A BILL FOR AN ACT

CONCERNING ACCESS TO RECORDS RELATING TO THE ADOPTION OF CHILDREN.

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 repeals and reenacts portions of the existing statute on access to adoption records to eliminate different standards of access by members of the adoption triad (consisting of the adoptee, the birth parents, and the adoptive parents) and their descendants based on the law in existence on the date the adoption was finalized. The bill retains the
current policy that adoption records are confidential from the general public, unless the requesting party is eligible under the statute to access the records or unless the court finds good cause for release. The bill retains current policy that after a birth parent is deceased or an adult adoptee is deceased, eligible relatives may receive access to the adoption records.

**Contact preference forms.** The bill allows for the continued use of the contact preference form issued by the state registrar of vital statistics (state registrar), which form may be used by a birth parent to indicate whether he or she prefers to be contacted by an adoptee, the descendant of an adoptee, or a representative of either directly, through a third party, or not at all. Effective July 1, 2014, the state registrar shall not distribute a contact preference form that gives a birth parent the option to authorize or not authorize release of the original birth certificate to the adult adoptee, his or her descendants, or certain adoptive family members. Prior to releasing an original birth certificate to an individual eligible to access it, the state registrar or the custodian of records must conduct a search to determine whether a contact preference form was filed with the state registrar. If a contact preference form was executed prior to July 1, 2014, and the birth parent stated a preference not to authorize release of the original birth certificate, then the state registrar or other custodian of records may not release the original birth certificate to an adult adoptee or other eligible individual unless the birth parent rescinds or changes the contact preference form, upon mutual consent of 2 or more reunited parties, the birth parent is deceased, or a court orders its release. If one birth parent has authorized the release of the birth certificate and the other birth parent has not authorized the release, the state registrar or other custodian of records may only issue the original birth certificate with the name of the nonconsenting parent redacted.

The state registrar shall maintain and make available to the public accurate statistics about the number of contact preference forms on file with the state registrar and how many of the forms state a preference for contact, no contact, or contact through a third party.

**Access to adoption records by adult adoptees, their descendants, or adoptive family members.** The bill retains current policy regarding parties who are eligible to apply for adoption records. A custodian of adoption records must release adoption records (including birth certificates) to an adult adoptee, an adoptive parent of a minor adoptee, a custodial grandparent of a minor adoptee, or the legal representative of any such individual. In addition, the custodian of records must provide direct access for inspection and copying of adoption records to a spouse of an adult adoptee, adult descendant of an adoptee, adult sibling or half-sibling of an adult adoptee, adoptive parent or grandparent of an adult adoptee, or the legal representative of any such individual, if the individual requesting access has the notarized written consent of the
adult adoptee or if the adult adoptee is deceased.

Access to original birth certificates by birth parents. Upon request, the state registrar must provide to a birth parent who relinquished a child for adoption a copy of the unaltered original birth certificate that the birth parent signed or was named in.

Access to death certificates. The state registrar is authorized to conduct a search of death certificates to determine whether a birth parent or an adoptee is deceased and to provide a copy of any death certificate found to the requesting eligible individual. The state registrar may collect fees for conducting a search and for making copies and shall transmit any fees to the state treasurer who must credit the fees to the vital statistics records cash fund.

The legal custodian shall not release records unless the individual requesting access is eligible to access the records and provides proof of personal identification. The legal custodian may charge reasonable fees for copying records.

The bill retains the existing policy that allows identifying information in records of child placement agencies to remain confidential based on prior written statements of birth parents on file with the child placement agency or the court.

Subject to the provisions of this bill, any party may seek direct contact with another party or use the services of a confidential intermediary, a licensed child placement agency that agrees to conduct a search, or the voluntary mutual consent registry operated by the state registrar.

The bill makes conforming amendments.

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

SECTION 1. In Colorado Revised Statutes, 19-5-305, repeal and reenact, with amendments, (1), (1.5), and (2); and add (6) as follows:

19-5-305. Access to adoption records - contact with parties to adoption - contact preference form and updated medical history statement. (1) Confidentiality. All adoption records are confidential from the general public and shall remain confidential except as described in subsection (2) of this section or upon demonstration of good cause pursuant to section 19-1-309 or as otherwise provided by law.
(1.5) Contact preference forms and updated medical history

statements from birth parents. (a) The state registrar shall
prescribe and make available to a birth parent named on an
original birth certificate in the records of the state registrar
a contact preference form on which the birth parent may
indicate a preference regarding contact by the adult adoptee,
an adult descendant of the adoptee, or a legal representative
of the adoptee or descendant. The purpose of the contact
preference form is to allow the birth parent the opportunity to
indicate a preference to be contacted directly, to be contacted
through a third party, or not to be contacted by other parties.

(b) The form must also include space for a written
statement by the birth parent, which may include updated
medical history about the birth parent or other biological
relatives, an explanation for the stated contact preference, or
other information for the party seeking records. The medical
history statement form must indicate that the birth parent is
waiving confidentiality of any medical information supplied in
the statement with respect to the adoptee, an adult descendant
of the adoptee, or a legal representative of such individual, and
to the state registrar or his or her designees.

(c) The state registrar shall maintain the contact
preference form and the medical history statements, if any, and
make them accessible to an individual who is eligible to receive
adoPTION RECORDS AS DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (2)
of this section and who submits a written application form, proof
of identity, and an explanation of the individual's relationship
TO THE ADOPTEE, IF APPLICABLE. THE STATE REGISTRAR SHALL MAINTAIN
AND MAKE AVAILABLE TO THE PUBLIC ACCURATE STATISTICS ABOUT THE
NUMBER OF CONTACT PREFERENCE FORMS ON FILE WITH THE STATE
REGISTRAR AND HOW MANY OF THE FORMS STATE A PREFERENCE FOR
CONTACT, NO CONTACT, OR CONTACT THROUGH A THIRD PARTY.

(d) (I) EFFECTIVE JULY 1, 2014, THE STATE REGISTRAR SHALL NOT
DISTRIBUTE CONTACT PREFERENCE FORMS THAT INCLUDE AN OPTION FOR
THE BIRTH PARENT TO AUTHORIZE OR NOT AUTHORIZE RELEASE OF THE
ORIGINAL BIRTH CERTIFICATE TO OTHER PARTIES WHO ARE ELIGIBLE
UNDER PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION TO RECEIVE
ACCESS TO THE ORIGINAL BIRTH CERTIFICATE. ON OR BEFORE JULY 1,
2014, THE STATE REGISTRAR SHALL REVISE THE CONTACT PREFERENCE
FORM TO ELIMINATE THE OPTION ALLOWING A BIRTH PARENT TO
AUTHORIZE OR NOT AUTHORIZE THE RELEASE OF THE ORIGINAL BIRTH
CERTIFICATE TO INDIVIDUALS THAT ARE ELIGIBLE TO RECEIVE THE
ORIGINAL BIRTH CERTIFICATE AS PROVIDED IN PARAGRAPH (a) OR
PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

(II) PRIOR TO ALLOWING ACCESS TO AND PROVIDING A COPY OF AN
ORIGINAL BIRTH CERTIFICATE TO AN ELIGIBLE REQUESTING INDIVIDUAL,
THE STATE REGISTRAR OR OTHER CUSTODIAN OF RECORDS, IF APPLICABLE,
MUST PERFORM A DILIGENT SEARCH FOR A CONTACT PREFERENCE FORM.
IF A CONTACT PREFERENCE FORM EXECUTED PRIOR TO JULY 1, 2014,
STATES A PREFERENCE TO AUTHORIZE THE RELEASE OF THE ORIGINAL
BIRTH CERTIFICATE OR IF NO PREFERENCE REGARDING RELEASE OF THE
ORIGINAL BIRTH CERTIFICATE HAS BEEN STATED, THEN THE STATE
REGISTRAR OR OTHER CUSTODIAN OF RECORDS MUST RELEASE THE
ORIGINAL BIRTH CERTIFICATE TO THE ELIGIBLE REQUESTING INDIVIDUAL.
IF A CONTACT PREFERENCE FORM EXECUTED PRIOR TO JULY 1, 2014,
STATES A PREFERENCE THAT THE ORIGINAL BIRTH CERTIFICATE NOT BE
RELEASED, THEN THE STATE REGISTRAR OR OTHER CUSTODIAN OF
RECORDS MAY NOT RELEASE THE ORIGINAL BIRTH CERTIFICATE TO THE
ELIGIBLE REQUESTING INDIVIDUAL UNLESS THE BIRTH PARENT RESCINDS
OR CHANGES THE CONTACT PREFERENCE FORM, UPON MUTUAL CONSENT
OF TWO OR MORE REUNITED PARTIES, THE BIRTH PARENT IS DECEASED, OR
THE ELIGIBLE REQUESTING INDIVIDUAL OBTAINS A COURT ORDER
PURSUANT TO SECTION 19-1-309. IF ONE BIRTH PARENT HAS AUTHORIZED
THE RELEASE OF THE BIRTH CERTIFICATE AND THE OTHER BIRTH PARENT
HAS NOT AUTHORIZED THE RELEASE, THE STATE REGISTRAR OR OTHER
CUSTODIAN OF RECORDS SHALL ISSUE THE ORIGINAL BIRTH CERTIFICATE
TO THE ELIGIBLE REQUESTING INDIVIDUAL WITH THE NAME OF THE
NONCONSENTING PARENT REDACTED.

(2) Access to adoption records. Subject to the provisions of
subsection (3) of this section and in addition to information
exchanged in a designated adoption or inspection authorized by
a court upon good cause shown pursuant to section 19-1-309,
access to adoption records by certain parties is governed by the
following provisions:

(a) Adult adoptees, their descendants, and adoptive family
members. Upon request, the custodian of records shall provide
direct access to all adoption records, as defined in section
19-1-103(6.5), for inspection and copying by an adult adoptee, an
adoptive parent of a minor adoptee, a custodial grandparent of
a minor adoptee, or the legal representative of any such
individual. In addition, the custodian of records shall provide
DIRECT ACCESS TO ADOPTION RECORDS FOR INSPECTION AND COPYING BY
A SPOUSE OF AN ADULT ADOPTEE, AN ADULT DESCENDANT OF AN ADOPTEE,
AN ADULT SIBLING OR HALF-SIBLING OF AN ADULT ADOPTEE, AN ADOPTIVE
PARENT OR GRANDPARENT OF AN ADULT ADOPTEE, OR THE LEGAL
REPRESENTATIVE OF ANY SUCH INDIVIDUAL, IF THE INDIVIDUAL
REQUESTING ACCESS HAS THE NOTARIZED WRITTEN CONSENT OF THE
ADULT ADOPTEE OR IF THE ADULT ADOPTEE IS DECEASED.

(b) **Access by a birth parent to the original birth certificate.** A
BIRTH PARENT WHO RELINQUISHED A CHILD FOR ADOPTION, WHOSE
PARENT-CHILD LEGAL RELATIONSHIP WAS TERMINATED, AND WHO SIGNED
OR IS NAMED ON THE ORIGINAL BIRTH CERTIFICATE MAY APPLY TO THE
STATE REGISTRAR FOR AND OBTAIN A NONCERTIFIED COPY OF THE
UNALTERED ORIGINAL BIRTH CERTIFICATE OF THE CHILD HE OR SHE
RELINQUISHED IF THE CHILD WAS BORN IN THIS STATE, OR IF THE CHILD’S
ADOPTION WAS FINALIZED IN THIS STATE, OR BOTH.

(c) (I) **Access to death certificates of deceased parties.** Upon
REQUEST OF AN INDIVIDUAL ELIGIBLE TO HAVE ACCESS TO ADOPTION
RECORDS AS DESCRIBED IN PARAGRAPH (a) OR PARAGRAPH (b) OF THIS
SUBSECTION (2), THE STATE REGISTRAR SHALL CONDUCT A SEARCH OF
DEATH CERTIFICATES TO DETERMINE WHETHER AN ADOPTEE OR A BIRTH
PARENT IS DECEASED. IF THE STATE REGISTRAR FINDS A DEATH
CERTIFICATE FOR THE ADULT ADOPTEE OR THE BIRTH PARENT, THEN THE
STATE REGISTRAR SHALL PROVIDE A COPY TO THE REQUESTING
INDIVIDUAL. THE STATE REGISTRAR MAY COLLECT A FEE FOR CONDUCTING
A SEARCH AND FOR MAKING A COPY OF THE DEATH CERTIFICATE.

(II) **Access to records pertaining to a deceased party.** If an
INDIVIDUAL ELIGIBLE TO HAVE ACCESS TO ADOPTION RECORDS AS
DESCRIBED IN PARAGRAPH (a) OR (b) OF THIS SUBSECTION (2) APPLIES TO
A CUSTODIAN OF RECORDS FOR ACCESS TO RECORDS ABOUT AN ADULT
ADOPTEE OR A BIRTH PARENT AND THE CUSTODIAN OF RECORDS
determines that the person whose records are being sought is
deceased or can reasonably be presumed to be deceased based on
the known or estimated date of birth of the sought party, the
custodian of records shall provide direct access to the records
for inspection and copying by the eligible requesting individual.

(d) Proof of identification and fees. Prior to releasing any
records to any individual eligible to receive records pursuant
to this subsection (2), the custodian of records must require the
individual requesting access to provide proof of identification.
The custodian of records may charge reasonable fees for
providing copies of records. The state registrar shall transmit
all moneys collected pursuant to paragraph (c) of this
subsection (2) and this paragraph (d) to the state treasurer, who
shall credit the same to the vital statistics records cash fund
created in section 25-2-121, C.R.S.

(e) Release of records by child placement agencies and prior
written statements of birth parents. Notwithstanding the
provisions of subsection (3) of this section, the adoption records
in the possession of a child placement agency may not be open
for inspection or made available for copying with respect to any
identifying information concerning a birth parent if the birth
parent has previously provided the court and the child
placement agency, if applicable, with a signed and notarized
written statement, within three years after the final order of
RELINQUISHMENT OR TERMINATION OF THE PARENT-CHILD LEGAL
RELATIONSHIP, SPECIFYING THAT SUCH PARENT WISHES THE IDENTIFYING
INFORMATION CONCERNING THAT PARENT TO REMAIN CONFIDENTIAL. THE
WRITTEN STATEMENT MUST REMAIN IN THE COURT'S AND THE CHILD
PLACEMENT AGENCY'S RELINQUISHMENT OR TERMINATION FILE UNLESS
LATER WITHDRAWN BY THE PARENT. THE BIRTH PARENT MAY ALSO
SUBMIT TO THE COURT AND TO THE CHILD PLACEMENT AGENCY A LETTER
OF EXPLANATION THAT THE COURT AND THE CHILD PLACEMENT AGENCY
MUST RELEASE TO THE ADOPTEE AT THE TIME THAT THE ADOPTEE MAKES
A REQUEST FOR INSPECTION OF THE ADOPTION RECORDS. NO CHILD
PLACEMENT AGENCY IS LIABLE TO ANY INDIVIDUAL FOR THE FAILURE OF
A BIRTH PARENT TO SUBMIT SUCH A WRITTEN STATEMENT TO THE COURT.
THE CHILD PLACEMENT AGENCY SHALL MAKE REASONABLE EFFORTS TO
NOTIFY ANY AND ALL BIRTH PARENTS WHO EXECUTED A STATEMENT,
PURSUANT TO EARLIER VERSIONS OF THIS STATUTE, OF THE OPTION TO
SUBMIT A CONTACT PREFERENCE FORM AND AN UPDATED MEDICAL
HISTORY STATEMENT AS PROVIDED IN SUBSECTION (1.5) OF THIS SECTION.

(6) Contact between the parties. Subject to the provisions of
SUBSECTION (2) OF THIS SECTION, ANY PARTY MAY SEEK TO MAKE DIRECT
CONTACT WITH ANOTHER PARTY OR TO USE THE SERVICES OF A
CONFIDENTIAL INTERMEDIARY AS PROVIDED IN SECTION 19-5-304, A
LICENSED CHILD PLACEMENT AGENCY AS PROVIDED IN SUBSECTION (3) OF
THIS SECTION, OR THE VOLUNTARY ADOPTION REGISTRY MAINTAINED BY
THE STATE REGISTRAR AS PROVIDED IN SECTION 25-2-113.5, C.R.S.

SECTION 2. In Colorado Revised Statutes, 19-1-103, amend
(28.7); and 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:

(28.7) "Contact preference form" means a written statement signed by a birth parent indicating whether the birth parent prefers future contact with an adult adoptee, an adult descendant of the adoptee, or a legal representative of the adoptee or the descendant and, if contact is preferred, whether the contact should be through a confidential intermediary or a designated employee of a child placement agency. A contact preference form includes an option for a birth parent to authorize the release of an original birth certificate:

(35.3) "CUSTODIAN OF RECORDS", AS USED IN SECTION 19-5-305, MEANS ANY OF THE FOLLOWING INDIVIDUALS OR ENTITIES THAT HAVE CUSTODY OF RECORDS RELATING TO THE RELINQUISHMENT OR ADOPTION OF A CHILD:

(a) A COURT;
(b) A STATE AGENCY;
(c) A COUNTY DEPARTMENT OF SOCIAL SERVICES;
(d) AN ATTORNEY WHO REPRESENTED A PARTY INVOLVED IN A RELINQUISHMENT OR AN ADOPTION; OR
(e) THE LEGAL AGENT OR REPRESENTATIVE OF ANY INDIVIDUAL OR ENTITY DESCRIBED IN PARAGRAPHS (a) TO (d) OF THIS SUBSECTION (35.3).

SECTION 3. In Colorado Revised Statutes, 19-5-103, amend (2) (g) as follows:

(2) The counseling specified in paragraph (a) of subsection (1) of this section and provided by the department or the child placement agency shall include, but not be limited to, the following:
(g) The confidentiality of all information, except for
nonidentifying information as defined in section 19-1-103 (80) that may be accessed as provided in part 4 of this article, obtained by the department and the child placement agency in the course of relinquishment counseling unless the parent provides written permission or a release of information is ordered by a court of competent jurisdiction and except for a copy of an original birth certificate that may be obtained by an adult adoptee, adult descendant of an adoptee, or a legal representative of the adoptee or descendant as authorized by section 19-5-305. The counseling shall also include notice that a birth parent has the opportunity to file a written statement specifying that the birth parent's information remain confidential, an explanation of the rights and responsibilities of birth parents who disagree about consent as set forth in section 19-5-305, (2); and notice that a birth parent has the opportunity to sign and submit a contact preference form and updated medical history statements to the state registrar as set forth in section 19-5-305 (1.5).

SECTION 4. In Colorado Revised Statutes, amend 19-5-301 (1) as follows:

19-5-301. Legislative declaration. (1) The general assembly hereby finds and declares that adult adoptees, adoptive parents, biological parents, and biological siblings should have a qualified right of access to any certain records regarding their or their child's adoption or the adoption of their offspring or siblings as outlined in section 19-5-305 and that such a qualified right must coexist with the right of such parties to privacy and confidentiality. The general assembly also finds that an adult adoptee, his biological or adoptive parent, or his biological sibling may desire to obtain information about each other at different points in time. Furthermore, the general assembly finds that confidentiality FROM
THE GENERAL PUBLIC is essential to the adoption process and that any procedure to access information which relates to an adoption TO SEARCH FOR UNKNOWN RELATIVES THROUGH A CONFIDENTIAL INTERMEDIARY OR A LICENSED CHILD PLACEMENT AGENCY must be designed to maintain confidentiality and to respect the wishes of all involved parties.

SECTION 5. In Colorado Revised Statutes, 19-5-304, repeal (2) (b) (III) as follows:

19-5-304. Confidential intermediaries - confidential intermediary services. (2) (b) The court-appointed confidential intermediary shall make a diligent search of the adoption records and post-adoption records in an effort to find the sought-after relative. If the confidential intermediary successfully locates the relative sought, the confidential intermediary shall provide that relative with the opportunity to:

(III) Consent to or refuse to authorize disclosure of the adoption records to the person seeking such access.

SECTION 6. Effective date - applicability. This act takes effect July 1, 2014, and applies to requests for access to adoption records on or after said date.

SECTION 7. 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.