

NOTE: The governor signed this measure on 6/5/2015.

An Act

HOUSE BILL 15-1355

BY REPRESENTATIVE(S) Saine and Singer, Conti, Danielson, Joshi, Melton, Moreno, Primavera, Sias, Windholz, Brown, Ginal, Kraft-Tharp, Lebsack;
also SENATOR(S) Marble and Newell, Cooke, Jones, Kefalas, Lundberg, Neville T., Roberts, Steadman, Woods, Cadman.

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

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

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

(2) The general assembly hereby finds that knowing one's own familial heritage is important to people. For a person who was adopted or who was not raised by his or her own birth parents, the ability to know his or her own family history, including his or her genetic roots, the social and medical history of his or her birth parents, and the biological history of his or her family members, is important to the person's well-being and sense of identity. Such information could also impact the person's medical needs or the medical needs of the person's descendants. The general assembly finds that while the Colorado Revised Statutes were amended in 2014 to allow

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

for more access to adoption records held by courts and state agencies, there have been certain groups of people who still have not been able to take advantage of the new statutes regarding access to adoption records. People who were in the custody of the former state home for dependent and neglected children as minor children have encountered varying levels of access to their adoption records or other personal records, dependent somewhat upon whether or not they were adopted. The purpose of this act is to give the former wards of the state home for dependent and neglected children, regardless of their adoption status, and certain relatives of the wards, the ability to obtain access from state agencies and from courts in this state to personal records pertaining to the former wards' custody, relinquishment, or adoption. In addition, the act also gives an adult adoptee who shares at least one common birth parent with an adult sibling or adult half-sibling the right to obtain a noncertified copy of the unaltered original birth certificate and the amended birth certificate of that adult sibling or half-sibling. The act also allows the adult adoptee's descendants to access the unaltered original birth certificate and the amended birth certificate of the adult adoptee's adult sibling or half-sibling.

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

19-5-305. Access to adoption records - contact with parties to adoption - contact preference form and updated medical history statement - definitions. (2) (b) Subject to the provisions of subsection (4) 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:

(I) (A) **Adult adoptees, their descendants, and adoptive family members.** Upon request, the custodian of records shall provide direct access, without redaction, to all adoption records, as defined in section 19-1-103 (6.5) (a.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 an adult adoptee or descendant to the original birth certificate and amended birth certificate of a sibling with a common birth parent. UPON PROOF OF EVIDENCE OF AT LEAST ONE COMMON BIRTH PARENT BETWEEN AN ADULT ADOPTEE AND A SIBLING OR HALF-SIBLING, THE CUSTODIAN OF RECORDS SHALL PROVIDE, WITHOUT REDACTION, TO AN ADULT ADOPTEE, A DESCENDANT OF THE ADULT ADOPTEE, OR A LEGAL REPRESENTATIVE OF THE ADULT ADOPTEE OR DESCENDANT DIRECT ACCESS TO A 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 PROVISIONS OF SUBSECTION (4) OF THIS SECTION.

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

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

(a) "ELIGIBLE PARTY" MEANS:

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

(II) A SPOUSE OF A FORMER WARD;

(III) AN ADULT DESCENDANT OF A FORMER WARD;

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

(V) THE LEGAL REPRESENTATIVE OF ANY INDIVIDUAL DESCRIBED IN SUBPARAGRAPHS (I) TO (IV) OF THIS PARAGRAPH (a), IF THE INDIVIDUAL REQUESTING ACCESS HAS THE NOTARIZED WRITTEN CONSENT OF THE FORMER WARD OR IF THE FORMER WARD IS DECEASED.

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

IN THE CUSTODY OF THE STATE HOME FOR DEPENDENT AND NEGLECTED CHILDREN, REGARDLESS OF THE PERSON'S ADOPTION STATUS.

(c) (I) "PERSONAL RECORDS" MEANS THE FOLLOWING DOCUMENTS AND INFORMATION PERTAINING TO THE CUSTODY, RELINQUISHMENT, OR ADOPTION OF A FORMER WARD, WITHOUT REDACTION:

(A) THE ORIGINAL BIRTH CERTIFICATE;

(B) THE AMENDED BIRTH CERTIFICATE;

(C) THE TEMPORARY WAIVER OF CUSTODY;

(D) THE FINAL ORDER OF RELINQUISHMENT;

(E) THE ORDER OF TERMINATION OF PARENTAL RIGHTS;

(F) THE FINAL DECREE OF ADOPTION;

(G) THE NAME OF THE FORMER WARD BEFORE PLACEMENT IN ADOPTION; THE NAME AND ADDRESS OF EACH BIRTH PARENT AS THEY APPEAR IN THE BIRTH RECORDS OR OTHER DOCUMENTS, INCLUDING OTHER INFORMATION THAT MIGHT PERSONALLY IDENTIFY A BIRTH PARENT; AND THE NAME AND ADDRESS OF EACH ADOPTIVE PARENT; AND

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

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

(2) UPON PROOF OF IDENTIFICATION AND UPON REQUEST, THE CUSTODIAN OF RECORDS, AS DEFINED IN SECTION 19-1-103 (35.3) (a), SHALL PROVIDE DIRECT ACCESS, WITHOUT REDACTION, TO ALL PERSONAL RECORDS

FOR INSPECTION AND COPYING BY AN ELIGIBLE PARTY RELATING TO A FORMER WARD WHO, REGARDLESS OF ADOPTION STATUS, AS A MINOR WAS IN THE CUSTODY OF THE STATE HOME FOR DEPENDENT AND NEGLECTED CHILDREN.

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

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

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

(35.3) (a) (I) "Custodian of records", as used in section 19-5-305 (1.5) and (2) AND AS USED IN SECTION 19-5-305.5, 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; or

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

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

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

SECTION 6. 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.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
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Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO