

CHAPTER 23

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 05-1170

BY REPRESENTATIVE(S) Schultheis, Berens, Boyd, Brophy, Cloer, Crane, Frangas, Green, Harvey, Hoppe, Knoedler, Lundberg, Merrifield, Ragsdale, Riesberg, Stafford, Sullivan, Todd, and Welker;
also SENATOR(S) Jones, Groff, and Grossman.

AN ACT**CONCERNING NOTICE OF ANTICIPATED EXPEDITED RELINQUISHMENT.**

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

SECTION 1. Article 5 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

19-5-103.7. Anticipated expedited relinquishment - children under one year of age - notice to other or possible parent - administrative procedures.

(1) NOTWITHSTANDING ANY PROVISION OF SECTION 19-5-103 TO THE CONTRARY, A LICENSED CHILD PLACEMENT AGENCY ASSISTING A PARENT WHO PLANS TO RELINQUISH A CHILD THROUGH AN EXPEDITED RELINQUISHMENT PURSUANT TO SECTION 19-5-103.5, MAY PROVIDE NOTICE OF THE ANTICIPATED EXPEDITED RELINQUISHMENT ON BEHALF OF THE RELINQUISHING PARENT TO ANY OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT IDENTIFIED PURSUANT TO SECTION 19-5-105 (2) WHO IS NOT A PRESUMED PARENT PURSUANT TO SECTION 19-4-105 (1).

(2) THE LICENSED CHILD PLACEMENT AGENCY MAY GIVE NOTICE OF THE ANTICIPATED EXPEDITED RELINQUISHMENT PRIOR TO OR AFTER THE FILING OF THE AFFIDAVIT AND PETITION WITH THE COURT, BUT NOT MORE THAN SIXTY DAYS PRIOR TO THE ANTICIPATED BIRTH OF THE CHILD TO BE RELINQUISHED.

(3) (a) NOTICE TO THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT GIVEN PURSUANT TO THIS SECTION SHALL BE PROVIDED:

(I) BY PUBLICATION APPEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OF THE PERSON'S LAST KNOWN ADDRESS, IF THE PERSON'S IDENTITY IS KNOWN, OR THE COUNTY IN WHICH THE RELINQUISHING PARENT REPORTS THE

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

CONCEPTION TO HAVE OCCURRED. NOTICE BY PUBLICATION IS ONLY PROPER IF A PERSON HAS NOT BEEN IDENTIFIED AS THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT OR THE LOCATION OF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT HAS NOT BEEN DETERMINED AFTER DILIGENT EFFORTS.

(II) IN PERSON, DELIVERED BY AN EMPLOYEE OR A REPRESENTATIVE OF THE LICENSED CHILD PLACEMENT AGENCY ASSISTING THE RELINQUISHING PARENT, WITH A REQUIREMENT THAT THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT SIGN A STATEMENT ACKNOWLEDGING RECEIPT OF THE NOTICE; OR

(III) BY CERTIFIED MAIL TO ONLY THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT, RETURN RECEIPT REQUESTED, WITH RETURN RECEIPT PROVIDING PRIMA FACIE EVIDENCE OF SERVICE.

(b) THE DATE OF NOTICE SHALL BE CONSIDERED EITHER THE DATE ON WHICH THE NOTICE IS DELIVERED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (3) OR THE DATE ON THE RETURN RECEIPT FOR NOTICE GIVEN BY CERTIFIED MAIL PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (3), WHICHEVER IS APPLICABLE. IF NOTICE IS PROVIDED BY PUBLICATION, THE DATE OF NOTICE SHALL BE THE DATE OF THE FIRST DAY OF PUBLICATION.

(4) (a) NOTICE OF THE ANTICIPATED EXPEDITED RELINQUISHMENT GIVEN PURSUANT TO THIS SECTION SHALL INCLUDE THE NAME, MAILING ADDRESS, AND PHYSICAL ADDRESS OF THE LICENSED CHILD PLACEMENT AGENCY PROVIDING THE NOTICE AND SHALL INFORM THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT OF THE FOLLOWING:

(I) THE NAME OF THE PARENT OF THE CHILD WHO ANTICIPATES SEEKING TO RELINQUISH HIS OR HER PARENTAL RIGHTS FOR PURPOSES OF THE CHILD'S ADOPTION AND THE ANTICIPATED DATE OF BIRTH OR THE ACTUAL DATE OF BIRTH OF THE CHILD;

(II) THAT THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT HAS BEEN IDENTIFIED BY THE PARENT WHO ANTICIPATES SEEKING TO RELINQUISH HIS OR HER PARENTAL RIGHTS AS POTENTIALLY BEING THE OTHER BIRTH PARENT OF THE CHILD, OR, IF NO OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT HAS BEEN IDENTIFIED, THAT THE PARENT WHO ANTICIPATES SEEKING TO RELINQUISH HIS OR HER PARENTAL RIGHTS IS UNABLE TO IDENTIFY THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT;

(III) THAT PLACING A CHILD FOR ADOPTION REQUIRES TERMINATION OF THE CHILD'S PARENT-CHILD LEGAL RELATIONSHIPS;

(IV) THAT THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT HAS A RIGHT TO CONTEST THE TERMINATION OF PARENTAL RIGHTS; AND

(V) THAT FAILURE TO DECLARE AN INTENT TO CONTEST THE TERMINATION OF PARENTAL RIGHTS MAY LIKELY RESULT IN A TERMINATION OF THE PERSON'S PARENTAL RIGHTS TO THE CHILD, AND THAT, TO DECLARE AN INTENT TO CONTEST THE TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP, THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT SHALL:

(A) NO LATER THAN TWENTY DAYS AFTER THE DATE OF NOTICE PURSUANT TO

PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION OR BEFORE A RELINQUISHMENT PETITION IS FILED WITH THE COURT, WHICHEVER OCCURS LATER, EITHER RETURN A REPLY FORM TO THE LICENSED CHILD PLACEMENT AGENCY BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR PERSONALLY APPEAR AT THE LICENSED CHILD PLACEMENT AGENCY TO DECLARE AN INTENT TO CONTEST THE TERMINATION OF PARENTAL RIGHTS; AND

(B) NO LATER THAN TWENTY DAYS AFTER THE DATE OF NOTICE PURSUANT TO PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION OR BEFORE A RELINQUISHMENT PETITION IS FILED WITH THE COURT, WHICHEVER OCCURS LATER, FILE A CLAIM OF PATERNITY PURSUANT TO ARTICLE 4 OF THIS TITLE AND NOTIFY THE LICENSED CHILD PLACEMENT AGENCY PURSUANT TO SECTION 19-4-105.5 (4), C.R.S.;

(VI) THAT THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT MAY WAIVE THE RIGHT TO CONTEST THE TERMINATION OF PARENTAL RIGHTS AND THAT WAIVER MAY LIKELY RESULT IN A TERMINATION OF THE PERSON'S PARENTAL RIGHTS TO THE CHILD; AND

(VII) THAT FURTHER NOTICE RELATED TO THE ANTICIPATED EXPEDITED RELINQUISHMENT PROCEEDINGS SHALL NOT BE PROVIDED TO THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT WITHOUT RECEIPT OF A RESPONSE REQUIRED BY SUBPARAGRAPH (V) OF THIS PARAGRAPH (a).

(b) (I) EXCEPT WHEN NOTICE IS PROVIDED BY PUBLICATION, THE LICENSED CHILD PLACEMENT AGENCY ASSISTING THE RELINQUISHING PARENT WITH AN EXPEDITED RELINQUISHMENT SHALL SEND OR DELIVER A REPLY FORM DESCRIBED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (V) OF PARAGRAPH (a) OF THIS SUBSECTION (4) TO THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT AT THE SAME TIME AND BY THE SAME METHOD AS THE DELIVERY OF NOTICE GIVEN PURSUANT TO SUBSECTION (3) OF THIS SECTION. THE REPLY FORM SENT PURSUANT TO THIS PARAGRAPH (b), OR OTHERWISE AVAILABLE AT THE LICENSED CHILD PLACEMENT AGENCY PURSUANT TO PARAGRAPH (b) OF SUBSECTION (7) OF THIS SECTION, SHALL BE SIGNED BY THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT, WITNESSED, AND DATED, AND SHALL REQUIRE THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT TO DISCLOSE THE FOLLOWING INFORMATION TO THE LICENSED CHILD PLACEMENT AGENCY:

(A) THE FULL NAME OF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT;

(B) THE NAME OF THE RELINQUISHING PARENT AND THE ANTICIPATED DATE OF BIRTH OR THE ACTUAL DATE OF BIRTH OF THE CHILD TO BE RELINQUISHED, AS LISTED ON THE NOTICE;

(C) THE OTHER BIRTH PARENT'S OR POSSIBLE BIRTH PARENT'S ADDRESS;

(D) THE CASE NUMBER OF THE PENDING ACTION FILED, IF ANY, BY THE OTHER BIRTH PARENT OR THE POSSIBLE BIRTH PARENT FOR DETERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP PERTAINING TO THE CHILD TO BE RELINQUISHED; AND

(E) IF A CASE CONCERNING THE DETERMINATION OF THE PARENT-CHILD LEGAL

RELATIONSHIP PERTAINING TO THE CHILD TO BE RELINQUISHED HAS BEEN FILED, A COPY OF ANY COURT ORDERS ISSUED REGARDING THE OTHER BIRTH PARENT'S OR POSSIBLE BIRTH PARENT'S PARENT-CHILD LEGAL RELATIONSHIP.

(II) IN ADDITION TO THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE REPLY FORM SENT OR DELIVERED PURSUANT TO THIS PARAGRAPH (b), OR OTHERWISE AVAILABLE AT THE LICENSED CHILD PLACEMENT AGENCY PURSUANT TO PARAGRAPH (b) OF SUBSECTION (7) OF THIS SECTION, SHALL PROVIDE RESPONSE OPTIONS FOR SELECTION BY THE OTHER BIRTH PARENT OR THE POSSIBLE BIRTH PARENT REPLYING TO THE NOTICE, WHICH RESPONSE OPTIONS SHALL BE SUBSTANTIALLY SIMILAR TO THE FOLLOWING:

(A) THAT THE PERSON REPLYING TO THE NOTICE ACKNOWLEDGES THAT THERE MAY BE A PARENT-CHILD LEGAL RELATIONSHIP, DECLARES AN INTENT TO CONTEST THE TERMINATION OF PARENTAL RIGHTS, AND DECLARES AN INTENT TO SEEK TO HAVE THE COURT MAKE THIS DETERMINATION;

(B) THAT THE PERSON REPLYING TO THE NOTICE ACKNOWLEDGES THAT THERE MAY BE A PARENT-CHILD LEGAL RELATIONSHIP, WAIVES THE RIGHT TO CONTEST A TERMINATION OF PARENTAL RIGHTS, AND WAIVES THE RIGHT TO FURTHER NOTICE CONCERNING THE EXPEDITED RELINQUISHMENT AND THE TERMINATION OF PARENTAL RIGHTS WITH RESPECT TO THE CHILD; AND

(C) THAT THE PERSON REPLYING TO THE NOTICE DOES NOT ACKNOWLEDGE THAT THERE MAY BE A PARENT-CHILD LEGAL RELATIONSHIP, WAIVES THE RIGHT TO CONTEST A TERMINATION OF PARENTAL RIGHTS, AND WAIVES THE RIGHT TO FURTHER NOTICE CONCERNING THE EXPEDITED RELINQUISHMENT AND THE TERMINATION OF PARENTAL RIGHTS WITH RESPECT TO THE CHILD.

(III) IN ADDITION TO THE REQUIREMENTS OF SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (b), THE REPLY FORM SENT OR DELIVERED PURSUANT TO THIS PARAGRAPH (b), OR OTHERWISE AVAILABLE AT THE LICENSED CHILD PLACEMENT AGENCY PURSUANT TO PARAGRAPH (b) OF SUBSECTION (7) OF THIS SECTION, SHALL INCLUDE A STATEMENT OF ACKNOWLEDGMENT BY THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT THAT THERE IS A REQUIREMENT TO FILE A CLAIM OF PATERNITY AND TO NOTIFY THE LICENSED CHILD PLACEMENT AGENCY PURSUANT TO SECTION 19-4-105.5 (4), C.R.S., NO LATER THAN TWENTY DAYS AFTER THE DATE OF NOTICE OR BEFORE A RELINQUISHMENT PETITION IS FILED WITH THE COURT, WHICHEVER OCCURS LATER.

(5) TO PROPERLY REPLY AND DECLARE AN INTENT TO CONTEST THE TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP PURSUANT TO THIS SECTION, THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT SHALL, NO LATER THAN TWENTY DAYS AFTER RECEIVING NOTICE PURSUANT TO SUBSECTION (3) OF THIS SECTION OR BEFORE A RELINQUISHMENT PETITION IS FILED WITH THE COURT, WHICHEVER OCCURS LATER:

(a) RETURN A REPLY FORM TO THE LICENSED CHILD PLACEMENT AGENCY BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR, FOR OTHER BIRTH PARENTS OR POSSIBLE BIRTH PARENTS WHO RECEIVE NOTICE BY PUBLICATION OR WHO OTHERWISE DECIDE NOT TO RETURN THE REPLY FORM BY CERTIFIED MAIL, PERSONALLY APPEAR AT THE LICENSED CHILD PLACEMENT AGENCY TO DECLARE AN INTENT TO CONTEST

THE TERMINATION OF PARENTAL RIGHTS IN THE ANTICIPATED PROCEEDINGS; AND

(b) FILE A CLAIM OF PATERNITY PURSUANT TO ARTICLE 4 OF THIS TITLE AND NOTIFY THE LICENSED CHILD PLACEMENT AGENCY PURSUANT TO SECTION 19-4-105.5 (4), C.R.S.

(6) THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT WHO IS SERVED WITH NOTICE PURSUANT TO SUBSECTION (3) OF THIS SECTION AND FAILS TO REPLY AS REQUIRED IN SUBSECTION (5) OF THIS SECTION IRREVOCABLY WAIVES THE RIGHT TO FURTHER NOTICE OF PROCEEDINGS RELATED TO THE ANTICIPATED EXPEDITED RELINQUISHMENT AND IRREVOCABLY WAIVES THE RIGHT TO APPEAR AND CONTEST THE TERMINATION OF HIS OR HER PARENTAL RIGHTS, UNLESS THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT PROVES, BY CLEAR AND CONVINCING EVIDENCE, THE FOLLOWING:

(a) THAT IT WAS NOT POSSIBLE FOR THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT TO PROPERLY REPLY AND DECLARE AN INTENT TO CONTEST THE TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP PURSUANT TO THE REQUIREMENTS OF SUBSECTION (5) OF THIS SECTION; AND

(b) THAT THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT DID PROPERLY REPLY AND DECLARE AN INTENT TO CONTEST THE TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP PURSUANT TO THE REQUIREMENTS OF SUBSECTION (5) OF THIS SECTION WITHIN TWENTY DAYS AFTER IT BECAME POSSIBLE FOR THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT TO DO SO.

(7) (a) IF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT REPLIES TO THE NOTICE PROVIDED PURSUANT TO SUBSECTION (3) OF THIS SECTION BY RETURNING THE REPLY FORM VIA CERTIFIED MAIL TO THE LICENSED CHILD PLACEMENT AGENCY THAT SENT THE NOTICE, THE LICENSED CHILD PLACEMENT AGENCY SHALL ACCEPT AND FILE THE ORIGINAL REPLY FORM WITH THE COURT UPON FILING THE PETITION FOR RELINQUISHMENT OR UPON RECEIPT OF THE REPLY FORM, WHICHEVER OCCURS LATER. THE DATE OF THE REPLY SHALL BE THEN NOTED ON THE RETURN RECEIPT.

(b) IF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT REPLIES TO THE NOTICE PROVIDED PURSUANT TO SUBSECTION (3) OF THIS SECTION BY APPEARING IN PERSON AT THE LICENSED CHILD PLACEMENT AGENCY TO DECLARE HIS OR HER RESPONSE, THE LICENSED CHILD PLACEMENT AGENCY SHALL PROVIDE A REPLY FORM FOR THE OTHER BIRTH PARENT OR THE POSSIBLE BIRTH PARENT TO COMPLETE AND SIGN. AN AGENCY OR SOCIAL SERVICES EMPLOYEE SHALL SIGN THE FORM AS A WITNESS. THE LICENSED CHILD PLACEMENT AGENCY SHALL ACCEPT THE COMPLETED, SIGNED REPLY FORM, PROVIDE A COPY OF THE FORM TO THE OTHER BIRTH PARENT OR THE POSSIBLE BIRTH PARENT, AND FILE THE ORIGINAL WITH THE COURT UPON FILING THE PETITION FOR RELINQUISHMENT OR UPON RECEIPT OF THE COMPLETED REPLY FORM, WHICHEVER OCCURS LATER. THE DATE OF THE REPLY SHALL BE THE DATE ON WHICH THE OTHER BIRTH PARENT OR THE POSSIBLE BIRTH PARENT SIGNS THE REPLY.

(c) (I) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, IF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT REPLIES TO NOTICE PROVIDED BY PUBLICATION PURSUANT TO SUBSECTION (3) OF THIS SECTION BY CONTACTING THE LICENSED CHILD PLACEMENT AGENCY IN A MANNER OTHER THAN IS SPECIFIED IN

PARAGRAPH (b) OF THIS SUBSECTION (7), AND THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT PROVIDES HIS OR HER FULL NAME AND ADDRESS, THE LICENSED CHILD PLACEMENT AGENCY SHALL:

(A) WITHIN THREE BUSINESS DAYS AFTER THE CONTACT, AND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, SEND A REPLY FORM TO THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT WITH A WRITTEN STATEMENT INFORMING THE PERSON THAT THE DATE HE OR SHE CONTACTED THE LICENSED CHILD PLACEMENT AGENCY IN RESPONSE TO THE NOTICE RECEIVED SHALL BE CONSIDERED HIS OR HER DATE OF REPLY IF HE OR SHE RETURNS THE FORM NO LATER THAN TEN DAYS AFTER THE DATE NOTED ON THE RETURN RECEIPT, AND THAT, IF HE OR SHE RETURNS THE FORM MORE THAN TEN DAYS AFTER THE DATE NOTED ON THE RETURN RECEIPT, THE DATE THE LICENSED CHILD PLACEMENT AGENCY ACTUALLY RECEIVES THE REPLY FORM SHALL BE CONSIDERED HIS OR HER REPLY DATE; AND

(B) MAINTAIN A DATED RECORD TO SUBMIT TO THE COURT OF ALL COMMUNICATIONS MADE RELATED TO THIS PARAGRAPH (c).

(II) THE DATE OF REPLY PROVIDED IN THE MANNER DESCRIBED IN THIS PARAGRAPH (c) SHALL BE THE DATE THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT CONTACTS THE LICENSED CHILD PLACEMENT AGENCY IN RESPONSE TO THE NOTICE RECEIVED IF HE OR SHE RETURNS THE FORM NO LATER THAN TEN DAYS AFTER THE DATE NOTED ON THE RETURN RECEIPT OF THE FORM. IF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT RETURNS THE FORM MORE THAN TEN DAYS AFTER THE DATE NOTED ON THE RETURN RECEIPT, THE DATE THE REPLY IS RECEIVED BY THE LICENSED CHILD PLACEMENT AGENCY SHALL BE CONSIDERED THE REPLY DATE.

(d) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, IF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT FILES A CLAIM OF PATERNITY PURSUANT TO ARTICLE 4 OF THIS TITLE AND PROVIDES NOTICE TO THE LICENSED CHILD PLACEMENT AGENCY PURSUANT TO SECTION 19-4-105.5, THEN SUCH CLAIM AND NOTICE SHALL BE DEEMED TO SATISFY THE REQUIREMENTS OF SUBSECTION (5) OF THIS SECTION, SO LONG AS THE CLAIM OF PATERNITY IS FILED AND NOTICE IS PROVIDED TO THE LICENSED CHILD PLACEMENT AGENCY NO LATER THAN TWENTY DAYS AFTER RECEIVING NOTICE PURSUANT TO SUBSECTION (3) OF THIS SECTION OR BEFORE A RELINQUISHMENT PETITION IS FILED WITH THE COURT.

(e) THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT WHO REPLIES TO A LICENSED CHILD PLACEMENT AGENCY PURSUANT TO THIS SUBSECTION (7) SHALL NOTIFY THE AGENCY OF ANY CHANGE IN HIS OR HER ADDRESS.

(8) A LICENSED CHILD PLACEMENT AGENCY THAT PROVIDES NOTICE OF THE ANTICIPATED EXPEDITED RELINQUISHMENT ON BEHALF OF THE RELINQUISHING PARENT TO THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL HAVE THE DUTY TO FILE WITH THE COURT THE FOLLOWING INFORMATION AT THE TIME IT FILES THE PETITION FOR RELINQUISHMENT:

(a) AN AFFIDAVIT OF ADMINISTRATIVE NOTICE WITH RESPECT TO THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT WHO HAS RECEIVED NOTICE PURSUANT TO SUBSECTION (3) OF THIS SECTION, INCLUDING THE FOLLOWING INFORMATION, IF AVAILABLE:

(I) THE METHOD OF PROVIDING NOTICE;

(II) THE DATE OF NOTICE;

(III) THE DEADLINE FOR REPLY;

(IV) THE DATE OF THE REPLY;

(V) THE INTENT DECLARED IN THE REPLY;

(VI) A STATEMENT INDICATING WHETHER AN ACTION RELATING TO THE PARENT AND CHILD LEGAL RELATIONSHIP WAS FILED;

(VII) A STATEMENT INDICATING WHETHER THE PERSON'S REPLY WAS TIMELY; AND

(VIII) A STATEMENT INDICATING THAT THE EXPEDITED RELINQUISHMENT WAS FILED PURSUANT TO SECTION 19-5-103.5.

(b) IN ADDITION TO THE AFFIDAVIT OF ADMINISTRATIVE NOTICE FILED WITH THE COURT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (8), THE LICENSED CHILD PLACEMENT AGENCY SHALL FILE ALL AVAILABLE EVIDENCE SUPPORTING THE AFFIDAVIT, INCLUDING BUT NOT LIMITED TO SIGNED RETURN RECEIPTS, COMPLETED REPLY FORMS, AFFIDAVITS OF SERVICE OF PROCESS, EVIDENCE OF PUBLICATION, EVIDENCE OF THE FILING OF AN ACTION RELATING TO THE PARENT AND CHILD LEGAL RELATIONSHIP, AND ANY OTHER RECORDS OF PERTINENT COMMUNICATION WITH THE POSSIBLE BIRTH PARENT OR OTHER BIRTH PARENT.

(9) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE A PARENT WHO PLANS TO RELINQUISH A CHILD THROUGH AN EXPEDITED RELINQUISHMENT PURSUANT TO SECTION 19-5-103.5 TO FILE THE EXPEDITED RELINQUISHMENT.

(10) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE THE FILING OF A PETITION AND AFFIDAVIT OF RELINQUISHMENT PRIOR TO THE BIRTH OF A CHILD.

SECTION 2. 19-5-103.5 (2) (b) and (2) (d), Colorado Revised Statutes, are amended to read:

19-5-103.5. Expedited relinquishment procedure - children under one year of age - other birth parents - notice - termination. (2) (b) Notice of the proceeding pursuant to this section 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; EXCEPT THAT NOTICE SHALL NOT BE REQUIRED TO BE GIVEN TO A PERSON WHO HAS RECEIVED NOTICE PURSUANT TO SECTION 19-5-103.7 IF THE PERSON WAIVES THE RIGHT TO CONTEST A TERMINATION OF PARENTAL RIGHTS AND WAIVES THE RIGHT TO FURTHER NOTICE CONCERNING THE EXPEDITED RELINQUISHMENT OR IF THE PERSON FAILS TO REPLY AS REQUIRED PURSUANT TO SECTION 19-5-103.7. 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 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 twenty 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 child. The notice shall also inform the parent or alleged parent whose rights are to be determined that the 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 child. Proof of giving the notice shall be filed with the court before the petition is heard or otherwise acted upon. If no person has been identified as the birth parent, the court shall order that notice be provided to all possible birth parents by publication or public posting of the notice at times and in the places and manner the court deems appropriate.

~~(d) (I) If the other birth parent, or any other possible birth parent, THE COURT SHALL VACATE THE PROCEEDING AND, AT THE TIME OF THE REVIEW OF THE CASE PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION, ENTER AN ORDER TERMINATING THE PARENT-CHILD LEGAL RELATIONSHIP OF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT IF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT:~~

(A) Has waived his or her right to contest the termination of parental rights; or

(B) Has failed to appear and contest or to file an answer to the petition for termination or to file a paternity action within the prescribed twenty days following the date of the service, publication, or posting of the notice as provided in the notice pursuant to paragraph (b) of this subsection (2); or

~~(C) Has signed the affidavit of voluntary relinquishment described in subsection (1) of this section; then the court shall vacate the proceeding and, at the time of the review of the case pursuant to paragraph (c) of subsection (1) of this section, enter an order terminating the other birth parent's or possible birth parents' parent-child legal relationship: OR~~

(D) HAS WAIVED HIS OR HER RIGHT TO NOTICE AND RIGHT TO CONTEST THE TERMINATION OF PARENTAL RIGHTS PURSUANT TO SECTION 19-5-103.7.

(II) If the other birth parent or possible birth parent expresses his or her desire to appear and contest the termination of the parent-child legal relationship, the court shall proceed with a hearing on the petition for termination of the other birth parent's parent-child legal relationship.

SECTION 3. 19-4-105.5, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

19-4-105.5. Commencement of proceedings - summons. (3) PROCEEDINGS UNDER THIS ARTICLE MAY BE COMMENCED PRIOR TO THE BIRTH OF A CHILD.

(4) IF A PETITION IS FILED BY AN ALLEGED FATHER OR POSSIBLE FATHER PURSUANT TO THE REQUIREMENTS OF SECTION 19-5-103.7, THE LICENSED CHILD PLACEMENT AGENCY INVOLVED SHALL RECEIVE NOTICE OF THE ACTION IN THE SAME MANNER AS A PARTY TO THE ACTION.

SECTION 4. 19-4-114 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19-4-114. Pretrial recommendations - temporary orders. (1) On the basis of the information produced at the pretrial hearing, the judge or magistrate conducting the hearing shall evaluate the probability of determining the existence or nonexistence of the father and child relationship in a trial and whether a judicial declaration of the relationship would be in the best interest of the child. On the basis of the evaluation, an appropriate recommendation for settlement shall be made to the parties, which may include any of the following:

(d) THAT THE ACTION BE CONSOLIDATED WITH A RELINQUISHMENT ACTION FILED PURSUANT TO PART 1 OF ARTICLE 5 OF THIS TITLE.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 2005, and shall apply to actions commenced on or after said date.

SECTION 6. 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: March 31, 2005