

**First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 07-0720.01 Jane Ritter

HOUSE BILL 07-1330

HOUSE SPONSORSHIP

Madden, Carroll M., Carroll T., Cerbo, Frangas, Green, Judd, Kefalas, Kerr A., Levy, McGihon, and Pommer

SENATE SPONSORSHIP

Veiga,

House Committees

Health and Human Services

Senate Committees

State, Veterans & Military Affairs

A BILL FOR AN ACT

101 **CONCERNING THE SECOND-PARENT ADOPTION OF A CHILD OF A SOLE**
102 **LEGAL PARENT.**

Bill Summary

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

Allows a child to be adopted by a specified second adult parent upon the written and verified consent of a single parent if the child has no other legal parent. Allows the use of the same home study report in cases where the sole legal parent adopted the child within 6 months prior to the second adoption and the second adult parent was involved in that home study report.

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.

HOUSE
3rd Reading Unamended
March 14, 2007

HOUSE
Amended 2nd Reading
March 13, 2007

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

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

5 19-5-203.5. Second-parent adoption. (1) NOTWITHSTANDING
6 THE CONDITIONS SET FORTH IN SECTION 19-5-203, A CHILD OF A SOLE
7 LEGAL PARENT IS AVAILABLE FOR ADOPTION BY A SECOND PARENT UPON
8 WRITTEN AND VERIFIED CONSENT OF THE SOLE LEGAL PARENT THAT HE OR
9 SHE WISHES THE CHILD TO BE ADOPTED BY A SPECIFIED SECOND PARENT.

10 (2) A SECOND-PARENT ADOPTION IS NOT A PUBLIC ADOPTION.

11 (3) A PETITION FOR A SECOND-PARENT ADOPTION SHALL NOT BE
12 SUBJECT TO THE TIME LIMITATIONS SET FOR IN SECTION 19-5-208 (1).

13 (4) IN A PETITION FOR A SECOND-PARENT ADOPTION, THE COURT
14 SHALL REQUIRE THE SOLE LEGAL PARENT AND THE PROPOSED SECOND
15 PARENT TO OBTAIN COUNSELING FROM THE COUNTY DEPARTMENT OF
16 SOCIAL SERVICES IN THE COUNTY WHERE THE SOLE LEGAL PARENT AND
17 THE PROPOSED SECOND PARENT RESIDE OR FROM A LICENSED CHILD
18 PLACEMENT AGENCY THAT PROVIDES SUCH COUNSELING. A PETITION
19 THAT DOES NOT ATTEST TO THE COMPLETION OF COUNSELING SHALL BE
20 CONTINUED UNTIL COMPLETION OF COUNSELING IS OBTAINED, AND THE
21 SOLE LEGAL PARENT AND THE PROPOSED SECOND PARENT SHALL BE
22 REFERRED TO COUNSELING. A COUNTY DEPARTMENT OF SOCIAL SERVICES
23 IS AUTHORIZED TO CHARGE A FEE TO MEET THE FULL COST OF THE
24 COUNSELING.

25 (5) IN A PETITION FOR A SECOND-PARENT ADOPTION, THE COURT
26 MAY REQUIRE A WRITTEN HOME STUDY REPORT PREPARED BY A COUNTY

1 DEPARTMENT OF SOCIAL SERVICES, A DESIGNATED QUALIFIED INDIVIDUAL,
2 OR A CHILD PLACEMENT AGENCY APPROVED BY THE DEPARTMENT OF
3 HUMAN SERVICES PURSUANT TO SECTION 19-5-207.5 (2). IF THE SOLE
4 LEGAL PARENT HAD PREVIOUSLY ADOPTED THE CHILD, THE WRITTEN HOME
5 STUDY REPORT PREPARED FOR THE FIRST ADOPTION SHALL BE A VALID
6 HOME STUDY REPORT FOR THE PURPOSE OF THE SECOND-PARENT
7 ADOPTION IF:

8 (a) THE FIRST PARENT HAD REQUESTED THAT THE COUNTY
9 DEPARTMENT OF SOCIAL SERVICES, DESIGNATED QUALIFIED INDIVIDUAL,
10 OR CHILD PLACEMENT AGENCY PREPARE THE HOME STUDY REPORT FOR
11 THE PURPOSE OF THE FIRST ADOPTION AND THE SECOND-PARENT
12 ADOPTION;

13 (b) THE COUNTY DEPARTMENT OF SOCIAL SERVICES, DESIGNATED
14 QUALIFIED INDIVIDUAL, OR CHILD PLACEMENT AGENCY CONSENTED TO
15 THE PREPARATION AND USE OF THE HOME STUDY REPORT FOR BOTH THE
16 FIRST ADOPTION AND SECOND-PARENT ADOPTION PROCEEDINGS; AND

17 (c) THE PETITION FOR THE SECOND-PARENT ADOPTION IS FILED
18 LESS THAN SIX MONTHS FROM THE DATE OF THE ADOPTION BY THE FIRST
19 PARENT. IF THE FILING OF A PETITION FOR A SECOND-PARENT ADOPTION
20 OCCURS SIX MONTHS OR MORE AFTER THE ADOPTION BY THE FIRST
21 PARENT, A SEPARATE HOME STUDY REPORT SHALL BE REQUIRED PURSUANT
22 TO SECTION 19-5-207.

23 (6) WRITTEN CONSENT TO ANY PROPOSED SECOND-PARENT
24 ADOPTION SHALL BE OBTAINED FROM THE PERSON TO BE ADOPTED IF THAT
25 PERSON IS TWELVE YEARS OF AGE OR OLDER.

26 (7) PRIOR TO APPROVAL OF A PETITION FOR A SECOND-PARENT
27 ADOPTION, THE COURT SHALL INQUIRE WHETHER:

1 (a) THE SOLE LEGAL PARENT AND THE PROPOSED SECOND PARENT
2 MEET THE DEFINITIONS OF THOSE TERMS AS SET FORTH IN SUBSECTION (9)
3 OF THIS SECTION;

4 (b) THE NATURE AND STABILITY OF THE RELATIONSHIP BETWEEN
5 THE SOLE LEGAL PARENT AND THE PROPOSED SECOND PARENT AFFECTS
6 THEIR ABILITY TO PROVIDE A PERMANENT HOME FOR THE ADOPTEE;

7 (c) THE SOLE LEGAL PARENT AND THE PROPOSED SECOND PARENT
8 UNDERSTAND THE SIGNIFICANCE OF AND PERMANENCY OF THE ADOPTIVE
9 PARENT RELATIONSHIP THAT WILL BE CREATED BY THE SECOND-PARENT
10 ADOPTION AND THE COUNSELING RECEIVED ON THIS TOPIC;

11 (d) THE ADOPTEE IS THE SUBJECT OF A PETITION FOR DEPENDENCY
12 OR NEGLECT; AND

13 (e) THE ADOPTION BY THE SECOND PARENT IS IN THE BEST
14 INTERESTS OF THE ADOPTEE.

15 (8) PRIOR TO APPROVAL OF A PETITION FOR A SECOND-PARENT
16 ADOPTION, THE COURT SHALL ADVISE THE PARTIES OF THE PROCESS FOR
17 ALLOCATION OF PARENTAL RESPONSIBILITIES PURSUANT TO ARTICLE 4 OF
18 THIS TITLE.

19 (9) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
20 REQUIRES:

21 (a) "SECOND PARENT" MEANS AN UNMARRIED ADULT WITH WHOM
22 A SOLE LEGAL PARENT SHARES A COMMON RESIDENCE.

23 (b) "SOLE LEGAL PARENT" MEANS AN UNMARRIED PARENT OF A
24 CHILD WHO HAS NO OTHER PARENT AS A RESULT OF:

25 (I) AN ORDER OF THE COURT TERMINATING THE LEGAL
26 PARENT-CHILD RELATIONSHIP IN A PROCEEDING BROUGHT UNDER ARTICLE
27 3 OR 5 OF THIS TITLE;

1 (II) AN ORDER OF THE COURT DECREERING THE VOLUNTARY
2 RELINQUISHMENT OF THE LEGAL PARENT-CHILD RELATIONSHIP UNDER
3 SECTION 19-5-103, 19-5-103.5, OR 19-5-105;

4 (III) THE CHILD BEING CONCEIVED BY MEANS OF ASSISTED
5 REPRODUCTION AND NO OTHER LEGAL PARENT EXISTS PURSUANT TO
6 SECTION 19-4-106; OR

7 (IV) THE DEATH OF THE OTHER PARENT.

8 **SECTION 2.** 19-5-208 (5), Colorado Revised Statutes, is
9 amended to read:

10 **19-5-208. Petition for adoption.** (5) In all stepparent, SECOND
11 PARENT, custodial, and kinship adoptions, the petition shall contain a
12 statement informing the court whether the prospective adoptive parent
13 was convicted at any time by a court of competent jurisdiction of a felony
14 or misdemeanor in one of the following areas: Child abuse or neglect;
15 spousal abuse; any crime against a child; any crime, the underlying
16 factual basis of which has been found by the court on the record to
17 include an act of domestic violence, as defined in section 18-6-800.3,
18 C.R.S.; violation of a protection order, as described in section 18-6-803.5,
19 C.R.S.; any crime involving violence, rape, sexual assault, or homicide;
20 or any felony physical assault or battery. In addition, the petitioner shall
21 attach to the petition a current criminal history records check paid for by
22 the petitioner.

23 **SECTION 3.** 19-5-209 (1), Colorado Revised Statutes, is
24 amended to read:

25 **19-5-209. Petition - written home study reports.** (1) Except for
26 stepparent adoptions, SECOND-PARENT ADOPTIONS, kinship adoptions,
27 custodial adoptions, and those cases in which placement for adoption has

1 been made by the court, if a petition for the adoption of a child is not
2 accompanied by the written consent and home study report of the
3 qualified county department of social services, individual, or a licensed
4 child placement agency approved by the state department of human
5 services pursuant to section 19-5-207.5 (2), the court shall order the
6 county department of social services, individual, or licensed child
7 placement agency to make an investigation and file a written home study
8 report substantially in the form outlined in section 19-5-207 (2), including
9 a recommendation as to whether the adoption should be decreed.

10 **SECTION 4.** 19-5-210 (1.5), Colorado Revised Statutes, is
11 amended to read:

12 **19-5-210. Hearing on petition.** (1.5) Except in stepparent,
13 SECOND PARENT, custodial, or kinship adoptions, the court shall issue a
14 certificate of approval of placement, placing the child's custodial care
15 with prospective adoptive parents pending final hearing on the petition
16 for adoption, if it appears to the court that the placement for adoption is
17 in the best interest of the child.

18 **SECTION 5.** 19-5-211 (1.5), Colorado Revised Statutes, is
19 amended to read:

20 **19-5-211. Legal effects of final decree.** (1.5) An employer who
21 permits paternity or maternity time off for biological parents following
22 the birth of a child shall, upon request, make such time off available for
23 individuals adopting a child. If the employer has established a policy
24 providing time off for biological parents, that period of time shall be the
25 minimum period of leave available for adoptive parents. Requests for
26 additional leave due to the adoption of an ill child or a child with a
27 disability shall be considered on the same basis as comparable cases of

1 such complications accompanying the birth of such a child to an
2 employee or employee's spouse. Any other benefits provided by the
3 employer, such as job guarantee or pay, shall be available to both
4 adoptive and biological parents on an equal basis. An employer shall not
5 penalize an employee for exercising the rights provided by this subsection
6 (1.5). The provisions of this subsection (1.5) shall not apply to an
7 adoption by the spouse of a custodial parent OR TO A SECOND-PARENT
8 ADOPTION.

9 SECTION 6. 19-5-214 (1), Colorado Revised Statutes, is
10 amended to read:

11 19-5-214. Limitation on annulment of adoption - best interests
12 standard. (1) No final decree of adoption shall be attacked by reason of
13 any jurisdictional or procedural defect after the expiration of ninety days
14 following the entry of the final decree; except that, in cases of stepparent
15 adoption OR SECOND-PARENT ADOPTION, no final decree of adoption shall
16 be attacked by reason of fraud upon the court or fraud upon a party,
17 whether or not there is a jurisdictional or procedural defect, after the
18 expiration of one year following the entry of the final decree of adoption.

19 SECTION 7. Effective date. This act shall take effect at 12:01
20 a.m. on the day following the expiration of the ninety-day period after
21 final adjournment of the general assembly that is allowed for submitting
22 a referendum petition pursuant to article V, section 1 (3) of the state
23 constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007);
24 except that, if a referendum petition is filed against this act or an item,
25 section, or part of this act within such period, then the act, item, section,
26 or part, if approved by the people, shall take effect on the date of the
27 official declaration of the vote thereon by proclamation of the governor.