

**SUBJECT:** Facilitating access to delayed birth certificates

**COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended

**VOTE:** 9 ayes — Smithee, Farrar, Clardy, Hernandez, Laubenberg, Raymond, Schofield, Sheets, S. Thompson

0 nays

**WITNESSES:** For — William Morris, Texas Family Law Foundation; Jenni Elenniss; Faith Pennington; Alecia Southworth; (*Registered, but did not testify:* James Southworth; Steve Bresnen, Texas Family Law Foundation)

Against — None

**BACKGROUND:** Health and Safety Code, ch. 192 establishes the procedures for applying for a delayed birth certificate. Current law allows a person four years old or older to apply for a delayed certificate of birth to the state registrar. The application must be accompanied by certain documentary evidence of the applicant's date and place of birth and parentage. The state registrar may not register a delayed birth certificate if the documentary evidence is not submitted, or there is reason to question the validity or adequacy of the documentary evidence.

If a delayed birth certificate is not accepted for registration by the state registrar, the person may file a petition in the county probate court of the county in which the birth occurred for an order establishing a record of the person's date of birth, place of birth, and parentage.

Delayed birth certificates often are sought by individuals whose parents deny them their birth certificates. Without a birth certificate, it is difficult or impossible for individuals to gain employment, enroll in college, or open a bank account, among other things. Often, individuals in this situation have moved away from their county of birth and have a difficult time returning to file petitions with county courts. When they are able to return, they often have difficulty proving their date and place of birth and

parentage because their parents are not penalized if they do not cooperate with the proceedings.

**DIGEST:**

CSHB 2794 would allow people to file petitions for orders establishing a record of the person's date of birth, place of birth, and parentage with either the district court with jurisdiction over the county in which they were born or in the district court with jurisdiction over the county where they reside.

The petition would include the name and place of residence of the petitioner, whether the petitioner had been convicted of a felony, whether the petitioner was required to register as a sex offender, and a complete set of the petitioner's fingerprints.

At a hearing on the petition, the court could consider evidence submitted to the registrar and any other relevant evidence. If the court found that the person was born in Texas, it would be required to make findings as to the person's date and place of birth and parentage, make any other findings required by the case, and enter an order establishing a record of birth.

The court could appoint an attorney ad litem to represent the petitioner.

The bill also would require a parent of the petitioner to sign an affidavit of personal knowledge acknowledging that the individual was the parent of the petitioner if:

- the petitioner, the petitioner's conservator or guardian, or the person with custody of the petitioner, requested that the parent sign the affidavit; and
- the affidavit was necessary for the issuance of a birth certificate because the petitioner was unable to provide sufficient evidence without it.

The parent would be required to sign the affidavit within 30 days after the request was made or the parent would be found to have committed:

- a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000), if the petitioner was between 4 and 14 years old; or
- a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000), if the petitioner was age 15 or older.

The bill would take effect September 1, 2015.