRTH PARENT OR BIRTH PARENTS 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 DESCRIBES WITH SPECIFICITY THE DILIGENT SEARCH MADE BY THE PETITIONER, AND THAT STATES THAT, AFTER DILIGENT SEARCH, THE ADDRESS OF THE BIRTH PARENT OR BIRTH PARENTS REMAINS UNKNOWN, THE COURT SHALL ORDER SERVICE UPON THE BIRTH PARENT OR BIRTH PARENTS 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 HEARING, THE COURT MAY ENTER A FINAL DECREE OF ADOPTION NOTWITHSTANDING THE TIME LIMITATION IN SECTION 19-5-210 (2).

**SECTION 4.** 19-5-206 (2), Colorado Revised Statutes, is amended to read:

**19-5-206. Placement for purposes of adoption.** (2) (a) Birth parent or parents may designate a specific applicant with whom they may wish to place their child for purposes of adoption. After assessment and approval of the potential adoptive parents and subsequent relinquishment of the child, the court shall grant guardianship of the child to a person or agency described in section 19-5-104 (1) until finalization of adoptive placement. A county department may provide adoption services to birth parents who request designated adoption only in cases in which the county has legal custody of the child prior to the filing of the petition to relinquish. All requirements and provisions of this article pertaining to relinquishment and adoption shall apply to designated adoptions.

(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.

(c) THE COURT MAY WAIVE THE ASSESSMENT AND APPROVAL OF THE POTENTIAL ADOPTIVE PARENTS IN CASES INVOLVING KINSHIP OR CUSTODIAL ADOPTION OR MAY DETERMINE AND ORDER WHAT KIND OF INFORMATION OR WRITTEN REPORT IT DEEMS NECESSARY, INCLUDING AN ABBREVIATED HOME STUDY OR HOME EVALUATION. THE COURT MAY PROCEED TO FINALIZE SUCH ADOPTIVE PLACEMENT UPON FINDING THAT THE PLACEMENT IS IN THE BEST INTERESTS OF THE CHILD.

**SECTION 5.** 19-5-208, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

**19-5-208. Petition for adoption.** (5) IN ALL STEPPARENT, CUSTODIAL, AND KINSHIP ADOPTIONS, THE PETITION SHALL CONTAIN A STATEMENT INFORMING THE COURT WHETHER THE PROSPECTIVE ADOPTIVE PARENT WAS CONVICTED AT ANY TIME BY A COURT OF COMPETENT JURISDICTION OF A FELONY IN ONE OF THE FOLLOWING AREAS: CHILD ABUSE OR NEGLECT; SPOUSAL ABUSE; ANY CRIME AGAINST A CHILD; OR

ANY CRIME INVOLVING VIOLENCE, RAPE, SEXUAL ASSAULT, OR HOMICIDE, OR OTHER PHYSICAL ASSAULT OR BATTERY. IN ADDITION, THE PETITIONER SHALL ATTACH TO THE PETITION A CURRENT CRIMINAL RECORDS CHECK, PAID FOR BY THE PETITIONER.

(6) IN ALL CUSTODIAL AND KINSHIP ADOPTIONS, THE PETITION SHALL CONTAIN A STATEMENT THAT THE PETITIONER HAS CONSULTED WITH THE APPROPRIATE LOCAL COUNTY DEPARTMENT OF SOCIAL SERVICES CONCERNING THE POSSIBLE ELIGIBILITY OF THE PETITIONER AND THE CHILD FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF), MEDICAID, SUBSIDIZED ADOPTION AND OTHER SERVICES OR PUBLIC ASSISTANCE ADMINISTERED BY THE COUNTY DEPARTMENT OF SOCIAL SERVICES.

**SECTION 6.** 19-5-209 (1), Colorado Revised Statutes, is amended to read:

**19-5-209. Petition - written reports.** (1) Except for stepparent adoptions, KINSHIP ADOPTIONS, CUSTODIAL ADOPTIONS, and those cases in which placement for adoption has been made by the court, if a petition for the adoption of a child is not accompanied by the written consent and report of the county department of social services or a licensed child placement agency, the court shall order the county department of social services or a licensed child placement agency to make an investigation and file a written report substantially in the form outlined in section 19-5-207 (2), including a recommendation as to whether the adoption should be decreed.

**SECTION 7.** 19-5-210, Colorado Revised Statutes, is amended to read:

**19-5-210. Hearing on petition.** (1) A hearing on the petition for adoption shall be held on the date set or the date to which the matter has been regularly continued.

(1.5) EXCEPT IN STEPPARENT, CUSTODIAL, OR KINSHIP ADOPTIONS, the court shall issue a certificate of approval of placement, placing the child's custodial care with prospective adoptive parents pending final hearing on the petition for adoption, if it appears to the court that the placement for adoption is in the best interest of the child.

(2) IN STEPPARENT, CUSTODIAL, OR KINSHIP ADOPTIONS, THE COURT SHALL HOLD A HEARING ON THE PETITION AS SOON AS POSSIBLE. IN ALL OTHER ADOPTIONS, THE COURT SHALL HOLD A HEARING ON THE PETITION no sooner than six months after the date of the placement, unless for good cause shown that time is extended or shortened by the court. ~~the court shall hold a hearing on the petition and:~~ AT THE HEARING HELD ON THE PETITION, THE COURT shall enter a decree setting forth its findings and grant to the petitioner a final decree of adoption if it is satisfied as to:

(a) The availability of the child for adoption;

(b) The good moral character, the ability to support and educate the child, and the suitability of the home of the person adopting such child;

(b.5) The criminal records check of the prospective adoptive parent as reported to the court by the county department of social services or the child placement agency pursuant to section 19-5-207 (2.5) OR THE INFORMATION PROVIDED TO THE COURT PURSUANT TO SECTION 19-5-208 (5) does not reveal a criminal history described in 19-5-207 (2.5) (a);

(c) The mental and physical condition of the child as a proper subject for adoption in said home; and

(d) The fact that the best interests of the child will be served by the adoption.

(3) The former name of the child shall not be stated in the final decree of adoption.

(4) If, after the hearing, the court is not satisfied as to the matters listed in subsection (2) of this section, the petition for adoption may be either continued or dismissed in the discretion of the court. The court shall not grant the decree of final adoption if it determines that the prospective adoptive parent was convicted at any time by a court of competent jurisdiction of a felony in one of the following areas: Child abuse or neglect; spousal abuse; any crime against a child; or any crime involving violence, rape, sexual assault, or homicide, excluding other physical assault or battery. FOR STEPPARENT, KINSHIP, OR CUSTODIAL ADOPTIONS, IN ADDITION TO NOT GRANTING A DECREE OF FINAL ADOPTION IN CIRCUMSTANCES INVOLVING THE FELONY CONVICTIONS LISTED IN THIS SUBSECTION (4), THE COURT SHALL NOT GRANT THE DECREE OF FINAL ADOPTION IF IT DETERMINES THAT THE PROSPECTIVE ADOPTIVE PARENT WAS CONVICTED OF A FELONY FOR PHYSICAL ASSAULT OR BATTERY THAT WAS COMMITTED WITHIN THE PAST FIVE YEARS.

(5) All hearings with reference to adoption shall be closed to the public and, in the discretion of the court, to any child who is the subject of adoption and who is under twelve years of age, but the court may interview the child whenever it deems it proper.

(6) IN A STEPPARENT ADOPTION, IN ADDITION TO ISSUING A FINAL DECREE OF ADOPTION, THE COURT SHALL ENTER AN ORDER TERMINATING THE OTHER PARENT'S PARENTAL RIGHTS. IN A CUSTODIAL OR KINSHIP ADOPTION, IN ADDITION TO ISSUING A FINAL DECREE OF ADOPTION, THE COURT SHALL ENTER AN ORDER TERMINATING THE PARENTAL RIGHTS OF THE CHILD'S PARENTS.

**SECTION 8.** 19-5-211 (2), Colorado Revised Statutes, is amended to read:

**19-5-211. Legal effects of final decree.** (2) The ~~natural~~ parents shall be divested of all legal rights and obligations with respect to the child, and the adopted child shall be free from all legal obligations of obedience and maintenance with respect to the ~~natural~~ parents.

**SECTION 9.** 19-5-101 (1), Colorado Revised Statutes, is amended to read:

**19-5-101. Termination of the parent-child legal relationship.** (1) The juvenile court may, upon petition, terminate the parent-child legal relationship between a parent or parents, or a possible parent or parents, and a child in:

(a) Proceedings under section 19-1-104 (1) (d); ~~or~~

(b) Proceedings under section 19-5-105; OR

(c) PROCEEDINGS UNDER SECTION 19-5-203 (1) (d), (1) (e), (1) (f), (1) (j), AND (1) (k).

**SECTION 10. 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: June 1, 1999