

BILL ANALYSIS

Senate Research Center

S.B. 499
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Jurisprudence
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Texas requires supplementary birth certificates to be issued in lieu of standard birth certificates when an individual is adopted. Supplementary birth certificates differ from standard birth certificates because they do not divulge the name or location of the birth parents, regardless of the wishes of the adopted parents, child, or court.

Under current law, the original birth certificate cannot be accessed without an order issued by the same court that originally granted the adoption. In some cases, an adoptee may not be aware of which court granted the adoption, in which case the adoptee would have to pay a fee to register with the Central Adoption Registry in order to ascertain the court's name.

This bill seeks to balance the needs of adopted persons for contact and medical history information with the needs of birth parents for privacy.

As proposed, S.B. 499 enables certain adults who were adopted as children to access their original birth certificate without having to go through the courts, under certain circumstances. S.B. 499 creates a contact preference form on which the birth parents are required to specify if and when they would like to be contacted by their biological offspring. The bill sets standards that must be met in order for contact to be made, either directly or through an intermediary. Finally, this bill creates an updated medical history form to provide family medical history information to adopted persons.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 192.008, Health and Safety Code, by adding Subsections (g)-(j), as follows:

(g) Requires the state registrar, subject to Subsections (i) and (j), to provide on request to a person who was adopted on or after January 1, 2010, 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 the request is made on or after the 18th anniversary of the adopted person's birth, a supplementary birth certificate was issued for the adopted person, and the person requesting the certificate furnishes appropriate proof of the person's identity.

(h) Authorizes the state registrar, subject to Subsections (i) and (j), on request if resources allow, to provide to a person who was adopted before January 1, 2010, 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) Prohibits the state registrar from releasing, without a court order, a noncertified copy of the adopted person's original birth certificate regardless of the other birth parent's preference, 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.

(j) Prohibits the state registrar from releasing, 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, 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.

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

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

(b) Requires the state registrar to develop an updated medical history form.

(c) Requires the state registrar to make the contact preference form and the updated medical history form available in English and Spanish.

(d) Requires the Texas Department of Health (TDH) to make the contact preference form and the updated medical history form available on TDH's Internet website.

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

(f) Requires the state registrar to 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 (Birth Records of Adopted Person).

(g) Requires the state registrar to keep statistics on the number of updated medical histories filed with the state registrar and contact preference forms and updated medical history forms delivered by the state registrar under Subsection (f), and which adoption agency or attorney mediated each adoption for which a contact preference form is filed.

(h) Authorizes the state registrar to charge an adopted person a reasonable fee for services provided under this section.

Sec. 192.0086. CONTACT USING INTERMEDIARY. (a) Requires the state registrar to make the contact information for an intermediary selected by the birth parent available to the adopted person on request if a birth parent's contact preference form authorizes contact using the intermediary.

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

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

(d) Requires the state registrar to 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 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.

SECTION 3. Amends Subchapter A, Chapter 162, Family Code, by adding Section 162.0061, as follows:

Sec. 162.0061. CONTACT PREFERENCE FORM: NOTICE AND FILING. (a) Provides that this section does not apply to an adoption by the child's grandparent, aunt or uncle by birth, marriage, or prior adoption, stepparent, or adult sibling.

(b) Requires the Department of Family and Protective Services or the licensed child-placing agency, person, or other entity placing a child for adoption to inform the birth parents of the child of certain provisions, provide the birth parents of the child with a contact preference form, and forward each original completed contact preference form to the state registrar.

(c) Prohibits a petition for adoption from being granted until a copy of the birth parent's contact preference form has been filed.

(d) Authorizes a court having jurisdiction of a suit affecting the parent-child relationship, by order, to 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) Requires the state registrar to keep statistics on the number of certain contact preference forms.

(b) Requires the state registrar to report its findings under this section to the legislature not later than January 1, 2011.

SECTION 5. (a) Prohibits the state registrar from issuing a noncertified copy of an original birth certificate under, Section 192.008(h), Health and Safety Code, as added by this Act, before January 1, 2011.

(b) Requires the state registrar to 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, 2010.

SECTION 6. Makes application of Section 162.0061, Family Code, of this Act prospective.

SECTION 7. Effective date: September 1, 2009.