

BILL ANALYSIS

Senate Research Center
85R5058 LED-D

S.B. 329
By: Creighton et al.
State Affairs
3/24/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Vital Statistics Unit Voluntary Central Adoption Registry is a registry system maintained by the state through which an adult adoptee, birth parent, or sibling may locate other family members without a court order. Although the registry uses sealed or confidential records to authenticate a match between two biologically related people who have voluntarily joined the registry, these sealed or confidential records may not be released to the adult adoptee, requiring a person to navigate a confusing and complicated court process if the person wishes to obtain a noncertified copy of the person's birth certificate. If the adult adoptee is not granted their original birth certificate at the end of this process, which is often the case, they turn to technology, such as DNA testing to find relatives and social media to locate those relatives. This option is done publicly and can be embarrassing and intrusive. There is currently no easy, quick, or guaranteed process for adult adoptees to obtain their original birth certificate.

S.B. 329 seeks to establish a simpler mechanism by which an adult adoptee may access his or her original birth certificate while empowering the birth parent with a voice in the process. An adult born in the State of Texas and over the age of 18 may apply to the state registrar for a non-certified copy of their original birth certificate. If available, the adult adoptee will also receive a medical history form and a preferred method of contact form. The medical history form provides the adult adoptee with valuable information about the birth parents' medical history. Adult adoptees in closed adoptions do not have access to their medical information, which can lead to many costly medical tests and late detections of serious illnesses passed on from generation to generation. The preferred method of contact form is filled out by the birth parents and provides the adult adoptee with the birth parents' wishes on how to be contacted, if at all. The birth parents can choose from direct contact, contact through an intermediary, or no contact.

As proposed, S.B. 329 amends current law relating to birth records of adopted persons.

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 (d) and adding Subsections (g) and (h), as follows:

(d) Authorizes only the court that granted the adoption to order access to an original birth certificate and the filed documents on which a supplementary birth certificate is based, except as provided by Subsections (e) (relating to the right of the person to certain information pertaining to the identity and location of a court that granted an adoption), (f) (relating to an adult adoptee's right to a non-certified copy of their original birth certificate), and (g), rather than Subsections (e) and (f).

(g) Requires the state registrar of vital statistics (state registrar) to provide, upon written request, a non-certified copy of a person's original birth certificate to a person who was adopted or, if the adopted person is deceased, to an adult descendant, adult sibling, surviving spouse, or adopted parent of the adopted person if certain conditions are met.

(h) Requires the state registrar to collect a fee for a noncertified birth certificate provided under Subsection (g) in the amount equal to the fee charged for issuance of any other noncertified birth certificate and to issue the certificate within the time prescribed for issuance of other noncertified birth certificates.

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

Sec. 192.0085. CONTACT PREFERENCE FORM AND SUPPLEMENTAL MEDICAL HISTORY FORM. (a) Requires the state registrar to develop a contact preference form for a birth parent to provide, for each adopted child born to the birth parent, the birth parent's preference regarding contact by an adopted person who is the birth parent's biological offspring, specifying whether the birth parent wishes to be directly contacted by the adopted person, contacted only through an intermediary selected and identified by the birth parent, or not contacted by the adopted person.

(b) Requires the state registrar to include on the contact preference form a space for a birth parent who wishes to be contacted through an intermediary to identify a person to serve as the intermediary and provide that person's contact information and ensure that this information is completed on the form if that option is selected by the birth parent.

(c) Requires the state registrar to develop a supplemental medical history form for a birth parent to provide medical information in addition to the information included in the adopted person's genetic history report provided under Section 162.005 (Preparation of Health, Social, Educational, and Genetic History Report), Family Code.

(d) Requires the Department of State Health Services (DSHS) to make the contact preference and supplemental medical history forms available on DSHS's website and make copies of the forms available in the state registrar's office.

(e) Authorizes a birth parent to directly file a contact preference or a supplemental medical history form with the state registrar, instead of providing a contact preference form to a person or other entity listed in Section 162.0061(a)(1)(B), Family Code.

(f) Prohibits a birth parent who initially selects the option to be directly contacted by the adopted person or contacted by the adopted person through an intermediary from changing that preference after the preference is on file with the state registrar. Authorizes a birth parent to modify the intermediary contact information as necessary.

(g) Authorizes a birth parent who initially selects the option not to be contacted by the adopted person to subsequently authorize direct contact by the adopted person or through an intermediary by filing a supplemental contact preference form with the state registrar authorizing the contact.

(h) Requires the state registrar to provide a copy of the birth parent's contact preference form and any available supplemental medical history form to an adopted person or other person authorized to receive a noncertified copy of the adopted person's original birth certificate under Section 192.008.

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) 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 inform the

child's birth parents that Chapter 192 (Birth Records), Health and Safety Code, governs the birth parent contact preference 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 preference form to DFPS, certain agencies, or persons. Requires DFPS, or the licensed child-placing agency, person, or other entity placing a child for adoption to provide the child's birth parents with a contact preference form and to forward each original completed contract preference form to the state registrar.

(b) Requires that the required notice to a child's birth parents be provided at the time the birth parent's parental rights to a child are terminated.

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

(d) Authorizes a court having jurisdiction of a suit affecting the parent-child relationship to waive, by order, the contact preference form filing requirement 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. (a) Requires the state registrar to develop the contact preference and supplemental medical history forms as required by Section 192.0085, Health and Safety Code, as added by this Act, not later than January 1, 2018.

(b) Provides that the state registrar is not required to comply with that provision until July 1, 2018, notwithstanding Section 192.008(g), Health and Safety Code, as added by this Act.

(c) Authorizes the birth parent of a person who was adopted before January 1, 2018, to file a contact preference and a supplemental medical history form with the state registrar not later than July 1, 2018, and after that date at the discretion of the state registrar, and a supplemental contact preference form modifying the birth parent's contact preference at any time before July 1, 2018, notwithstanding Section 192.0085(f), Health and Safety Code, as added by this Act. Provides that the latest contact preference form on file with the state registrar and filed before that date controls.

SECTION 5. Provides that Section 162.0061, Family Code, as added by this Act, is prospective to January 1, 2018, for a suit for adoption in which an order terminating parental rights under Chapter 161 (Termination of the Parent-Child Relationship), Family Code, is rendered.

SECTION 6. Effective date: September 1, 2017.