

A bill for an act

relating to adoption; modifying provisions governing access to adoption records and original birth certificates; amending Minnesota Statutes 2008, sections 13.465, subdivision 8; 144.218, subdivision 1; 144.225, subdivision 2; 144.2252; 144.226, subdivision 1; 259.89, subdivision 1; 260C.317, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 144; repealing Minnesota Statutes 2008, sections 259.83, subdivision 3; 259.89, subdivisions 2, 3, 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 13.465, subdivision 8, is amended to read:

Subd. 8. **Adoption records.** Various adoption records are classified under section 259.53, subdivision 1. Access to the original birth record of a person who has been adopted is governed by section ~~259.89~~ 144.2253.

Sec. 2. Minnesota Statutes 2008, section 144.218, subdivision 1, is amended to read:

Subdivision 1. **Adoption.** (a) Upon receipt of a certified copy of an order, decree, or certificate of adoption, the state registrar shall register a replacement vital record in the new name of the adopted person. Except as provided in paragraph (b), the original record of birth is confidential pursuant to private data on individuals, as defined in section 13.02, subdivision 3 12, and shall not be disclosed except pursuant to court order or section 144.2252 or 144.2253.

(b) The information contained on the original birth record, except for the registration number, shall be provided on request to: (1) a parent who is named on the original birth record; or (2) the adopted person who is the subject of the record if the person is at least 19 years of age, unless there is an affidavit of nondisclosure on file with the state registrar.

Upon the receipt of a certified copy of a court order of annulment of adoption the state registrar shall restore the original vital record to its original place in the file.

Sec. 3. Minnesota Statutes 2008, section 144.225, subdivision 2, is amended to read:

Subd. 2. **Data about births.** (a) Except as otherwise provided in this subdivision, data pertaining to the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born, including the original record of birth and the certified vital record, are confidential data. At the time of the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born, the mother may designate demographic data pertaining to the birth as public. Notwithstanding the designation of the data as confidential, it may be disclosed:

- (1) to a parent or guardian of the child;
- (2) to the child when the child is 16 years of age or older;
- (3) under paragraph (b) or (e); or
- (4) pursuant to a court order. For purposes of this section, a subpoena does not constitute a court order.

(b) Unless the child is adopted, data pertaining to the birth of a child that are not accessible to the public become public data if 100 years have elapsed since the birth of the child who is the subject of the data, or as provided under section 13.10, whichever occurs first.

(c) If a child is adopted, data pertaining to the child's birth are governed by the provisions relating to adoption records, including sections 13.10, subdivision 5; 144.218, subdivision 1; 144.2252; 144.2253; and 259.89.

(d) The name and address of a mother under paragraph (a) and the child's date of birth may be disclosed to the county social services or public health member of a family services collaborative for purposes of providing services under section 124D.23.

- (e) The commissioner of human services shall have access to birth records for:
- (1) the purposes of administering medical assistance, general assistance medical care, and the MinnesotaCare program;
 - (2) child support enforcement purposes; and
 - (3) other public health purposes as determined by the commissioner of health.

Sec. 4. Minnesota Statutes 2008, section 144.2252, is amended to read:

144.2252 ACCESS TO ORIGINAL BIRTH RECORD AFTER ADOPTION.

(a) Whenever an adopted person requests the state registrar to disclose the information on the adopted person's original birth record, the state registrar shall act according to section ~~259.89~~ 144.2253.

(b) The state registrar shall provide a transcript of an adopted person's original birth record to an authorized representative of a federally recognized American Indian tribe for the sole purpose of determining the adopted person's eligibility for enrollment or membership. Information contained in the birth record may not be used to provide the adopted person information about the person's birth parents, except as provided in this section or section ~~259.83~~ 144.2253.

Sec. 5. [144.2253] ACCESS TO ORIGINAL BIRTH RECORDS BY ADOPTED PERSON; DEPARTMENT DUTIES.

Subdivision 1. **Affidavits.** The department shall prepare affidavit of disclosure and nondisclosure forms under which a birth parent may agree to or object to the release of the original birth record to the adopted person. The department shall make the forms readily accessible to birth parents on the department's Web site.

Subd. 2. **Disclosure.** Upon request, the state registrar shall provide a noncertified copy of the original birth record to an adopted person age 19 or older, unless there is an affidavit of nondisclosure on file. The state registrar must comply with the terms of affidavits of disclosure or affidavits of nondisclosure.

Subd. 3. **Rescission of affidavit.** A birth parent may rescind an affidavit of disclosure or an affidavit of nondisclosure at any time.

Subd. 4. **Affidavit of nondisclosure; access to birth record.** If an affidavit of nondisclosure is on file with the registrar, an adopted person age 19 or older may petition the appropriate court for disclosure of the original birth record pursuant to section 259.61. The court shall grant the petition if, after consideration of the interests of all known persons affected by the petition, the court determines that the benefits of disclosure of the information are greater than the benefits of nondisclosure.

Subd. 5. **Information provided.** (a) The department shall, in consultation with adoption agencies and adoption advocates, provide information and educational materials to adopted persons and birth parents about the changes in the law under this act affecting accessibility to birth records. For purposes of this subdivision, an adoption advocate is a nonprofit organization that works with adoption issues in Minnesota.

(b) The department shall include a notice on the department Web site about the change in the law under this act and direct individuals to private agencies and advocates for post-adoption resources.

4.1 (c) Adoption agencies may charge a fee for counseling and support services provided
4.2 to adopted persons and birth parents.

4.3 Sec. 6. Minnesota Statutes 2008, section 144.226, subdivision 1, is amended to read:

4.4 Subdivision 1. **Which services are for fee.** The fees for the following services shall
4.5 be the following or an amount prescribed by rule of the commissioner:

4.6 (a) The fee for the issuance of a certified vital record or a certification that the vital
4.7 record cannot be found is \$9. No fee shall be charged for a certified birth, stillbirth, or
4.8 death record that is reissued within one year of the original issue, if an amendment is
4.9 made to the vital record and if the previously issued vital record is surrendered. The
4.10 fee is nonrefundable.

4.11 (b) The fee for processing a request for the replacement of a birth record for
4.12 all events, except when filing a recognition of parentage pursuant to section 257.73,
4.13 subdivision 1, is \$40. The fee is payable at the time of application and is nonrefundable.

4.14 (c) The fee for processing a request for the filing of a delayed registration of
4.15 birth, stillbirth, or death is \$40. The fee is payable at the time of application and is
4.16 nonrefundable. This fee includes one subsequent review of the request if the request
4.17 is not acceptable upon the initial receipt.

4.18 (d) The fee for processing a request for the amendment of any vital record when
4.19 requested more than 45 days after the filing of the vital record is \$40. No fee shall be
4.20 charged for an amendment requested within 45 days after the filing of the vital record.
4.21 The fee is payable at the time of application and is nonrefundable. This fee includes one
4.22 subsequent review of the request if the request is not acceptable upon the initial receipt.

4.23 (e) The fee for processing a request for the verification of information from vital
4.24 records is \$9 when the applicant furnishes the specific information to locate the vital
4.25 record. When the applicant does not furnish specific information, the fee is \$20 per hour
4.26 for staff time expended. Specific information includes the correct date of the event and
4.27 the correct name of the registrant. Fees charged shall approximate the costs incurred in
4.28 searching and copying the vital records. The fee is payable at the time of application
4.29 and is nonrefundable.

4.30 (f) The fee for processing a request for the issuance of a copy of any document on
4.31 file pertaining to a vital record or statement that a related document cannot be found is \$9.
4.32 The fee is payable at the time of application and is nonrefundable.

4.33 (g) The department shall charge a fee of \$18 for noncertified copies of birth records
4.34 provided to adopted persons age 19 or older to cover the cost of providing the birth record

5.1 and any costs associated with the distribution of information to adopted persons and birth
5.2 parents required under section 144.2253, subdivision 5.

5.3 Sec. 7. Minnesota Statutes 2008, section 259.89, subdivision 1, is amended to read:

5.4 Subdivision 1. **Request.** An adopted person who is 19 years of age or over may
5.5 request the commissioner of health to disclose the information on the adopted person's
5.6 original birth record. ~~The commissioner of health shall, within five days of receipt of~~
5.7 ~~the request, notify the commissioner of human services' agent or licensed child-placing~~
5.8 ~~agency when known, or the commissioner of human services when the agency is not~~
5.9 ~~known in writing of the request by the adopted person.~~

5.10 Sec. 8. Minnesota Statutes 2008, section 260C.317, subdivision 4, is amended to read:

5.11 Subd. 4. **Rights of terminated parent.** Upon entry of an order terminating the
5.12 parental rights of any person who is identified as a parent on the original birth record of
5.13 the child as to whom the parental rights are terminated, the court shall cause written
5.14 notice to be made to that person setting forth:

5.15 (1) the right of the person to file at any time with the state registrar of vital statistics
5.16 a consent to disclosure, as defined in section 144.212, subdivision 11; and

5.17 (2) the right of the person to file at any time with the state registrar of vital statistics
5.18 an affidavit stating that the information on the original birth record shall not be disclosed
5.19 as provided in section ~~144.2252~~ 144.2253; and

5.20 ~~(3) the effect of a failure to file either a consent to disclosure, as defined in section~~
5.21 ~~144.212, subdivision 11, or an affidavit stating that the information on the original birth~~
5.22 ~~record shall not be disclosed.~~

5.23 Sec. 9. **REPEALER.**

5.24 Minnesota Statutes 2008, sections 259.83, subdivision 3; and 259.89, subdivisions
5.25 2, 3, and 4, are repealed.

5.26 Sec. 10. **EFFECTIVE DATE.**

5.27 Sections 1 to 9 are effective August 1, 2010.

259.83 POSTADOPTION SERVICES.

Subd. 3. **Identifying information.** In adoptive placements made on and after August 1, 1982, the agency responsible for or supervising the placement shall obtain from the birth parents named on the original birth record an affidavit attesting to the following:

(a) that the birth parent has been informed of the right of the adopted person at the age specified in section 259.89 to request from the agency the name, last known address, birthdate and birthplace of the birth parents named on the adopted person's original birth record;

(b) that each birth parent may file in the agency record an affidavit objecting to the release of any or all of the information listed in clause (a) about that birth parent, and that parent only, to the adopted person;

(c) that if the birth parent does not file an affidavit objecting to release of information before the adopted person reaches the age specified in section 259.89, the agency will provide the adopted person with the information upon request;

(d) that notwithstanding the filing of an affidavit, the adopted person may petition the court according to section 259.61 for release of identifying information about a birth parent;

(e) that the birth parent shall then have the opportunity to present evidence to the court that nondisclosure of identifying information is of greater benefit to the birth parent than disclosure to the adopted person; and

(f) that any objection filed by the birth parent shall become invalid when withdrawn by the birth parent or when the birth parent dies. Upon receipt of a death record for the birth parent, the agency shall release the identifying information to the adopted person if requested.

259.89 ACCESS TO ORIGINAL BIRTH RECORD INFORMATION.

Subd. 2. **Search.** Within six months after receiving notice of the request of the adopted person, the commissioner of human services' agent or a licensed child-placing agency shall make complete and reasonable efforts to notify each parent identified on the original birth record of the adopted person. The commissioner, the commissioner's agents, and licensed child-placing agencies may charge a reasonable fee to the adopted person for the cost of making a search pursuant to this subdivision. Every licensed child-placing agency in the state shall cooperate with the commissioner of human services in efforts to notify an identified parent. All communications under this subdivision are confidential pursuant to section 13.02, subdivision 3.

For purposes of this subdivision, "notify" means a personal and confidential contact with the birth parents named on the original birth record of the adopted person. The contact shall be by an employee or agent of the licensed child-placing agency which processed the pertinent adoption or some other licensed child-placing agency designated by the commissioner of human services when it is determined to be reasonable by the commissioner; otherwise contact shall be by mail or telephone. The contact shall be evidenced by filing with the commissioner of health an affidavit of notification executed by the person who notified each parent certifying that each parent was given the following information:

(1) the nature of the information requested by the adopted person;

(2) the date of the request of the adopted person;

(3) the right of the parent to file, within 30 days of receipt of the notice, an affidavit with the commissioner of health stating that the information on the original birth record should not be disclosed;

(4) the right of the parent to file a consent to disclosure with the commissioner of health at any time; and

(5) the effect of a failure of the parent to file either a consent to disclosure or an affidavit stating that the information on the original birth record should not be disclosed.

Subd. 3. **Failure to notify parent.** If the commissioner of human services certifies to the commissioner of health an inability to notify a parent identified on the original birth record within six months, and if neither identified parent has at any time filed an unrevoked consent to disclosure with the commissioner of health, the information may be disclosed as follows:

(a) If the person was adopted prior to August 1, 1977, the person may petition the appropriate court for disclosure of the original birth record pursuant to section 259.61, and the court shall grant the petition if, after consideration of the interests of all known persons involved, the court determines that disclosure of the information would be of greater benefit than nondisclosure.

(b) If the person was adopted on or after August 1, 1977, the commissioner of health shall release the requested information to the adopted person.

APPENDIX

Repealed Minnesota Statutes: H0328-1

If either parent identified on the birth record has at any time filed with the commissioner of health an unrevoked affidavit stating that the information on the original birth record should not be disclosed, the commissioner of health shall not disclose the information to the adopted person until the affidavit is revoked by the filing of a consent to disclosure by that parent.

Subd. 4. **Release of information after notice.** If, within six months, the commissioner of human services' agent or licensed child-placing agency documents to the commissioner of health notification of each parent identified on the original birth record pursuant to subdivision 2, the commissioner of health shall disclose the information requested by the adopted person 31 days after the date of the latest notice to either parent. This disclosure will occur if, at any time during the 31 days both of the parents identified on the original birth record have filed a consent to disclosure with the commissioner of health and neither consent to disclosure has been revoked by the subsequent filing by a parent of an affidavit stating that the information should not be disclosed. If only one parent has filed a consent to disclosure and the consent has not been revoked, the commissioner of health shall disclose, to the adopted person, original birth record information on the consenting parent only.