

First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 05-0148.01 Beth Kane

HOUSE BILL 05-1170

HOUSE SPONSORSHIP

Schultheis,

SENATE SPONSORSHIP

Jones,

House Committees

Health and Human Services

Senate Committees

Judiciary

A BILL FOR AN ACT

101 **CONCERNING NOTICE OF ANTICIPATED EXPEDITED RELINQUISHMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Authorizes a licensed child placement agency assisting a parent who plans to relinquish a child through an expedited relinquishment to provide notice of the anticipated expedited relinquishment on behalf of the relinquishing parent to any other birth parent or possible birth parent who is not a presumed parent. Specifies that 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 60 days prior to the anticipated birth of the child to be relinquished. Specifies requirements for serving notice and for

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
March 14, 2005

SENATE
Amended 2nd Reading
March 11, 2005

HOUSE
3rd Reading Unamended
February 15, 2005

HOUSE
Amended 2nd Reading
February 14, 2005

information that shall be included in the notice. States that to properly reply to a notice and declare an intent to contest the termination of the parent-child legal relationship, the other birth parent or possible birth parent shall, no later than 20 days after receiving notice or before a relinquishment petition is filed with the court, whichever occurs later, submit a reply form to the licensed child placement agency and file a claim of paternity.

States that the other birth parent or possible birth parent who is served with notice and fails to reply as required waives the right to further notice of proceedings related to the anticipated expedited relinquishment and 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, that it was not possible to properly reply to the notice and that he or she replied within 20 days after it became possible to do so.

Requires a licensed child placement agency that provides notice of the anticipated expedited relinquishment on behalf of the relinquishing parent to file an affidavit of administrative notice and all available evidence supporting the affidavit with the court.

States that providing notice of the anticipated expedited relinquishment does not require a parent who plans to relinquish a child to file the anticipated expedited relinquishment.

Makes conforming amendments.

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

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

4 **19-5-103.7. Anticipated expedited relinquishment - children**
5 **under one year of age - notice to other or possible parent -**
6 **administrative procedures.** (1) NOTWITHSTANDING ANY PROVISION OF
7 SECTION 19-5-103 TO THE CONTRARY, A LICENSED CHILD PLACEMENT
8 AGENCY ASSISTING A PARENT WHO PLANS TO RELINQUISH A CHILD
9 THROUGH AN EXPEDITED RELINQUISHMENT PURSUANT TO SECTION
10 19-5-103.5, MAY PROVIDE NOTICE OF THE ANTICIPATED EXPEDITED
11 RELINQUISHMENT ON BEHALF OF THE RELINQUISHING PARENT TO ANY
12 OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT IDENTIFIED PURSUANT

1 TO SECTION 19-5-105 (2) WHO IS NOT A PRESUMED PARENT PURSUANT TO
2 SECTION 19-4-105 (1).

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

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

10 (I) BY PUBLICATION APPEARING IN A NEWSPAPER OF GENERAL
11 CIRCULATION IN THE COUNTY OF THE PERSON'S LAST KNOWN ADDRESS, IF
12 THE PERSON'S IDENTITY IS KNOWN, OR THE COUNTY IN WHICH THE
13 RELINQUISHING PARENT REPORTS THE CONCEPTION TO HAVE OCCURRED.
14 NOTICE BY PUBLICATION IS ONLY PROPER IF A PERSON HAS NOT BEEN
15 IDENTIFIED AS THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT OR
16 THE LOCATION OF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT
17 HAS NOT BEEN DETERMINED AFTER DILIGENT EFFORTS.

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

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

26 (b) THE DATE OF NOTICE SHALL BE CONSIDERED EITHER THE DATE
27 ON WHICH THE NOTICE IS DELIVERED PURSUANT TO SUBPARAGRAPH (II) OF

1 PARAGRAPH (a) OF THIS SUBSECTION (3) OR THE DATE ON THE RETURN
2 RECEIPT FOR NOTICE GIVEN BY CERTIFIED MAIL PURSUANT TO
3 SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (3),
4 WHICHEVER IS APPLICABLE. IF NOTICE IS PROVIDED BY PUBLICATION, THE
5 DATE OF NOTICE SHALL BE THE DATE OF THE FIRST DAY OF PUBLICATION.

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

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

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

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

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

27 (V) THAT FAILURE TO DECLARE AN INTENT TO CONTEST THE

1 TERMINATION OF PARENTAL RIGHTS MAY LIKELY RESULT IN A
2 TERMINATION OF THE PERSON'S PARENTAL RIGHTS TO THE CHILD, AND
3 THAT, TO DECLARE AN INTENT TO CONTEST THE TERMINATION OF THE
4 PARENT-CHILD LEGAL RELATIONSHIP, THE OTHER BIRTH PARENT OR
5 POSSIBLE BIRTH PARENT SHALL:

6 (A) NO LATER THAN TWENTY DAYS AFTER THE DATE OF NOTICE
7 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION OR
8 BEFORE A RELINQUISHMENT PETITION IS FILED WITH THE COURT,
9 WHICHEVER OCCURS LATER, EITHER RETURN A REPLY FORM TO THE
10 LICENSED CHILD PLACEMENT AGENCY BY CERTIFIED MAIL, RETURN
11 RECEIPT REQUESTED, OR PERSONALLY APPEAR AT THE LICENSED CHILD
12 PLACEMENT AGENCY TO DECLARE AN INTENT TO CONTEST THE
13 TERMINATION OF PARENTAL RIGHTS; AND

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

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

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

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

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

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

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

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

26 (E) IF A CASE CONCERNING THE DETERMINATION OF THE
27 PARENT-CHILD LEGAL RELATIONSHIP PERTAINING TO THE CHILD TO BE

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

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

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

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

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

1 PARENTAL RIGHTS WITH RESPECT TO THE CHILD.

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

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

20 (a) RETURN A REPLY FORM TO THE LICENSED CHILD PLACEMENT
21 AGENCY BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR, FOR OTHER
22 BIRTH PARENTS OR POSSIBLE BIRTH PARENTS WHO RECEIVE NOTICE BY
23 PUBLICATION OR WHO OTHERWISE DECIDE NOT TO RETURN THE REPLY
24 FORM BY CERTIFIED MAIL, PERSONALLY APPEAR AT THE LICENSED CHILD
25 PLACEMENT AGENCY TO DECLARE AN INTENT TO CONTEST THE
26 TERMINATION OF PARENTAL RIGHTS IN THE ANTICIPATED PROCEEDINGS;
27 AND

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

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

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

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

24 (7) (a) IF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT
25 REPLIES TO THE NOTICE PROVIDED PURSUANT TO SUBSECTION (3) OF THIS
26 SECTION BY RETURNING THE REPLY FORM VIA CERTIFIED MAIL TO THE
27 LICENSED CHILD PLACEMENT AGENCY THAT SENT THE NOTICE, THE

1 LICENSED CHILD PLACEMENT AGENCY SHALL ACCEPT AND FILE THE
2 ORIGINAL REPLY FORM WITH THE COURT UPON FILING THE PETITION FOR
3 RELINQUISHMENT OR UPON RECEIPT OF THE REPLY FORM, WHICHEVER
4 OCCURS LATER. THE DATE OF THE REPLY SHALL BE THEN NOTED ON THE
5 RETURN RECEIPT.

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

21 (c) (I) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
22 CONTRARY, IF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT
23 REPLIES TO NOTICE PROVIDED BY PUBLICATION PURSUANT TO SUBSECTION
24 (3) OF THIS SECTION BY CONTACTING THE LICENSED CHILD PLACEMENT
25 AGENCY IN A MANNER OTHER THAN IS SPECIFIED IN PARAGRAPH (b) OF THIS
26 SUBSECTION (7), AND THE OTHER BIRTH PARENT OR POSSIBLE BIRTH
27 PARENT PROVIDES HIS OR HER FULL NAME AND ADDRESS, THE LICENSED

1 CHILD PLACEMENT AGENCY SHALL:

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

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

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

26 (d) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
27 CONTRARY, IF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT FILES

1 A CLAIM OF PATERNITY PURSUANT TO ARTICLE 4 OF THIS TITLE AND
2 PROVIDES NOTICE TO THE LICENSED CHILD PLACEMENT AGENCY PURSUANT
3 TO SECTION 19-4-105.5, THEN SUCH CLAIM AND NOTICE SHALL BE DEEMED
4 TO SATISFY THE REQUIREMENTS OF SUBSECTION (5) OF THIS SECTION, SO
5 LONG AS THE CLAIM OF PATERNITY IS FILED AND NOTICE IS PROVIDED TO
6 THE LICENSED CHILD PLACEMENT AGENCY NO LATER THAN TWENTY DAYS
7 AFTER RECEIVING NOTICE PURSUANT TO SUBSECTION (3) OF THIS SECTION
8 OR BEFORE A RELINQUISHMENT PETITION IS FILED WITH THE COURT.

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

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

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

- 23 (I) THE METHOD OF PROVIDING NOTICE;
- 24 (II) THE DATE OF NOTICE;
- 25 (III) THE DEADLINE FOR REPLY;
- 26 (IV) THE DATE OF THE REPLY;
- 27 (V) THE INTENT DECLARED IN THE REPLY;

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

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

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

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

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

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

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

25 **19-5-103.5. Expedited relinquishment procedure - children**
26 **under one year of age - other birth parents - notice - termination.**

27 (2) (b) Notice of the proceeding pursuant to this section shall be given

1 to every person identified as the other birth parent or a possible birth
2 parent in the manner appropriate under the Colorado rules of juvenile
3 procedure for the service of process or in any manner the court directs;
4 EXCEPT THAT NOTICE SHALL NOT BE REQUIRED TO BE GIVEN TO A PERSON
5 WHO HAS RECEIVED NOTICE PURSUANT TO SECTION 19-5-103.7 IF THE
6 PERSON WAIVES THE RIGHT TO CONTEST A TERMINATION OF PARENTAL
7 RIGHTS AND WAIVES THE RIGHT TO FURTHER NOTICE CONCERNING THE
8 EXPEDITED RELINQUISHMENT OR IF THE PERSON FAILS TO REPLY AS
9 REQUIRED PURSUANT TO SECTION 19-5-103.7. The notice shall inform the
10 parent or alleged parent whose rights are to be determined that failure to
11 file an answer or to appear within twenty days after service and, in the
12 case of an alleged father, failure to file a claim of paternity under article
13 4 of this title within twenty days after service, if a claim has not
14 previously been filed, may likely result in termination of the parent's or
15 the alleged parent's parental rights to the child. The notice shall also
16 inform the parent or alleged parent whose rights are to be determined that
17 the person has the right to waive his or her right to appear and contest and
18 that failure to appear and contest may likely result in termination of the
19 parent's or the alleged parent's parental rights to the child. Proof of giving
20 the notice shall be filed with the court before the petition is heard or
21 otherwise acted upon. If no person has been identified as the birth parent,
22 the court shall order that notice be provided to all possible birth parents
23 by publication or public posting of the notice at times and in the places
24 and manner the court deems appropriate.

25 (d) (I) ~~If the other birth parent, or any other possible birth parent,~~
26 THE COURT SHALL VACATE THE PROCEEDING AND, AT THE TIME OF THE
27 REVIEW OF THE CASE PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF

1 THIS SECTION, ENTER AN ORDER TERMINATING THE PARENT-CHILD LEGAL
2 RELATIONSHIP OF THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT IF
3 THE OTHER BIRTH PARENT OR POSSIBLE BIRTH PARENT:

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

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

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

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

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

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

27 **19-4-105.5. Commencement of proceedings - summons.**

1 (3) PROCEEDINGS UNDER THIS ARTICLE MAY BE COMMENCED PRIOR TO
2 THE BIRTH OF A CHILD.

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

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

9 **19-4-114. Pretrial recommendations - temporary orders.**

10 (1) On the basis of the information produced at the pretrial hearing, the
11 judge or magistrate conducting the hearing shall evaluate the probability
12 of determining the existence or nonexistence of the father and child
13 relationship in a trial and whether a judicial declaration of the
14 relationship would be in the best interest of the child. On the basis of the
15 evaluation, an appropriate recommendation for settlement shall be made
16 to the parties, which may include any of the following:

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

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

22 **SECTION 6. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety. February 15, 2005