

BILL ANALYSIS

Senate Research Center
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S.B. 287
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Jurisprudence
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 287 allows adoptees to access their original birth certificate as well as an up-to-date medical history form. Currently, adoptees cannot obtain their original birth certificates without obtaining a court order from the original court that finalized the adoption. In some cases, an adoptee may not be aware of which court granted their 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 process can be very lengthy and expensive.

Not having access to birth certificates and family medical history information creates a barrier to the diagnosis and treatment of various illnesses. S.B. 287 creates a contact preference form to allow the birth parents to specify if and when they would like to be contacted by their biological offspring. This bill sets standards that must be met in order for contact to be made, either directly or through an intermediary.

As proposed, S.B. 287 amends current law relating to birth records of adopted children.

[**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 amending Subsection (f) and by adding Subsections (g)-(j), as follows:

(f) Entitles an adult adoptee who is applying for access to the person's original birth certificate and who knows the identity of each parent named on the original birth certificate, notwithstanding Subsections (h), (i), and (j), to a noncertified copy of the original birth certificate without obtaining a court order.

(g) Requires the state registrar, subject to Subsections (h), (i), and (j), on request to provide to a person who was adopted on or after January 1, 2012, 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 adopted person's 18th birthday, 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) Prohibits the state registrar, except as provided by Subsection (f), if a birth parent files with the state registrar a contact preference form (contact form) indicating the birth parent's preference that a noncertified copy of the adopted person's original birth certificate not be released, from releasing a noncertified copy of the adopted person's

original birth certificate without a court order, regardless of the other birth parent's preference.

(i) Prohibits the state registrar, except as provided by Subsections (f) and (h), if a birth parent files with the state registrar a contact 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, from releasing a noncertified copy of the adopted person's original birth certificate without a court order before that birth parent dies, regardless of the other birth parent's preference.

(j) Prohibits the state registrar, except as provided by Subsection (f), if neither birth parent has filed a contact form with the state registrar, from releasing a noncertified copy of the adopted person's original birth certificate without a court order.

SECTION 2. Amends Subchapter A, Chapter 192, Health and Safety Code, by adding Sections 192.0085, 192.0086, and 192.0087, as follows:

Sec. 192.0085. CONTACT PREFERENCE FORM AND UPDATED MEDICAL HISTORY FORM. (a) Requires the state registrar to develop a contact 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 form provide the birth parent with certain options relating to authorizing or not authorizing contact.

(b) Requires the state registrar to develop an updated medical history form that does not contain any personal identifying information about either birth parent.

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

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

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

(f) Requires the state registrar to deliver the birth parent's contact 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) Requires the state registrar, notwithstanding a birth parent's contact preference under Subsection (a), to deliver to the adopted person on the adopted person's request the birth parent's updated medical history form.

(h) Requires the state registrar, if a birth parent has authorized contact under Subsection (a), to deliver to the adopted person on the adopted person's request the birth parent's contact form.

(i) 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, if a birth parent's contact form authorizes contact using an intermediary, to make the contact information for the intermediary selected by the birth parent available to the adopted person on request.

(b) Requires the state registrar, if the birth parent has not provided the intermediary's contact information at the time the adopted person requests the

information, to 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) Requires the central registry, if the birth parent fails to provide the intermediary's contact information within the time required by Subsection (b), to act as the intermediary for the birth parent.

(d) Requires the central registry, 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, to act as the intermediary for the birth parent on or after the 91st day after the date the notice was sent by certified mail.

(e) Defines "central registry" in this section.

Sec. 192.0087. **REQUIRED COUNSELING BEFORE RELEASE OF CERTAIN CONTACT PREFERENCE FORMS.** Requires the state registrar, before the release of a contact form authorizing contact between an adopted child and a birth parent, to require verification in a form satisfactory to the state registrar that the adopted child and the biological parent have each individually participated in counseling for not less than one hour with a social worker or mental health professional with expertise in postadoption counseling.

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 (DFPS) or the licensed child-placing agency, person, or other entity placing a child for adoption to:

(1) inform the birth parents of the child of the provisions of Chapter 192, Health and Safety Code, relating to the birth parent contact form and the rights of an adopted child to obtain a noncertified copy of the adopted person's original birth certificate, and that the birth parents are required to provide a completed contact form to DFPS 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 form; and

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

(c) Requires that the notification to a child's birth parents required by this section be provided at the time that the birth parent's parental rights to a child are terminated.

(d) Prohibits a petition for adoption, except as provided by Subsection (e), from being granted until a copy of each birth parent's contact form has been filed.

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

SECTION 4. Requires the state registrar to develop the contact 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, 2012.

SECTION 5. Provides that 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, 2012. Provides that a suit for adoption filed before January 1, 2012, 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 6. Effective date: September 1, 2011.