

C.R.S. 19-5-305

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 19. CHILDREN'S CODE
ARTICLE 5. RELINQUISHMENT AND ADOPTION
PART 3. ACCESS TO ADOPTION INFORMATION

C.R.S. **19-5-305** (2013)

Legislative Alert:

LEXSEE 2014 Colo. SB 51 -- See section 1.

19-5-305. Access to adoption records - contact with parties to adoption - contact preference form and updated medical history statement

(1) Legislative declaration. The general assembly finds that on May 20, 1949, the general assembly amended Colorado law to provide that all adoption records in existence on that date and those records that came into existence after that date were to be sealed and thereby maintained confidential from the public. Thereafter, in 1967, the general assembly acted to preserve the anonymity of the birth parents, the child, and the adoptive parents in adoption actions. However, as a result of these changes, many adoptees were unable to make informed medical decisions, determine genetic consequences of certain medical and reproductive decisions, and enjoy the benefits relating to knowledge about one's family history. In 1989, the general assembly enacted a process by which parties to an adoption could attempt contact with one another through a confidential intermediary. Thereafter, in 1999, the general assembly enacted legislation that allowed for limited access to certain adoption records by persons involved in the adoption. The general assembly hereby determines that it is appropriate to allow access to certain adoption information by the parties to the adoption proceeding and the adoptee, but not by the public at large. In 2005, the general assembly determined that it would be beneficial to the members of the adoption triad to allow each birth parent the opportunity to indicate a preference regarding future contact, including the opportunity to authorize the release of the original birth certificate and to authorize the release of his or her own contact information, and to provide a method to make information about medical history available to the adoptee. In addition, the general assembly found that a delayed implementation of the access to a birth parent's contact information would allow members of the adoption triad to avail themselves of resources to address issues that may arise from searching for or reuniting with biological relatives or from making decisions not to pursue contact or information.

(1.5) Contact preference and updated medical history statements - authorizations to release of the original birth certificate. (a) The state registrar shall prescribe and make available to any 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 state a preference regarding contact by an adult adoptee, an adult descendant of an adoptee, or a legal representative of the

adoptee or descendant. The contact preference form shall allow the birth parent to voluntarily include the birth parent's contact information and shall provide the birth parent with options to indicate a preference regarding whether the birth parent would prefer or not prefer future contact with the adoptee or adult descendant of the adoptee or a legal representative of the adoptee or descendant and, if contact is preferred, whether the birth parent would prefer contact directly or through a confidential intermediary or a child placement agency. The contact preference form shall also include an option for the birth parent to authorize the release of the original birth certificate. An authorization to release may be exercised and submitted to the state registrar at any time after January 1, 2006. The contact preference form shall also indicate that the birth parent can change his or her contact preference form by notifying the state registrar in writing.

(b) The state registrar shall also prescribe an updated medical history statement, that a birth parent may submit, with the completed contact preference form, to the state registrar. Such medical history statement shall be a brief narrative statement written by the birth parent indicating medical information about the birth parent or other biological relatives. Such medical history statement shall 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 an adoptee, or a legal representative of such person and to the state registrar or his or her designees. The birth parent may submit additional updated medical history statements to the state registrar no more frequently than every three years, unless there is a significant change in medical history.

(c) The contact preference forms and updated medical history statements shall be maintained in the records of the state registrar and shall be accessible to the adult adoptee, the adult descendant of the adoptee, or the legal representative of the adoptee or descendant, who submits a written application form, proof of identity, and an explanation of the person's relationship to the adoptee, if applicable.

(d) In developing the contact preference form and the updated medical history statement, the state registrar shall consult with and obtain input from the adoption intermediary commission.

(e) When the state registrar receives a contact preference form or an updated medical history statement or both from a birth parent, the state registrar or the state registrar's authorized designee shall match the contact preference form and the updated medical history statement, if applicable, with the adoptee's sealed original birth certificate, and shall update its records to indicate that a birth parent has filed a contact preference form or an updated medical history statement or both with the state registrar. The state registrar is authorized to verify the submission of a contact preference form or an updated medical history statement and to provide a copy of a contact preference form to a confidential intermediary appointed pursuant to section 19-5-304 or to a designated employee of a child placement agency who is searching pursuant to subparagraph (III) of paragraph (b) of subsection (3) of this section.

(f) The state registrar shall designate certain employees to process, maintain, allow inspection of, and make copies of contact preference forms and updated medical history statements and to prepare and issue noncertified copies of the unaltered original birth certificates as authorized in this section.

(g) The state registrar shall accept contact preference forms and updated medical history statements on and after January 1, 2006.

(2) Determination of accessibility of records and contact. Subject to the provisions of subsection (4) of this section, the accessibility of adoption records, in addition to inspection authorized by a court upon good cause shown pursuant to section 19-1-309, and the ability of a party to the adoption proceeding or the adoptee to contact the adoptee or another party, shall be governed by the following provisions based upon the date on which the adoption was finalized:

(a) Adoptions finalized prior to September 1, 1999. (I) (A) Except to the extent disclosure is made in designated adoptions and except for an original birth certificate that is obtained through the provisions of paragraph (d) of this subsection (2), all adoption records, as that term is defined in section 19-1-103 (6.5), relating to adoptions finalized prior to September 1, 1999, shall remain confidential, and the names of the parties thereto and the name of the adoptee shall remain anonymous if the adoption was finalized on or after July 1, 1967. Such adoption records shall be accessible by any of the parties listed in section 19-5-304 (1) (b) (I) through the appointment of a confidential intermediary pursuant to section 19-5-304 who successfully obtains consent from the person sought to release such adoption records or by mutual consent of the reunited parties upon proof of identification or as otherwise provided by law.

(B) (Deleted by amendment, L. 2000, p. 1369, 3, effective July 1, 2000.)

(II) (Deleted by amendment, L. 2005, p. 985, § 2, effective July 1, 2005.)

(b) Adoptions finalized on or after September 1, 1999. (I) (A) Adoption records. All adoption records, as that term is defined in section 19-1-103 (6.5), relating to adoptions finalized on or after September 1, 1999, shall be open to inspection and available for 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, all those records described in section 19-1-103 (6.5) (a) (I), (6.5) (a) (II), (6.5) (a) (IV), and (6.5) (a) (V), relating to adoptions finalized on or after September 1, 1999, shall be open to inspection and available for copying by an adoptee's adoptive grandparent or by an adult descendant of an adoptee or the adoptive parent with the notarized written consent of the adult adoptee or the minor adoptee's adoptive parent. In addition, all those records described in section 19-1-103 (6.5) (a) (I), (6.5) (a) (II), (6.5) (a) (IV), and (6.5) (a) (V), relating to adoptions finalized on or after September 1, 1999, shall be open to inspection and available for copying by an adult sibling of an adult adoptee, an adoptee's spouse, or the legal representative of any such individual upon notarized written consent of the adult adoptee. No other person or entity shall have access to such records except as otherwise provided by law.

(B) (Deleted by amendment, L. 2000, p. 1369, 3, effective July 1, 2000.)

(C) Prior written statements of birth parents. Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (I), the adoption records shall not be open for inspection or available for copying with respect to any identifying information concerning a birth parent if such 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 specifying that such parent wishes the identifying information concerning that parent to remain confidential. The written statement shall remain in the court's and the child placement agency's relinquishment or termination file unless later withdrawn by the parent. The birth parent submitting such a written statement may also submit to the court and to the child placement agency a letter of explanation that shall be released to the adoptee at the time that the adoptee makes a

request for inspection of the adoption records. No child placement agency shall be liable to any person 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 this sub-subparagraph (C), of the option to submit a contact preference form and an updated medical history statement as provided in subsection (1.5) of this section.

(II) Contact. For adoptions finalized on or after September 1, 1999, contact by an adult adoptee, an adoptive parent of a minor adoptee, or an adult descendant of the adoptee or the adoptive parent with a birth parent or biological relative may be attempted at any time directly or through another person or agency including, but not limited to, a confidential intermediary appointed pursuant to section 19-5-304 or an employee of a child placement agency trained to perform a search pursuant to subparagraph (III) of paragraph (b) of subsection (3) of this section; except that contact with a birth parent who has previously provided a written statement to the court and to the child placement agency as described in sub-subparagraph (C) of subparagraph (I) of this paragraph (b) or who has filed a contact preference form, indicating a preference to be contacted through a confidential intermediary, may be attempted through a confidential intermediary appointed pursuant to section 19-5-304.

(III) For adoptions finalized on or after September 1, 1999, a birth parent shall have access to adoption records and contact with the adoptee or the adoptive family as otherwise provided by law.

(c) Deceased parties. (I) Notwithstanding paragraphs (a), (b), and (d) of this subsection (2), if it is determined:

(A) That the birth parent is deceased, then the person seeking the information, whether he or she is the adult adoptee, the adoptive parent of a minor adoptee, or the legal representative of any such individual, shall be allowed access to the adoption records. If one of the birth parents is deceased and the other birth parent is living but is nonconsenting then access to the records shall be permitted as provided in this paragraph (c) without the name of the nonconsenting birth parent. In addition, an adoptee's adoptive grandparent, an adult descendant of an adult adoptee, an adoptee's spouse, or the legal representative of any such individual shall be allowed access to those records described in section 19-1-103 (6.5) (a) (I), (6.5) (a) (II), (6.5) (a) (IV), and (6.5) (a) (V) if such person seeking the information has the notarized written consent of the adult adoptee or the adoptive parent if the adoptee is a minor.

(B) That the adoptee is deceased, then the person seeking the information, whether he or she is the adoptive parent, an adult descendant of the adoptee, or the legal representative of any such individual shall be allowed access to the adoption records. In addition, an adoptee's adoptive grandparent, an adult descendant of the adoptive parent, an adoptee's spouse, or the legal representative of any such individual shall be allowed access to those records described in section 19-1-103 (6.5) (a) (I), (6.5) (a) (II), (6.5) (a) (IV), and (6.5) (a) (V).

(II) (Deleted by amendment, L. 2000, p. 1369, 3, effective July 1, 2000.)

(d) Access to original birth certificates for adoptions finalized prior to September 1, 1999. (I) This paragraph (d) applies to adoptions finalized in this state prior to September 1, 1999.

(II) On and after January 1, 2007, the following persons may apply to the state registrar for a noncertified copy of the unaltered original birth certificate of an adoptee who was born in this state or whose adoption was finalized in this state or both and whose adoption records have been sealed due to an adoption proceeding:

(A) An adult adoptee who is eighteen years of age or older;

(B) An adult descendant of the adoptee who submits a written explanation of the person's relationship to the adoptee;

(C) An adult birth parent who signed or is named on the original birth certificate;

(D) The legal representative of any of the individuals listed in sub-subparagraphs (A) to (C) of this subparagraph (II).

(III) On and after January 1, 2007, the state registrar shall issue a noncertified copy of the unaltered original birth certificate to any of the persons who are allowed to apply for an original birth certificate pursuant to subparagraph (II) of this paragraph (d), and who submit proof of identity, if:

(A) Both birth parents have filed a contact preference form with the state registrar authorizing the release of the original birth certificate; or

(B) Only one birth parent has filed an authorization to release the original birth certificate prior to January 1, 2007, and the state registrar has not received an authorization to release the original birth certificate from the other birth parent, the state registrar shall issue the original birth certificate to the applicant with the name of the nonconsenting birth parent redacted.

(IV) Between July 1, 2005, and January 1, 2007, there shall be a statewide and national public information campaign conducted pursuant to section 19-5-306 to inform the public about the ability to obtain access to original birth certificates, to inform birth parents about the ability to file a contact preference form and updated medical history statements, to inform birth parents about the ability to authorize the release of an original birth certificate as part of the contact preference form, and to provide resource referrals to members of the adoption triad.

(V) Nothing in this paragraph (d) shall be construed to affect the ability of a member of the adoption triad to obtain access to adoption records, including the original birth certificate, through the appointment of a confidential intermediary, through an employee of a child placement agency trained to perform a search pursuant to subparagraph (III) of paragraph (b) of subsection (3) of this section, through mutual consent of the reunited parties, or through a court order upon good cause shown pursuant to section 19-1-309.

(3) Access to identifying information through child placement agencies. (a) Upon proof of identity of the person submitting the consent form, a licensed child placement agency shall accept and may seek a consent form, as that term is defined in section 19-1-103 (28.5), from an adult adoptee or from either adult adoptee's birth parent or from an adoptive parent of a minor adoptee or from the legal representative of a minor adoptee authorizing the release of identifying information, as that term is defined in section 19-1-103 (63.5), concerning the person submitting the consent form, to the extent such information is available to the child placement agency. If only one birth parent has filed a consent form with the child placement agency, the child placement agency or any succeeding custodian of

the records shall provide a copy of the identifying information without the name of and without identifying information about the nonconsenting birth parent.

(b) (I) Upon inquiry by an adult adoptee or an adult adoptee's birth parent or an adoptive parent of a minor adoptee seeking information about another party from a licensed child placement agency, the child placement agency shall be authorized to release identifying information to the inquiring person, upon proof of identity by the inquiring person, if the licensed child placement agency is in possession of a consent form from the party about whom information is sought authorizing such release.

(II) In those circumstances in which a child placement agency has released identifying information pursuant to paragraph (a) of this subsection (3), the child placement agency may attempt to locate at the last known address the person who had originally submitted the consent form and, upon locating such person, advise him or her of the release and provide him or her with the opportunity to fill out a contact preference form and updated medical history statement as prescribed in subsection (1.5) of this section. If the inquiring person also submitted a consent form authorizing the release of identifying information about him or her, the child placement agency may provide such identifying information to the person located.

(III) A child placement agency that accepts a consent form may perform a search for the sought party, subject to the requirement that an employee designated by the child placement agency to perform a search and to contact the sought party shall have completed training that meets the standards set forth by the adoption intermediary commission.

(c) A licensed child placement agency that accepts a consent form may charge a reasonable fee to cover the direct and indirect costs associated with the services provided pursuant to this subsection (3), if a written fee agreement has been signed by the agency and the party submitting the consent form prior to the provision of any service. If a child placement agency charges a fee, then the child placement agency shall make reasonable efforts to locate the person being sought and to release the information the child placement agency obtained to the person located. The licensed child placement agency shall be required to provide a list of names, addresses, and telephone numbers of organizations performing similar services prior to signing any fee agreement with any party submitting a consent form. Information in the post-adoption record is confidential and shall not be disclosed by a licensed child placement agency or any succeeding custodian of the records, or a court except as specifically permitted in this part 3, or as otherwise permitted by law.

(d) The release of any information by a licensed child placement agency pursuant to this subsection (3) shall be subject to the provisions of subsection (4) of this section.

(4) Access to information and contact concerning sibling groups. Notwithstanding the provisions set forth in subsections (1.5), (2), and (3) of this section authorizing access to adoption records and contact with an adoptee, in those circumstances in which one family has adopted two or more siblings, access to the adoption records concerning an adoptee and contact with an adoptee shall not occur until all of the siblings adopted by the family have attained eighteen years of age.

(5) Adult adoptee's restriction on access to records. Notwithstanding the provisions of subsection (2) of this section, an adult adoptee may, at any time, provide the court that finalized the adoption and the child placement agency with a signed and notarized written statement specifying that such adult adoptee wishes to maintain identifying information concerning that adoptee, other than the original birth certificate, confidential. The written

statement shall remain in the court's adoption file unless later withdrawn by the adoptee. Nothing in this subsection (5) shall be construed to affect access to records through the confidential intermediary process.

HISTORY: Source: L. 99: Entire section added, p. 1132, § 4, effective July 1. L. 2000: (2)(a)(I)(A), (2)(a)(I)(B), (2)(b)(I)(A), (2)(b)(I)(B), (2)(b)(I)(C), (2)(b)(II), (2)(c), (3), and (5) amended, p. 1369, § 3, effective July 1. L. 2005: Entire section amended, p. 985, § 2, effective July 1.

Cross references: For the provisions referring to confidential intermediaries formerly found in subsection (2)(a)(II), see § 19-5-304 (2)(b). (See L. 2005, p. 984.)

ANNOTATION

For adoptions finalized after July 1, 1951, but before July 1, 1967, an adoptee may have access to the names of his or her birth parents and to all court records and papers regarding the adoption and shall not be required to utilize the confidential intermediary process in order to gain access to that information. In re J.N.H., 209 P.3d 1221 (Colo. App. 2009).