

SUBJECT: Increasing adoptee access to original birth certificates and medical history

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 6 ayes — Dutton, Riddle, Hughes, Peña, Sanford, J. White

0 nays

1 absent — Rose

WITNESSES: For — Eric Babino and 10 individuals; (*Registered, but did not testify*: Marian Jane, Elizabeth Jurenovich, and Chavon Withrow, Abrazo Adoption Associates; Marci Purcell, Adoption Knowledge Affiliates, Texas Adoptee Rights; Nicole Kidd, Natalie Munlin, Erskine Mcdaniel, Ingrid Montgomery, and Letitia Plummer, Intended Parents Rights; Katherine Barillas, One Voice Texas; Josette Saxton, Texans Care for Children; Connie Gray and Daryn Watson, Texas Adoptee Rights; Jennifer Allmon, the Texas Catholic Conference of Bishops; and 17 individuals)

Against — None

On — (*Registered, but did not testify*: Elizabeth “Liz” Kromrei, Child Protective Services; Cindy Brown, Department of State Health Services)

BACKGROUND: Health and Safety Code, sec. 192.008 specifies the procedure for adopted individuals to obtain a copy of their original birth certificate. Adoptees are provided with a supplementary birth certificate that contains the names of their adoptive parents and that does not disclose that a person is adopted. Information disclosed from an adoptee’s record must be from the supplementary birth certificate.

Individuals who are 18 or older and who know the names of both parents listed on their original birth certificate may obtain a copy. Adoptees who do not know the names of both birth parents may file a petition in the court in which the adoption was finalized, and that court may grant access

to the original certificate. If adoptees do not know their birth parents' names, the individual is entitled to know which court granted the adoption. If the identity and location of the court that granted the adoption is not on file with the state registrar, the registrar must give the adoptee an affidavit stating that the information is not on file, and any court of competent jurisdiction to which the person presents the affidavit may order access to the certificate.

Family Code, ch. 162, subch. E directs the Department of State Health Services (DSHS) to establish and maintain a voluntary adoption registry. Adoptees, birth parents, and biological siblings may choose to participate in the Central Adoption Registry and voluntarily locate one another.

DIGEST:

HB 984 would allow adult adoptees born in Texas or, if the adoptee was deceased, specified family members to obtain a noncertified copy of the adoptee's original birth certificate for the same fee and within the same time frame as any other noncertified birth certificate copy. Copies of original birth certificates under the bill would not need to be provided until July 1, 2016.

Birth parents would have to complete a contact preference form and would be offered the option to complete a supplementary medical history form, both of which would be created by and submitted to the state registrar. The contact form would allow parents to authorize direct contact from the adoptee, to authorize contact through an intermediary specified by the parent, or to prohibit any contact. Completed contact preference forms and medical history forms would be provided to adoptees or to other authorized individuals. DSHS would be required to create the contact preference and medical history forms by January 1, 2016.

The Department of Family and Protective Services (DFPS) or another entity placing a child for adoption would have to inform the birth parents that they were required to provide a completed contact preference form to the department or other entity. DFPS or the relevant adoption agency or entity then would be responsible for forwarding these forms to the state registrar, and the adoption of a child could not be completed until the

forms were filed. The bill would create an exception to the contact form requirement if the child's birth parents could not be found or were deceased or if the court determined it would be in the child's best interests to waive the requirement. A birth parent whose child was adopted before January 1, 2016, could file a contact preference and medical history form with the state registrar until July 1, 2016.

The bill would take effect September 1, 2015, and would apply only to adoptions initiated on or after January 1, 2016.

**SUPPORTERS
SAY:**

HB 984 would make important, common-sense changes to current state law that restricts adoptees' access to copies of their original birth certificates. The current procedure for adoptees is confusing and cumbersome. The Central Adoption Registry is effective only if the adoptee and the birth parents have participated. Many people do not know the names of their biological parents or where they were adopted, and the court-order process is unreliable because judges are inconsistent about whether they grant access to original birth certificates. Barring adoptees from obtaining copies of their original birth certificates while other adults can access these records creates a second class of individuals who do not have full rights to important personal information to which they are entitled.

Family history is a large part of a person's identity. Having access to the identities of one's birth parents could allow someone who was adopted to meet and form bonds with biological parents, siblings, and extended family, which could encourage healing and a healthy sense of self. Additionally, family history is important for medical reasons, not only for the adoptee, but also for the adoptee's children and grandchildren.

HB 984 would strike the right balance of giving adoptees' access to their records while maintaining the privacy of a biological parent if the parent so wished. The additional time between when the bill would take effect and when original birth certificates could be issued would give families enough time to make decisions about the implications of the bill.

The Internet has made information available to such an extent now that previous arguments against birth certificate access related to privacy of the biological parents are not as relevant. Adoptees increasingly are finding family members online.

Additionally, the way society views adoption has evolved. Restricting access to original birth certificates sends the message that adoption is shameful. Privacy surrounding adoptions was a bigger issue during the mid-20th century, when having children out of wedlock was more taboo. Open adoptions are more common now, and a growing number of states have enacted laws allowing complete or partial access to original birth certificates. In states where birth parents can block adoptee contact, few parents do so, and many birth parents have expressed their desire for a reunion with their biological children.

HB 984 would not cause an increase in abandonment of children or abortion. According to data from the Centers for Disease Control and Prevention, abortion rates did not increase after laws providing access to original birth certificates were enacted in various states. In fact, this type of legislation has been supported by many pro-life organizations.

OPPONENTS
SAY:

HB 984 would eliminate important restrictions on accessing original birth certificates. Many parents enter into adoption agreements because they are promised confidentiality by lawyers and adoption agencies. Without a guarantee of privacy under adoptions, rates of abortion and abandonment might increase.

Not every parent wants to be found. Families place their children for adoption for a number of reasons, including pregnancies resulting from rape or an extramarital affair or because abortion was not legal or an option. Eliminating safeguards that protect the privacy rights of birth parents also could be harmful to other children the birth parents might have, who might not know this family history and never were intended to know.

HB 984 also could lead to disruption of adoptive families. As more states

have increased access to original birth certificates, many people in the United States have decided to adopt children internationally to avoid contact with birth parents. Adoptive parents can have many reasons for not wanting their adopted children to connect with biological family.

Adoptees do not need access to their original birth certificates and birth parents' information to determine their health profile. People can do genetic screening for this kind of information or can learn about potential health hazards from an annual physical examination.

HB 984's requirement that parental contact forms be filed before moving forward with an adoption would present a challenge for child advocates, children, and adoptive families. A judge choosing not to waive the requirement could delay the completion of the adoption proceedings and could affect the permanency of a child's placement.

OTHER
OPPONENTS
SAY:

HB 984 would allow all original birth certificates to be accessible unless birth parents retroactively filed no-contact forms, which would result in a forced and unilateral breach of the biological parents' privacy. Instead, both the adoptee and the birth parents should be required to take affirmative steps to allow access to the original birth certificates.

Unlike similar laws in other states, HB 984 would not provide any kind of penal or pecuniary consequence for an individual or agency violating a parent's wish to not have contact with an adopted child.