

- SUBJECT:** Obtaining noncertified copies of adoption-related birth certificates
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 6 ayes — Eiland, Bolton, Farias, Farrar, Gonzalez Toureilles, Hernandez
0 nays
3 absent — Dutton, Strama, Vaught
- WITNESSES:** For — Nancy Schaefer, TXCARE Texas Coalition for Adoption Resources and Education; Bill Betzen; Darlene Denton; Martha Fralia; Linda R.E.P. Mendoza; Janet Mulcahy; Katy Perkins; (*Registered, but did not testify*: Shirley Dodson, Adoption Knowledge Affiliates; David Gray)

Against — Heidi Bruegel Cox, Texas Family Law Foundation; (*Registered, but did not testify*: Jim Loveless, State Bar of Texas, Family Law Section, Jack Marr, Texas Family Law Foundation; Doug Woodburn, Texas Family Law Foundation; Wendy Burgower; Sherri A. Evans; Diana S. Friedman, P.C.; Christy Bradshaw Schmidt)

On — Geraldine Harris, Department of State Health Services Bureau of Vital Statistics; (*Registered, but did not testify*: Beth Engelking, Department of Family Protective Services)
- BACKGROUND:** Texas has required sealed adoption records since the 1920s. Family Code, sec. 108.005 requires the Department of State Health Services (DSHS) Bureau of Vital Statistics to close its records concerning a child who has been adopted. Sec. 108.009 requires the state registrar to substitute a new birth certificate for the original based on an adoption order.
- DIGEST:** HB 575 would amend Health and Safety Code, sec. 192.008 to require the state registrar to provide, at the request of a person who was adopted, or, if the adopted person was deceased, an adult descendent, adult sibling, or surviving spouse of the adopted person, a noncertified copy of the person's original birth certificate if:
- the request was made on or after the adopted person turned 18 years of age;
 - a supplementary birth certificate was issued for the adopted person;

and

- the person requesting the certificate furnished appropriate proof of the person's identity.

The bill would create a contact preference form on which birth parents could indicate their contact preferences. The form would allow the birth parent to:

- authorize direct contact by the adopted person and release of a noncertified copy of the adopted person's original birth certificate;
- authorize contact by the adopted person only through an intermediary selected by the birth parent but not authorize the release of the noncertified birth certificate;
- not authorize contact by the adopted person but authorize the release of the noncertified birth certificate; or
- 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.

If a birth parent had filed a contact preference form to indicate his or her 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 could not release without a court order a noncertified copy of the adopted person's original birth certificate before that birth parent died, regardless of the other birth parent's preference.

The bill also would amend Health and Safety Code, sec. 192.0085 to allow a birth parent to file an updated medical history and a contact preference form with the state registrar. The state registrar would have to provide that updated medical history and contact preference form no later than 15 days after the request of a birth parent named on an original birth certificate, and it would have to be available in both Spanish and English on the department's web site. After receiving both completed forms, the state registrar would deliver the updated forms to an adopted person who is authorized to receive a noncertified copy of the adopted person's original birth certificate, and could charge the adopted person a reasonable fee for the service.

The state registrar would have to keep statistics on:

- the number of updated medical histories and contact preference forms filed with and delivered by the state registrar; and
- which adoption agency or attorney mediated each adoption for which a contact preference was filed.

Sec. 192.0086 would be amended to require that if a birth parent authorized contact with an intermediary, the state registrar would make the selected intermediary's contact information available to the adopted person on request. If the contact information was not available, the state registrar would notify the birth parent by certified mail, return receipt requested, that the birth parent would have to provide the intermediary's contact information no later than the 90th day after receipt of the notice.

After 90 days had expired, with no response from the birth parent, the state registrar could release a noncertified copy of the adopted person's original birth certificate. If the birth parent could not be located due to lack of current address on file with the state registrar, the state registrar would release a noncertified copy of the adopted person's original birth certificate on the 91st day after the notice was sent by certified mail.

Family Code, ch. 162 would be amended to require that the Department of Family Protective Services, a licensed child-placing agency, a person, or an entity placing a child for adoption inform the child's birth parents of the contact preference form and the rights of an adopted child to obtain the noncertified birth certificate copy.

The state registrar could not issue a noncertified copy of an original birth certificate to an adopted person or family member before January 1, 2008. The state registrar could not issue an updated history or a contact preference form to an adopted person or family member before January 1, 2007. The bill's changes would affect access to birth certificate information without regard to the date an adoption order was rendered.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

HB 525 would create a system in Texas to provide effective disbursement of important information for all parties involved in adoption. The bill would be a tremendous help to many adopted persons who currently rely on private investigators, the Internet, and their own financial resources to track down information on their birth parents. Use of the contact preference form would streamline the process of enabling adopted persons

to communicate with their biological parents, if both parties agreed. At the very least, it would allow more adopted persons to access documents with information about where they came from while respecting the privacy of biological parents who expressed a wish not to be identified.

It is very important for adopted children to know about any genetic diseases that run in their biological families. The bill would provide a way for birth parents to update their medical records and forward this vital information to their biological children.

OPPONENTS
SAY:

This bill would assume that a biological parent who did not indicate otherwise on a contact preference form would not object to his or her biological child's receiving a noncertified copy of the person's birth certificate. In many cases, parents who gave their children up for adoption did so under the assumption that this information would remain confidential for life. Additionally, many parents might not know about the existence of contact preference forms or the consequences of failing to file one with the state. The bill should err on the side of non-release to protect the birth parents' confidentiality if the state does not have affirmative evidence that such parents wish to be contacted by their biological children.

OTHER
OPPONENTS
SAY:

This bill should apply prospectively rather than retroactively. This would reduce the burden on the Bureau of Vital Statistics Unit, which would have to provide records from adoptions that took place decades ago, not to mention keeping up with new contact preference forms and medical history information. Currently, DSHS does not maintain digitized adoption records, and the retroactive application of the bill would be difficult for the department to comply with. A prospective application would allow DSHS to play catch-up and assume the position of complying with the new system from this date forward.

NOTES:

According to the Legislative Budget Board, the combined cost from the vital statistics account to implement the provisions of the bill would be \$378,307 in fiscal 2008 and \$160,639 in fiscal 2009. This would pay for three additional DSHS staff positions, a one-time cost of \$200,000 for an automated system, and hardware and software costs. DSHS would cover these costs by charging a \$65 fee per request for an unofficial birth certificate copy.

A related bill, SB 221 by Lucio, which would apply the contact preference form and updated medical history form requirements prospectively, passed the Senate on the Local and Uncontested Calendar on May 1 and has been referred to the House Juvenile Justice and Family Issues Committee.