

BILL ANALYSIS

Senate Research Center
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H.B. 2794
By: Farney et al. (Zaffirini)
State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A small percentage of home school alumni have experienced what has been called identification abuse, which is the restricting or withholding of important identification documents by parents or guardians. It can be difficult for the victims of identification abuse to obtain these documents, particularly birth certificates. To address these concerns, this bill seeks to make it easier for victims of identification abuse to obtain a delayed birth certificate.

H.B. 2794 amends current law relating to a delayed birth certificate and creates a criminal offense.

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 25.0021(b), Government Code, as follows:

(b) Provides that a statutory probate court as that term is defined in Section 22.007, Estates Code, rather than Section 3 (ii) Texas Probate Code, has:

(1) the general jurisdiction of a probate court as provided by the Estates Code, rather than the Texas Probate Code; and

(2) the jurisdiction provided by law for a county court to hear and determine actions, cases, matters, or proceedings instituted under:

(A) Section 166.046 (Procedure If Not Effectuating a Directive or Treatment Decision), 193.007 (Delayed Registration of Death), 552.015 (Investigation to Determine Means of Support), 552.019 (Filing of Claims), 711.004 (Removal of Remains), or 714.003 (Records of Interment), Health and Safety Code;

(B) and (C) Makes no change to these paragraphs.

Deletes reference to Section 192.027 (Registration by Judicial Order), Health and Safety Code.

SECTION 2. Amends Section 192.026(b), Health and Safety Code, as follows:

(b) Requires the state registrar, on the state registrar's refusal to register a certificate under Subsection (a), to:

(1) Makes no change to this subdivision;

(2) advise the applicant of the right to appeal to the district court with jurisdiction over the county in which the birth occurred, or in the district court with

jurisdiction over the county in which the person resides, as provided by Section 192.027, rather than advise the applicant of the right to appeal to the county court for probate matters of the county in which the birth occurred as provided by Section 192.027.

SECTION 3. Amends Section 192.027, Health and Safety Code, by amending Subsections (a) and (d) and adding Subsection (b-1), as follows:

(a) Authorizes a person to file a petition in the district court, rather than county probate court, with jurisdiction over the county in which the birth occurred, or in the district court with jurisdiction over the county in which the person resides, for an order establishing a record of the person's date of birth, place of birth, and parentage if a delayed birth certificate is not accepted for registration by the state registrar.

(b-1) Requires the petition to include:

(1) the name and place of residence of the petitioner;

(2) whether the petitioner has been the subject of a final felony conviction;

(3) whether the petitioner is subject to the registration requirements of Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure; and

(4) a legible and complete set of the petitioner's fingerprints on a fingerprint card format acceptable to the Department of Public Safety of the State of Texas and the Federal Bureau of Investigation.

(d) Requires the court, if, after a hearing, the court finds from the evidence submitted to the registrar and any other relevant evidence presented by the person that the person was born in this state, to:

(1)-(3) Makes no change to these subdivisions.

SECTION 4. Amends Subchapter B, Chapter 192, Health and Safety Code, by adding Sections 192.028 and 192.029, as follows:

Sec. 192.028. APPOINTMENT OF ATTORNEY AD LITEM. Authorizes a judge of a district court to appoint an attorney ad litem in a proceeding under Section 192.027 to represent the interests of the person seeking the delayed birth certificate.

Sec. 192.029. REFUSAL TO SIGN AFFIDAVIT OF PERSONAL KNOWLEDGE. (a) Requires a parent of a person who is seeking a delayed birth certificate under this subchapter to sign an affidavit of personal knowledge acknowledging that the individual is the parent of the person seeking the delayed birth certificate if:

(1) the person seeking a delayed birth certificate, a managing conservator or guardian of the person, or, if the person is a minor, another person with custody of the minor has requested the person's parent to sign the affidavit of personal knowledge; and

(2) the parent's affidavit of personal knowledge is necessary for the issuance of the birth certificate because the person seeking the delayed birth certificate is unable to provide sufficient alternative documentary evidence as required by Section 192.025 (Supporting Documents).

(b) Requires a parent to sign an affidavit as described by Subsection (a) not later than the 30th day after the date a request is made as described by Subsection (a)(1).

(c) Provides that a person who is a parent of a person seeking a delayed birth certificate and who fails to sign an affidavit of personal knowledge as required by this section:

(1) commits an offense punishable as a Class B misdemeanor if the request under Subsection (a)(1) is made on or after the fourth anniversary of the date of birth but before the 15th anniversary of the date of birth; or

(2) commits an offense punishable as a Class A misdemeanor if the request under Subsection (a)(1) is made on or after the 15th anniversary of the date of birth.

SECTION 5. Effective date: September 1, 2015.