

CHAPTER 261

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 14-1042

BY REPRESENTATIVE(S) Saine, McCann, Ginal, Kagan, Pabon, Rankin, Young, Ferrandino, Becker, Conti, Fields, Murray, Pettersen, Schafer, Scott, Singer;
also SENATOR(S) Tochtrop, Guzman, Heath, Kefalas, Kerr, Newell, Nicholson, Carroll.

AN ACT

CONCERNING ACCESS BY BIRTH PARENTS TO RECORDS RELATING TO THE RELINQUISHMENT OF PARENTAL RIGHTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 19-1-103, **add** (35.3) as follows:

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

(35.3) "CUSTODIAN OF RECORDS", AS USED IN SECTION 19-5-109, MEANS AN ENTITY THAT HAS CUSTODY OF RECORDS RELATING TO THE RELINQUISHMENT OF A CHILD, INCLUDING A COURT, STATE AGENCY, LICENSED CHILD PLACEMENT AGENCY, MATERNITY HOME, OR THE LEGAL AGENT OR REPRESENTATIVE OF ANY SUCH ENTITY.

SECTION 2. In Colorado Revised Statutes, **add** 19-5-109 as follows:

19-5-109. Birth parent access to records related to relinquishment of parental rights. (1) (a) IN THOSE CASES IN WHICH A PARENT CONSENTS TO THE RELINQUISHMENT OF HIS OR HER CHILD AND THE SUBSEQUENT TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP IS NOT THE RESULT OF A DEPENDENCY AND NEGLECT ACTION, THE CUSTODIAN OF RECORDS SHALL PROVIDE TO THE RELINQUISHING BIRTH PARENT TO WHOM THE DOCUMENT PERTAINS A COPY OF THE RELINQUISHMENT RECORDS, IN THE POSSESSION OF THE CUSTODIAN OF RECORDS, THAT ARE SIGNED BY THE RELINQUISHING BIRTH PARENT OR BY A PARENT, GUARDIAN, CUSTODIAN, OR LEGAL REPRESENTATIVE ON BEHALF OF THE RELINQUISHING BIRTH PARENT AND ANY OF THE FOLLOWING RECORDS LISTED IN THIS PARAGRAPH (a) IN WHICH THE RELINQUISHING BIRTH PARENT IS NAMED, INCLUDING:

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

- (I) THE ORIGINAL BIRTH CERTIFICATE OF THE CHILD WHO IS BEING RELINQUISHED;
- (II) THE PETITION TO RELINQUISH;
- (III) THE FINAL ORDER OF RELINQUISHMENT;
- (IV) THE AFFIDAVIT OF COUNSELING, EXCLUDING ANY ATTACHMENTS AND EXCLUDING ANY NOTES OR PRERELINQUISHMENT COUNSELING DOCUMENTS;
- (V) THE TEMPORARY WAIVER OF CUSTODY;
- (VI) EXPEDITED RELINQUISHMENT DOCUMENTS, IF APPLICABLE;
- (VII) A RELINQUISHMENT INTERROGATORY FROM A BIRTH PARENT;
- (VIII) THE ORDER FOR PUBLICATION OF RELINQUISHMENT;
- (IX) THE NOTICE TO TERMINATE THE PARENT-CHILD LEGAL RELATIONSHIP; AND
- (X) THE MEDICAL RECORDS OF A BIRTH MOTHER RELATED TO THE PREGNANCY AND BIRTH, WHICH RECORDS MAY ONLY BE RELEASED BY THE HEALTH CARE PROVIDER, HOSPITAL, OR MATERNITY HOME THAT CREATED THE RECORD.

(b) THE CUSTODIAN OF RECORDS SHALL PROVIDE THE RECORDS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) TO THE RELINQUISHING BIRTH PARENT AT THE TIME OF RELINQUISHMENT OF THE CHILD OR AT THE TIME THE DOCUMENT IS CREATED.

(2) IF THE RECORDS DESCRIBED IN SUBSECTION (1) OF THIS SECTION WERE NOT PROVIDED TO A BIRTH PARENT AT THE TIME OF THE RELINQUISHMENT OF THE CHILD OR AT THE TIME THE DOCUMENT WAS CREATED AND IF THE SUBSEQUENT TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP WAS NOT THE RESULT OF A DEPENDENCY OR NEGLECT ACTION, THEN UPON WRITTEN REQUEST AND PROOF OF IDENTIFICATION OF THE BIRTH PARENT, THE CUSTODIAN OF RECORDS SHALL PROVIDE ACCESS TO AND COPIES OF THE RECORDS DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO THE BIRTH PARENT. NOTHING IN THIS SECTION PREVENTS THE RELEASE OF THE RECORDS DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO A BIRTH PARENT WHO WAS A MINOR AT THE TIME OF THE RELINQUISHMENT OF A CHILD IN CIRCUMSTANCES WHERE THE RECORD WAS SIGNED BY A PARENT, GUARDIAN, LEGAL CUSTODIAN, OR LEGAL REPRESENTATIVE ON BEHALF OF THE RELINQUISHING BIRTH PARENT.

(3) A LICENSED CHILD PLACEMENT AGENCY IS NOT LIABLE TO ANY PERSON FOR THE FAILURE OF A BIRTH PARENT TO REQUEST COPIES OF THE RECORDS DESCRIBED IN SUBSECTION (1) OF THIS SECTION PURSUANT TO THE PROVISIONS OF SUBSECTION (1) OR SUBSECTION (2) OF THIS SECTION. A LICENSED CHILD PLACEMENT AGENCY OR SUCCEEDING CUSTODIAN OF RECORDS IS NOT LIABLE TO ANY PERSON FOR FAILURE TO PRODUCE A COPY OF A RECORD THAT DID NOT EXIST PURSUANT TO THE PROVISIONS OF THE COLORADO REVISED STATUTES OR RULES AT THE TIME OF THE RELINQUISHMENT OF THE CHILD.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the vital statistics records cash fund created in section 25-2-121 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2014, the sum of \$14,423 and 0.3 FTE, or so much thereof as may be necessary, for allocation to health statistics and vital records for personal services related to the implementation of this act.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 22, 2014