

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 15-1020.02 Debbie Haskins x2045

HOUSE BILL 15-1355

HOUSE SPONSORSHIP

Saine and Singer, Conti, Danielson, Joshi, Melton, Moreno, Primavera, Sias, Windholz

SENATE SPONSORSHIP

Marble and Newell,

House Committees

Public Health Care & Human Services

Senate Committees

Health & Human Services

A BILL FOR AN ACT

101 **CONCERNING ACCESS TO PERSONAL RECORDS RELATING TO A**
102 **PERSON'S FAMILY HISTORY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill creates the "Heritage Act" and includes a legislative declaration about the importance of knowing one's familial heritage and origins.

Upon proof of evidence of at least one common birth parent between an adult adoptee and a sibling or half-sibling, an adult adoptee is an eligible party for purposes of obtaining direct access to a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
May 1, 2015

SENATE
2nd Reading Unamended
April 30, 2015

HOUSE
3rd Reading Unamended
April 27, 2015

HOUSE
2nd Reading Unamended
April 23, 2015

noncertified copy of the unaltered original birth certificate and the amended birth certificate of an adult sibling or half-sibling who was born, relinquished, or adopted in the state of Colorado, subject to the existing statutory requirement that all siblings adopted in a sibling group must reach the age of 18 before the birth certificates can be released. The bill also allows a descendant of the adult adoptee or a legal representative of the adult adoptee or descendant to access the original birth certificate and amended birth certificate of the adult sibling or half-sibling of the adult adoptee.

The bill grants direct access to certain unredacted personal records pertaining to a person who as a minor child was in the custody of the state home for dependent and neglected children (former ward), regardless of the former ward's adoption status. The bill also grants direct access to certain unredacted personal records of the former ward to the former ward's spouse, siblings, or descendants, or legal representative if the individual requesting access has the notarized written consent of the former ward or if the former ward is deceased. The bill defines the types of personal records relating to the custody, relinquishment, or adoption of a former ward that may be accessed, without redaction; except that personal records shall not include prerinquishment counseling records, which shall remain confidential.

The records that are accessible under this bill are records held by a court, a state agency, or the legal representative of a court or state agency and the "custodian of records" does not include a licensed child placement agency.

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

2 **SECTION 1. Short title - legislative declaration.** (1) This act
3 is known and may be cited as the "Heritage Act".

4 (2) The general assembly hereby finds that knowing one's own
5 familial heritage is important to people. For a person who was adopted or
6 who was not raised by his or her own birth parents, the ability to know his
7 or her own family history, including his or her genetic roots, the social
8 and medical history of his or her birth parents, and the biological history
9 of his or her family members, is important to the person's well-being and
10 sense of identity. Such information could also impact the person's medical
11 needs or the medical needs of the person's descendants. The general

1 assembly finds that while the Colorado Revised Statutes were amended
2 in 2014 to allow for more access to adoption records held by courts and
3 state agencies, there have been certain groups of people who still have not
4 been able to take advantage of the new statutes regarding access to
5 adoption records. People who were in the custody of the former state
6 home for dependent and neglected children as minor children have
7 encountered varying levels of access to their adoption records or other
8 personal records, dependent somewhat upon whether or not they were
9 adopted. The purpose of this act is to give the former wards of the state
10 home for dependent and neglected children, regardless of their adoption
11 status, and certain relatives of the wards, the ability to obtain access from
12 state agencies and from courts in this state to personal records pertaining
13 to the former wards' custody, relinquishment, or adoption. In addition, the
14 act also gives an adult adoptee who shares at least one common birth
15 parent with an adult sibling or adult half-sibling the right to obtain a
16 noncertified copy of the unaltered original birth certificate and the
17 amended birth certificate of that adult sibling or half-sibling. The act also
18 allows the adult adoptee's descendants to access the unaltered original
19 birth certificate and the amended birth certificate of the adult adoptee's
20 adult sibling or half-sibling.

21 **SECTION 2.** In Colorado Revised Statutes, 19-5-305, **amend as**
22 **amended by House Bill 15-1106** (2) (b) (I) as follows:

23 **19-5-305. Access to adoption records - contact with parties to**
24 **adoption - contact preference form and updated medical history**
25 **statement - definitions.** (2) (b) Subject to the provisions of subsection
26 (4) of this section and in addition to information exchanged in a
27 designated adoption or inspection authorized by a court upon good cause

1 shown pursuant to section 19-1-309, access to adoption records by certain
2 parties is governed by the following provisions:

3 (I) (A) **Adult adoptees, their descendants, and adoptive family**
4 **members.** Upon request, the custodian of records shall provide direct
5 access, without redaction, to all adoption records, as defined in section
6 19-1-103 (6.5) (a.5), for inspection and copying by an adult adoptee, an
7 adoptive parent of a minor adoptee, a custodial grandparent of a minor
8 adoptee, or the legal representative of any such individual. In addition, the
9 custodian of records shall provide direct access to adoption records for
10 inspection and copying by a spouse of an adult adoptee, an adult
11 descendant of an adoptee, an adult sibling or half-sibling of an adult
12 adoptee, an adoptive parent or grandparent of an adult adoptee, or the
13 legal representative of any such individual, if the individual requesting
14 access has the notarized written consent of the adult adoptee or if the
15 adult adoptee is deceased.

16 (B) **Access by an adult adoptee or descendant to the original**
17 **birth certificate and amended birth certificate of a sibling with a**
18 **common birth parent.** UPON PROOF OF EVIDENCE OF AT LEAST ONE
19 COMMON BIRTH PARENT BETWEEN AN ADULT ADOPTEE AND A SIBLING OR
20 HALF-SIBLING, THE CUSTODIAN OF RECORDS SHALL PROVIDE, WITHOUT
21 REDACTION, TO AN ADULT ADOPTEE, A DESCENDANT OF THE ADULT
22 ADOPTEE, OR A LEGAL REPRESENTATIVE OF THE ADULT ADOPTEE OR
23 DESCENDANT DIRECT ACCESS TO A NONCERTIFIED COPY OF THE
24 UNALTERED ORIGINAL BIRTH CERTIFICATE AND THE AMENDED BIRTH
25 CERTIFICATE OF AN ADULT SIBLING OR HALF-SIBLING WHO WAS BORN,
26 RELINQUISHED, OR ADOPTED IN THE STATE OF COLORADO, SUBJECT TO THE
27 PROVISIONS OF SUBSECTION (4) OF THIS SECTION.

1 **SECTION 3.** In Colorado Revised Statutes, **add** 19-5-305.5 as
2 follows:

3 **19-5-305.5. Access to personal records relating to a former**
4 **ward of the state home for dependent and neglected children - other**
5 **eligible parties - definitions.** (1) AS USED IN THIS SECTION:

6 (a) "ELIGIBLE PARTY" MEANS:

7 (I) A FORMER WARD, REGARDLESS OF ADOPTION STATUS;

8 (II) A SPOUSE OF A FORMER WARD;

9 (III) AN ADULT DESCENDANT OF A FORMER WARD;

10 (IV) AN ADULT SIBLING OR HALF-SIBLING OF A FORMER WARD; OR

11 (V) THE LEGAL REPRESENTATIVE OF ANY INDIVIDUAL DESCRIBED

12 IN SUBPARAGRAPHS (I) TO (IV) OF THIS PARAGRAPH (a), IF THE INDIVIDUAL

13 REQUESTING ACCESS HAS THE NOTARIZED WRITTEN CONSENT OF THE

14 FORMER WARD OR IF THE FORMER WARD IS DECEASED.

15 (b) "FORMER WARD" MEANS A PERSON WHO AS A MINOR CHILD

16 WAS IN THE CUSTODY OF THE STATE HOME FOR DEPENDENT AND

17 NEGLECTED CHILDREN, REGARDLESS OF THE PERSON'S ADOPTION STATUS.

18 (c) (I) "PERSONAL RECORDS" MEANS THE FOLLOWING DOCUMENTS

19 AND INFORMATION PERTAINING TO THE CUSTODY, RELINQUISHMENT, OR

20 ADOPTION OF A FORMER WARD, WITHOUT REDACTION:

21 (A) THE ORIGINAL BIRTH CERTIFICATE;

22 (B) THE AMENDED BIRTH CERTIFICATE;

23 (C) THE TEMPORARY WAIVER OF CUSTODY;

24 (D) THE FINAL ORDER OF RELINQUISHMENT;

25 (E) THE ORDER OF TERMINATION OF PARENTAL RIGHTS;

26 (F) THE FINAL DECREE OF ADOPTION;

27 (G) THE NAME OF THE FORMER WARD BEFORE PLACEMENT IN

1 ADOPTION; THE NAME AND ADDRESS OF EACH BIRTH PARENT AS THEY
2 APPEAR IN THE BIRTH RECORDS OR OTHER DOCUMENTS, INCLUDING OTHER
3 INFORMATION THAT MIGHT PERSONALLY IDENTIFY A BIRTH PARENT; AND
4 THE NAME AND ADDRESS OF EACH ADOPTIVE PARENT; AND

5 (H) THE PHYSICAL DESCRIPTION OF THE BIRTH PARENTS; THE
6 EDUCATIONAL BACKGROUND OF THE BIRTH PARENTS; THE OCCUPATION OF
7 THE BIRTH PARENTS; GENETIC INFORMATION ABOUT THE BIRTH FAMILY;
8 MEDICAL INFORMATION ABOUT THE FORMER WARD'S BIRTH; SOCIAL
9 INFORMATION ABOUT THE BIRTH PARENTS; WHETHER THE FORMER WARD
10 HAS SIBLINGS OR HALF-SIBLINGS, AND, IF SO, THE NAMES AND ADDRESSES
11 OF THE SIBLINGS AND HALF-SIBLINGS; AND THE PLACEMENT HISTORY OF
12 THE FORMER WARD.

13 (II) "PERSONAL RECORDS" DOES NOT INCLUDE
14 PRERELINQUISHMENT COUNSELING RECORDS, WHICH RECORDS SHALL
15 REMAIN CONFIDENTIAL.

16 (2) UPON PROOF OF IDENTIFICATION AND UPON REQUEST, THE
17 CUSTODIAN OF RECORDS, AS DEFINED IN SECTION 19-1-103 (35.3) (a),
18 SHALL PROVIDE DIRECT ACCESS, WITHOUT REDACTION, TO ALL PERSONAL
19 RECORDS FOR INSPECTION AND COPYING BY AN ELIGIBLE PARTY RELATING
20 TO A FORMER WARD WHO, REGARDLESS OF ADOPTION STATUS, AS A MINOR
21 WAS IN THE CUSTODY OF THE STATE HOME FOR DEPENDENT AND
22 NEGLECTED CHILDREN.

23 (3) PRIOR TO RELEASING ANY PERSONAL RECORDS TO AN ELIGIBLE
24 PARTY ALLOWED TO RECEIVE PERSONAL RECORDS PURSUANT TO THIS
25 SECTION, THE CUSTODIAN OF RECORDS MUST REQUIRE THE ELIGIBLE PARTY
26 REQUESTING ACCESS TO PROVIDE PROOF OF IDENTIFICATION. THE
27 CUSTODIAN OF RECORDS MAY CHARGE REASONABLE FEES FOR PROVIDING

1 COPIES OF RECORDS.

2 **SECTION 4.** In Colorado Revised Statutes, 19-1-103, **amend**
3 (35.3) (a) as follows:

4 **19-1-103. Definitions - repeal.** As used in this title or in the
5 specified portion of this title, unless the context otherwise requires:

6 (35.3) (a) (I) "Custodian of records", as used in section 19-5-305
7 (1.5) and (2) AND AS USED IN SECTION 19-5-305.5, means any of the
8 following individuals or entities that have custody of records relating to
9 the relinquishment or adoption of a child:

10 (A) A court;

11 (B) A state agency; or

12 (C) The legal agent or representative of any entity described in
13 sub-subparagraphs (A) and (B) of this paragraph (I).

14 (II) "Custodian of records", as used in section 19-5-305 (1.5) and
15 (2) AND AS USED IN SECTION 19-5-305.5, does not include a licensed child
16 placement agency.

17 **SECTION 5. Effective date - applicability.** This act takes effect
18 upon passage and applies to all requests and applications for access to
19 birth certificates and to records on or after said date.

20 **SECTION 6. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.