

## CHAPTER 165

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**CHILDREN AND DOMESTIC MATTERS**


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**HOUSE BILL 05-1093**

BY REPRESENTATIVE(S) Solano, Jahn, Berens, Borodkin, Boyd, Buescher, Butcher, Carroll M., Carroll T., Clapp, Coleman, Garcia, Green, Hodge, Lindstrom, Madden, Marshall, McGihon, Merrifield, Paccione, Penry, Ragsdale, Rose, Stafford, Stengel, Todd, Vigil, Hefley, and May M.;

also SENATOR(S) Shaffer, Evans, Fitz-Gerald, Hanna, Jones, May R., McElhany, Mitchell, Spence, Teck, Tochtrop, Tupa, Veiga, Williams, and Windels.

**AN ACT**

**CONCERNING REQUIRING A PROSPECTIVE ADOPTIVE PARENT TO SUBMIT TO A CRIMINAL HISTORY RECORD CHECK, AND MAKING AN APPROPRIATION THEREFOR.**

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

**SECTION 1.** 19-5-207 (2.5), Colorado Revised Statutes, is amended to read:

**19-5-207. Written consent and home study report for public adoptions.**

(2.5) (a) (I) In all petitions for adoption, whether by the court, the county department of social services, or child placement agencies, in addition to the written home study report described in subsection (2) of this section, the court shall require the county department of social services, the designated qualified individual, or the child placement agency to conduct a criminal history records check for any prospective adoptive parent. ~~and to~~

(II) FOR PURPOSES OF FULFILLING THE CRIMINAL HISTORY RECORDS CHECK REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), THE STATE BOARD OF HUMAN SERVICES SHALL PROMULGATE RULES CONCERNING PETITIONS FOR ADOPTION WHEN A CHILD IS PLACED FOR ADOPTION BY THE COUNTY DEPARTMENT OF SOCIAL SERVICES OR A CHILD PLACEMENT AGENCY TO REQUIRE EACH PROSPECTIVE ADOPTIVE PARENT ATTEMPTING TO ADOPT A CHILD PLACED FOR ADOPTION BY THE COUNTY DEPARTMENT OF SOCIAL SERVICES OR A CHILD PLACEMENT AGENCY TO OBTAIN FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. THE PROSPECTIVE ADOPTIVE PARENT TO WHOM THIS SUBPARAGRAPH (II) APPLIES SHALL BE RESPONSIBLE FOR THE COST OF THE CRIMINAL HISTORY RECORD CHECKS.

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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.*

(III) FOR PURPOSES OF FULFILLING THE CRIMINAL HISTORY RECORDS CHECK REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), A PROSPECTIVE ADOPTIVE PARENT, OTHER THAN A PROSPECTIVE ADOPTIVE PARENT SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), SHALL OBTAIN FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. A PROSPECTIVE ADOPTIVE PARENT TO WHOM THIS SUBPARAGRAPH (III) APPLIES SHALL BE RESPONSIBLE FOR PROVIDING A COMPLETE SET OF FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION AND FOR OBTAINING THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE PROSPECTIVE ADOPTIVE PARENT SHALL ALSO BE RESPONSIBLE FOR THE COST OF THE CRIMINAL HISTORY RECORD CHECKS.

(IV) A PROSPECTIVE ADOPTIVE PARENT DESCRIBED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (a) SHALL BE RESPONSIBLE FOR PRESENTING THE RESULTS OF HIS OR HER FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS TO THE COURT FOR REVIEW BY THE COURT. THE COUNTY DEPARTMENT OF SOCIAL SERVICES OR THE CHILD PLACEMENT AGENCY, AS MAY BE APPROPRIATE, SHALL report to the court any case in which a FINGERPRINT-BASED CRIMINAL HISTORY record check reveals that the prospective adoptive parent who is attempting to adopt a child placed for adoption by a COUNTY DEPARTMENT OF SOCIAL SERVICES OR CHILD PLACEMENT AGENCY was convicted at any time of a felony or misdemeanor in one of the following areas:

(A) Child abuse or neglect;

(B) Spousal abuse;

(C) Any crime against a child;

(D) Any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(E) Violation of a protection order, as described in section 18-6-803.5, C.R.S.;

(F) Any crime involving violence, rape, sexual assault, or homicide; or

(G) Any felony physical assault or battery conviction or felony drug-related conviction within, at a minimum, the past five years.

(b) No person convicted of a felony offense specified in SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF this subsection (2.5) shall be allowed to adopt a child.

(c) In addition to the FINGERPRINT-BASED criminal history ~~records~~ RECORD check, the county department of social services, the individual, or the child placement agency conducting the investigation shall contact the state department of human services to determine whether the prospective adoptive parent or parents have been found to be responsible in a confirmed report of child abuse or neglect.

~~(b)~~ (d) The state board of human services shall promulgate rules setting forth the

procedures for the FINGERPRINT-BASED criminal ~~records~~ HISTORY RECORD check AND THE REPORT TO THE COURT described in paragraph (a) of this subsection (2.5).

**SECTION 2. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, to the department of public safety, for allocation to the Colorado bureau of investigation, for the fiscal year beginning July 1, 2005, the sum of one hundred twenty-seven thousand seven hundred thirty-seven dollars (\$127,737) and 0.6 FTE, or so much thereof as may be necessary, for fingerprint processing services related to the implementation of this act. Of said sum, fifty-two thousand nine hundred thirty-seven dollars (\$52,937) shall be cash funds received from prospective adoptive parents and seventy-four thousand eight hundred dollars (\$74,800) shall be cash funds exempt pass-through moneys received from prospective adoptive parents.

(2) It is the intent of the general assembly that the cash funds appropriation in subsection (1) of this section shall be derived from savings generated from the implementation of the provisions of House Bill 05-1264, as enacted during the First Regular Session of the Sixty-fifth General Assembly.

**SECTION 3. Effective date.** (1) This act shall only take effect if:

(a) House Bill 05-1264 is enacted at the First Regular Session of the Sixty-fifth General Assembly and becomes law; and

(b) The estimated decrease in state cash fund revenues resulting from House Bill 05-1264, for the state fiscal year 2005-06, as reflected in the final fiscal impact statement prepared on House Bill 05-1264 by the legislative council staff, is equal to or greater than the estimated increase in state cash fund revenues resulting from this act, if it takes effect, for the state fiscal year 2005-06, as reflected in the final fiscal impact statement prepared on this act by the legislative council staff; and

(c) The staff director of the joint budget committee files written notice with the revisor of statutes no later than July 15, 2005, that the requirement set forth in paragraph (b) of this subsection (1) has been met.

**SECTION 4. 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 26, 2005