

By: Lucio, Harris

S.B. No. 221

A BILL TO BE ENTITLED

AN ACT

relating to birth records of adopted children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 192.008, Health and Safety Code, is amended by adding Subsections (g) through (j) to read as follows:

(g) Subject to Subsections (i) and (j), the state registrar shall on request provide to a person who was adopted on or after January 1, 2008, or, if the adopted person is deceased, an adult descendant, adult sibling, or surviving spouse of the adopted person a noncertified copy of the person's original birth certificate if:

(1) the request is made on or after the 18th anniversary of the adopted person's birth;

(2) a supplementary birth certificate was issued for the adopted person; and

(3) the person requesting the certificate furnishes appropriate proof of the person's identity.

(h) Subject to Subsections (i) and (j), the state registrar may, if resources allow, on request provide to a person who was adopted before January 1, 2008, or, if the adopted person is

deceased, an adult descendant, adult sibling, or surviving spouse of the adopted person a noncertified copy of the person's original birth certificate only if an adopted person's birth parent has filed a contact preference form with the state registrar authorizing the release of a noncertified copy of the person's original birth certificate.

(i) If a birth parent files with the state registrar a contact preference form indicating the birth parent's preference that a noncertified copy of the adopted person's original birth certificate not be released, the state registrar may not release, without a court order, a noncertified copy of the adopted person's original birth certificate regardless of the other birth parent's preference.

(j) If a birth parent files with the state registrar a contact preference form indicating the birth parent's preference that a noncertified copy of the adopted person's original birth certificate not be released until after the death of the birth parent, the state registrar may not release, without a court order, a noncertified copy of the adopted person's original birth certificate before that birth parent dies regardless of the other birth parent's preference.

SECTION 2. Subchapter A, Chapter 192, Health and Safety Code, is amended by adding Sections 192.0085 and 192.0086 to read as follows:

Sec. 192.0085. CONTACT PREFERENCE FORM AND UPDATED MEDICAL HISTORY FORM. (a) The state registrar shall develop a contact preference form on which a birth parent shall state the birth parent's preference regarding contact by an adopted person who is the birth child of the birth parent. The contact preference form shall provide the birth parent with the following options:

(1) authorize direct contact by the adopted person and the release of a noncertified copy of the adopted person's original birth certificate;

(2) authorize contact by the adopted person only through an intermediary selected by the birth parent but not authorize the release of a noncertified copy of the adopted person's original birth certificate;

(3) not authorize contact by the adopted person but authorize the release of a noncertified copy of the adopted person's original birth certificate; or

(4) not authorize contact by the adopted person and request that a noncertified copy of the adopted person's original birth certificate not be released until after the death of the birth parent.

(b) The state registrar shall develop an updated medical history form.

(c) The state registrar shall make the contact preference form and the updated medical history form available in English and

Spanish.

(d) The department shall make the contact preference form and the updated medical history form available on the department's Internet website.

(e) A birth parent may file an updated contact preference form and an updated medical history form with the state registrar. The birth parent may return the updated contact preference form and updated medical history form together to the state registrar.

(f) The state registrar shall deliver the birth parent's contact preference form and updated medical history form to an adopted person who receives a noncertified copy of the adopted person's original birth certificate under Section 192.008.

(g) The state registrar shall keep statistics on:

(1) the number of:

(A) updated medical histories filed with the state registrar; and

(B) contact preference forms and updated medical history forms delivered by the state registrar under Subsection (f); and

(2) which adoption agency or attorney mediated each adoption for which a contact preference form is filed.

(h) The state registrar may charge an adopted person a reasonable fee for services provided under this section.

Sec. 192.0086. CONTACT USING INTERMEDIARY. (a) If a birth

parent's contact preference form authorizes contact using an intermediary, the state registrar shall make the contact information for the intermediary selected by the birth parent available to the adopted person on request.

(b) If the birth parent has not provided the intermediary's contact information at the time the adopted person requests the information, the state registrar shall notify the birth parent by certified mail, return receipt requested, that the birth parent must provide the intermediary's contact information not later than the 90th day after the date the birth parent receives the notice.

(c) If the birth parent fails to provide the intermediary's contact information within the time required by Subsection (b), the state registrar shall release a noncertified copy of the adopted person's original birth certificate.

(d) If the state registrar is unable to notify the birth parent by certified mail, return receipt requested, because the birth parent fails to keep the birth parent's personal contact information current with the state registrar, the state registrar shall release a noncertified copy of the adopted person's original birth certificate on the 91st day after the date the notice was sent by certified mail.

SECTION 3. Subchapter A, Chapter 162, Family Code, is amended by adding Section 162.0061 to read as follows:

Sec. 162.0061. CONTACT PREFERENCE FORM: NOTICE AND

FILING. (a) This section does not apply to an adoption by the child's:

- (1) grandparent;
- (2) aunt or uncle by birth, marriage, or prior adoption;
- (3) stepparent; or
- (4) adult sibling.

(b) The Department of Family and Protective Services or the licensed child-placing agency, person, or other entity placing a child for adoption shall:

- (1) inform the birth parents of the child:

(A) of the provisions of Chapter 192, Health and Safety Code, relating to the birth parent contact preference form and the rights of an adopted child to obtain a noncertified copy of the adopted person's original birth certificate; and

(B) that the birth parents are required to provide a completed contact preference form to the Department of Family and Protective Services or the licensed child-placing agency, person, or other entity placing a child for adoption;

(2) provide the birth parents of the child with a contact preference form; and

(3) forward the original completed contact preference form to the state registrar.

(c) A petition for adoption may not be granted until a copy of the birth parent's contact preference form has been filed.

(d) A court having jurisdiction of a suit affecting the parent-child relationship may by order waive the contact preference form filing requirement of this section if the child's biological parents cannot be located or are deceased or the court determines it is in the best interest of the child to waive the requirement.

SECTION 4. (a) The state registrar shall keep statistics on the number of contact preference forms that:

(1) authorize direct contact by the adopted person and the release of a noncertified copy of the adopted person's original birth certificate;

(2) authorize contact by the adopted person only through an intermediary selected by the birth parent but do not authorize the release of a noncertified copy of the adopted person's original birth certificate;

(3) do not authorize contact by the adopted person but authorize the release of a noncertified copy of the adopted person's original birth certificate; or

(4) do not authorize contact by the adopted person and request that a noncertified copy of the adopted person's original birth certificate not be released until after the death of the birth parent.

(b) The state registrar shall report its findings under this section to the legislature not later than January 1, 2009.

SECTION 5. (a) The state registrar may not issue a

S.B. No. 221

noncertified copy of an original birth certificate under Subsection (h), Section 192.008, Health and Safety Code, as added by this Act, before January 1, 2009.

(b) The state registrar shall develop the contact preference form and the updated medical history form as required by Section 192.0085, Health and Safety Code, as added by this Act, not later than January 1, 2008.

SECTION 6. The change in law made by Section 162.0061, Family Code, as added by this Act, applies only to a suit for adoption filed on or after January 1, 2008. A suit for adoption filed before January 1, 2008, is governed by the law in effect at the time the suit for adoption was filed, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2007.