

CHAPTER 188

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 07-1090

BY REPRESENTATIVE(S) Carroll T., Borodkin, Carroll M., Labuda, Levy, McGihon, Todd, Frangas, Lambert, Lundberg, Madden, Stafford, and Witwer;
also SENATOR(S) Boyd, Bacon, Groff, Romer, Shaffer, and Tochtrop.

AN ACT

CONCERNING THE ADOPTION OF A CHILD, AND, IN CONNECTION THEREWITH, REMOVING CERTAIN OFFENSES FROM CREATING A PERMANENT PROHIBITION ON ADOPTION.

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

SECTION 1. 19-5-207 (2.5) (b), Colorado Revised Statutes, is amended, and the said 19-5-207 (2.5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

19-5-207. Written consent and home study report for public adoptions - criminal history records check - investigation. (2.5) (a.5) (I) NOTWITHSTANDING THE PROVISIONS OF SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (2.5), A LICENSED CHILD PLACEMENT AGENCY OR A COUNTY PLACEMENT AGENCY MAY CONDUCT AN INVESTIGATION OF A PROSPECTIVE ADOPTIVE PARENT'S BACKGROUND ONLY IF THE FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2.5) REVEALS THAT THE PROSPECTIVE ADOPTIVE PARENT WAS CONVICTED OF A FELONY OR MISDEMEANOR AT LEAST TEN YEARS PRIOR TO THE APPLICATION FOR ADOPTION.

(II) IF A LICENSED CHILD PLACEMENT AGENCY OR A COUNTY PLACEMENT AGENCY CONDUCTS AN INVESTIGATION OF THE PROSPECTIVE ADOPTIVE PARENT, IT SHALL HAVE THE OPPORTUNITY TO PRESENT ITS FINDINGS TO THE JUVENILE COURT RESPONSIBLE FOR REVIEWING THE PETITION FOR ADOPTION. THE LICENSED CHILD PLACEMENT AGENCY OR THE COUNTY PLACEMENT AGENCY SHALL PROVIDE TO THE JUVENILE COURT RESPONSIBLE FOR REVIEWING THE PETITION FOR ADOPTION:

(A) A CERTIFIED COPY OF ANY CRIMINAL COURT DOCUMENTATION SUBSTANTIATING THE DISPOSITION OF THE APPLICANT'S FELONY CRIMINAL CASE; OR

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

(B) CERTIFIED DOCUMENTATION THAT THE COURT RECORDS CONCERNING THE FELONY CASE HAVE BEEN DESTROYED OR ARE OTHERWISE UNAVAILABLE.

(III) PENDING THE RESULTS OF THE INVESTIGATION BY THE LICENSED CHILD PLACEMENT AGENCY OR THE COUNTY PLACEMENT AGENCY AND THE JUVENILE COURT'S RULING ON THE ELIGIBILITY OF THE APPLICANT FOR THE PLACEMENT OF A CHILD, THE CHILD SHALL NOT BE PLACED IN THE PROSPECTIVE ADOPTIVE PARENT'S HOME IF THE FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK REVEALED THAT THE PROSPECTIVE ADOPTIVE PARENT WAS CONVICTED AT ANY TIME OF A FELONY OR MISDEMEANOR.

(b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), A PERSON CONVICTED OF A FELONY OFFENSE SPECIFIED IN SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (2.5) MAY BE ALLOWED TO ADOPT A CHILD IF:

(A) THE APPLICANT HAS HAD NO FURTHER ARRESTS OR CONVICTIONS SUBSEQUENT TO THE CONVICTION;

(B) THE APPLICANT HAS NOT BEEN CONVICTED OF A PATTERN OF MISDEMEANORS, AS DEFINED BY RULE OF THE STATE BOARD OF HUMAN SERVICES; AND

(C) THE COURT ENTERS A FINDING CONSISTENT WITH SECTION 19-5-210 (2) (d) THAT THE ADOPTION IS IN THE BEST INTERESTS OF THE CHILD.

(II) ~~No~~ A person convicted of a felony offense ~~specified in subparagraph (IV) of paragraph (a) of this subsection (2.5)~~ AS DESCRIBED IN THIS SUBPARAGRAPH (II) shall NOT be allowed to adopt a child IF THERE IS:

(A) A FELONY CONVICTION ON THE APPLICATION FOR ADOPTION THAT INVOLVES CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401, C.R.S.; A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406, C.R.S.; OR A FELONY OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9), C.R.S.;

(B) A FELONY CONVICTION ON THE APPLICATION FOR ADOPTION THAT OCCURRED LESS THAN FIVE YEARS PRIOR TO THE APPLICATION THAT INVOLVED PHYSICAL ASSAULT OR BATTERY OR A DRUG-RELATED OFFENSE; OR

(C) A FELONY CONVICTION ON THE APPLICATION FOR ADOPTION THAT OCCURRED LESS THAN TEN YEARS PRIOR TO THE APPLICATION AND INVOLVED DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3, C.R.S.

SECTION 2. 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 3, 2007