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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2030

03/02/2017 Authored by Maye Quade, Flanagan, Schultz, Metsa and Moran
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1

A bill for an act

1.2 relating to adoption; modifying provisions governing access to original birth records
1.3 and other adoption-related information; modifying provisions related to affidavits
1.4 of disclosure and nondisclosure; providing for a contact preference form;
1.5 appropriating money; amending Minnesota Statutes 2016, sections 13.10,
1.6 subdivision 5; 13.465, subdivision 8; 144.218, subdivision 1; 144.225, subdivision
1.7 2; 144.2252; 144.226, subdivision 1; 259.83, subdivisions 1, 1a, 1b, 3, 4, by adding
1.8 a subdivision; 259.89; 260C.317, subdivision 4; 260C.637; proposing coding for
1.9 new law in Minnesota Statutes, chapters 144; 259; repealing Minnesota Statutes
1.10 2016, sections 144.212, subdivision 11; 259.89, subdivisions 5, 6.

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

1.12 Section 1. Minnesota Statutes 2016, section 13.10, subdivision 5, is amended to read:

1.13 Subd. 5. **Adoption records.** Notwithstanding any provision of this chapter, adoption
1.14 records shall be treated as provided in sections 144.2253, 259.53, 259.61, 259.79, and 259.83
1.15 to 259.89.

1.16 Sec. 2. Minnesota Statutes 2016, section 13.465, subdivision 8, is amended to read:

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

1.20 Sec. 3. Minnesota Statutes 2016, section 144.218, subdivision 1, is amended to read:

1.21 Subdivision 1. **Adoption.** Upon receipt of a certified copy of an order, decree, or
1.22 certificate of adoption, the state registrar shall register a replacement vital record in the new
1.23 name of the adopted person. The original record of birth is confidential pursuant to section
1.24 13.02, subdivision 3, and shall not be disclosed except pursuant to court order or, section

2.1 144.2252, or 144.2253. The information contained on the original birth record, except for
2.2 the registration number, shall be provided on request to a parent who is named on the original
2.3 birth record. Upon the receipt of a certified copy of a court order of annulment of adoption
2.4 the state registrar shall restore the original vital record to its original place in the file.

2.5 Sec. 4. Minnesota Statutes 2016, section 144.225, subdivision 2, is amended to read:

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

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

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

2.21 (c) If a child is adopted, data pertaining to the child's birth are governed by the provisions
2.22 relating to adoption records, including sections 13.10, subdivision 5; 144.218, subdivision
2.23 1; 144.2252; 144.2253; and 259.89.

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

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

3.1 Sec. 5. Minnesota Statutes 2016, section 144.2252, is amended to read:

3.2 **144.2252 ACCESS TO ORIGINAL BIRTH RECORD AFTER ADOPTION.**

3.3 (a) Whenever an adopted person requests the state registrar to disclose the information
3.4 on the adopted person's original birth record, the state registrar shall act according to section
3.5 ~~259.89~~ 144.2253.

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

3.13 Sec. 6. **[144.2253] ACCESS TO ORIGINAL BIRTH RECORDS OF ADOPTED**
3.14 **PERSONS.**

3.15 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms have the meanings
3.16 given them in this subdivision.

3.17 (b) "Affidavit of nondisclosure" means a notarized affidavit:

3.18 (1) signed by a person who gave birth to or fathered a child born in Minnesota and the
3.19 child was later adopted as a minor;

3.20 (2) stating that the affiant does not give consent to full disclosure of the information
3.21 contained in the original birth record of the adopted person; and

3.22 (3) that has been filed with the Office of Vital Records at any time prior to receipt of a
3.23 request by an adopted person for release of the adopted person's original birth record.

3.24 (c) "Original birth record" means all vital records:

3.25 (1) relating to the birth of a person;

3.26 (2) that have been registered by the Office of Vital Records; and

3.27 (3) that relate to a person who was later adopted including any changes to the records.

3.28 (d) "Person related to the adopted person" means:

3.29 (1) a child of the subject;

3.30 (2) the spouse of the subject;

4.1 (3) a parent of the subject; or

4.2 (4) the grandparent or grandchild of the subject.

4.3 Subd. 2. **Disclosure.** (a) An adopted person who is age 18 years or older, or a person
4.4 related to the adopted person if the adopted person is deceased, may request the state registrar
4.5 to provide the adopted person or the person related to the adopted person with a noncertified
4.6 copy of the adopted person's original birth record. If there is no affidavit of nondisclosure
4.7 on file with the Office of Vital Records, the state registrar shall provide the adopted person,
4.8 or the person related to the adopted person if the adopted person is deceased, with a
4.9 noncertified copy of the adopted person's original birth record.

4.10 (b) If a contact preference form is attached to the original birth record as authorized
4.11 under section 259.432, the state registrar shall provide a copy of the contact preference form
4.12 with the noncertified copy of the adopted person's original birth record.

4.13 (c) Affidavits of nondisclosure on file with the Office of Vital Records remain in effect
4.14 and shall prevent release of the subject information until rescinded.

4.15 Subd. 3. **Recission of affidavit of nondisclosure.** (a) A birth parent may rescind an
4.16 affidavit of nondisclosure at any time.

4.17 (b) Affidavits of nondisclosure are rescinded automatically by the death of the affiant.

4.18 (c) An affidavit of nondisclosure may be rescinded by an order of a district court, issued
4.19 pursuant to section 259.89.

4.20 Subd. 4. **Affidavit of nondisclosure; access to birth record.** When an original birth
4.21 record is subject to an affidavit of nondisclosure, an adopted person age 18 years or older,
4.22 or a person related to the adopted person if the adopted person is deceased, may request to
4.23 proceed under sections 259.61 and 259.89, subdivision 5a.

4.24 Subd. 5. **Original birth record; public record.** An original birth record of an adopted
4.25 person shall become a public record on the 100th anniversary of the adopted person's birth.

4.26 Sec. 7. Minnesota Statutes 2016, section 144.226, subdivision 1, is amended to read:

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

4.29 (a) The fee for the administrative review and processing of a request for a certified vital
4.30 record or a certification that the vital record cannot be found is \$9. The fee is payable at the
4.31 time of application and is nonrefundable.

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

5.4 (c) The fee for administrative review and processing of a request for the filing of a
5.5 delayed registration of birth, stillbirth, or death is \$40. The fee is payable at the time of
5.6 application and is nonrefundable.

5.7 (d) The fee for administrative review and processing of a request for the amendment of
5.8 any vital record is \$40. The fee is payable at the time of application and is nonrefundable.

5.9 (e) The fee for administrative review and processing of a request for the verification of
5.10 information from vital records is \$9 when the applicant furnishes the specific information
5.11 to locate the vital record. When the applicant does not furnish specific information, the fee
5.12 is \$20 per hour for staff time expended. Specific information includes the correct date of
5.13 the event and the correct name of the subject of the record. Fees charged shall approximate
5.14 the costs incurred in searching and copying the vital records. The fee is payable at the time
5.15 of application and is nonrefundable.

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

5.19 (g) The commissioner shall charge a fee of \$..... for noncertified copies of birth records
5.20 provided to persons authorized by section 144.2253 to access the information contained on
5.21 the original birth record, in order to cover the cost of providing the birth record.

5.22 Sec. 8. **[259.432] CONTACT PREFERENCE; FORM.**

5.23 Subdivision 1. Contact preference form provided. The state registrar shall provide,
5.24 upon request, to each birth parent a contact preference form as described in this section.

5.25 Subd. 2. Form. The state registrar shall develop a contact preference form on which a
5.26 birth parent may state a preference regarding contact by the adopted person. The form must
5.27 contain the following statements from which the birth parent may choose only one:

5.28 (1) "I would like to be contacted. I have completed this contact preference form and am
5.29 filing it with the Office of Vital Records. I may change this contact preference form by
5.30 filling out and filing another contact preference form."

5.31 (2) "I would like to be contacted only through the following designated intermediary:
5.32 [Name of Intermediary]. (If no intermediary is named or no named intermediary is able or

6.1 willing to act, the involved adoption agency, if any, shall act on my behalf.) I have completed
6.2 this contact preference form and am filing it with the Office of Vital Records. I may change
6.3 this contact preference form by filling out and filing another contact preference form."

6.4 (3) "I would not like to be contacted. I have completed this contact preference form and
6.5 am filing it with the Office of Vital Records. I may change this contact preference form by
6.6 filling out and filing another contact preference form."

6.7 Subd. 3. Attachment of form to birth certificate; treatment. Upon receipt of a
6.8 completed contact preference form, the state registrar shall attach the completed form to
6.9 the original birth certificate of the adopted person. Access to a completed contact preference
6.10 form is governed in the same manner as access to original birth records by adopted persons
6.11 or persons related to adopted persons under section 144.2253.

6.12 Sec. 9. Minnesota Statutes 2016, section 259.83, subdivision 1, is amended to read:

6.13 Subdivision 1. Services provided. Agencies shall provide assistance and counseling
6.14 services upon receiving a request for current information from adoptive parents, birth parents,
6.15 or adopted persons aged 49 18 years and over. The agency shall contact the other adult
6.16 persons or the adoptive parents of a minor child in a personal and confidential manner to
6.17 determine whether there is a desire to receive or share information or to have contact. If
6.18 there is such a desire, the agency shall provide the services requested. The agency shall
6.19 provide services to adult genetic siblings if there is no known violation of the confidentiality
6.20 of a birth parent or if the birth parent gives written consent and no unrescinded affidavit of
6.21 nondisclosure is on file with the agency or the Department of Health as provided by this
6.22 section or section 259.89.

6.23 Sec. 10. Minnesota Statutes 2016, section 259.83, subdivision 1a, is amended to read:

6.24 Subd. 1a. Social and medical history. (a) If a person aged 49 18 years and over who
6.25 was adopted on or after August 1, 1994, or the adoptive parent requests the detailed
6.26 nonidentifying social and medical history of the adopted person's birth family that was
6.27 provided at the time of the adoption, agencies must provide the information to the adopted
6.28 person or adoptive parent on the form required under section 259.43.

6.29 (b) If an adopted person aged 49 18 years and over or the adoptive parent requests the
6.30 agency to contact the adopted person's birth parents to request current nonidentifying social
6.31 and medical history of the adopted person's birth family, agencies must use the form required
6.32 under section 259.43 when obtaining the information for the adopted person or adoptive
6.33 parent.

7.1 Sec. 11. Minnesota Statutes 2016, section 259.83, subdivision 1b, is amended to read:

7.2 Subd. 1b. **Genetic siblings.** (a) A person who is at least ~~19~~ 18 years old who was adopted
7.3 or, because of a termination of parental rights, was committed to the guardianship of the
7.4 commissioner of human services, whether adopted or not, must upon request be advised of
7.5 other siblings who were adopted or who were committed to the guardianship of the
7.6 commissioner of human services and not adopted.

7.7 (b) Assistance must be provided by the county or placing agency of the person requesting
7.8 information to the extent that information is available in the existing records at the
7.9 Department of Human Services. If the sibling received services from another agency, the
7.10 agencies must share necessary information in order to locate the other siblings and to offer
7.11 services, as requested. Upon the determination that parental rights with respect to another
7.12 sibling were terminated, identifying information and contact must be provided only upon
7.13 mutual consent. A reasonable fee may be imposed by the county or placing agency.

7.14 Sec. 12. Minnesota Statutes 2016, section 259.83, subdivision 3, is amended to read:

7.15 Subd. 3. **Identifying information.** (a) In adoptive placements made on and after August
7.16 1, 1982, ~~and before January 1, 2019,~~ the agency responsible for or supervising the placement
7.17 shall obtain from the birth parents named on the original birth record an affidavit attesting
7.18 ~~to the following that:~~

7.19 (a) ~~that (1)~~ the birth parent has been informed of the right of the adopted person at the
7.20 age specified in section 259.89 to request from the agency the name, last known address,
7.21 birthdate and birthplace of the birth parents named on the adopted person's original birth
7.22 record;

7.23 (b) ~~that (2)~~ each birth parent may file in the agency record an affidavit objecting to the
7.24 release of any or all of the information listed in clause (a) about that birth parent, and that
7.25 parent only, to the adopted person;

7.26 (c) ~~that (3)~~ if the birth parent does not file an affidavit objecting to release of information
7.27 before the adopted person reaches the age specified in section 259.89, the agency will
7.28 provide the adopted person with the information upon request;

7.29 (d) ~~that (4)~~ notwithstanding the filing of an affidavit, the adopted person may petition
7.30 the court according to ~~seetion~~ sections 259.61 ~~and~~ and 259.89, subdivision 5a, for release of
7.31 identifying information about a birth parent;

8.1 ~~(e) that~~ (5) the birth parent shall then have the opportunity to present evidence to the
8.2 court that nondisclosure of identifying information is of greater benefit to the birth parent
8.3 than disclosure to the adopted person; and

8.4 ~~(f) that~~ (6) any objection filed by the birth parent shall become invalid when withdrawn
8.5 by the birth parent or when the birth parent dies. Upon receipt of a death record for the birth
8.6 parent, the agency shall release the identifying information to the adopted person if requested.

8.7 (b) An agency shall release the identifying information described in this section to an
8.8 adopted person upon receipt from the adopted person of one of the following:

8.9 (1) a copy of the person's original birth record, issued by the commissioner of health;

8.10 (2) a certified copy of the certificate of death of the birth parent; or

8.11 (3) a certified copy of a court order authorizing the release of information subject to an
8.12 affidavit of nondisclosure previously filed with the commissioner of health or the agency.

8.13 Sec. 13. Minnesota Statutes 2016, section 259.83, is amended by adding a subdivision to
8.14 read:

8.15 Subd. 3a. Notice of right to file affidavit. In adoptive placements made on or after
8.16 January 1, 2019, the attorney or agency responsible for the adoptive placement or for
8.17 supervising the adoptive placement shall obtain from the birth parents named on the original
8.18 birth record an affidavit attesting that:

8.19 (1) the birth parent has been informed of the right of the adopted person at the age
8.20 specified in section 259.89 to request from the commissioner of health the release of the
8.21 adopted person's original birth record and to request from the involved agency the identifying
8.22 information described by section 259.83, subdivision 3;

8.23 (2) each birth parent may file with the Department of Health an affidavit of nondisclosure
8.24 as provided for by section 259.89;

8.25 (3) if the birth parent does not file an affidavit objecting to release of information before
8.26 the adopted person reaches the age specified in section 259.89, the commissioner of health
8.27 and the involved agency shall provide the adopted person with the original birth record and
8.28 the identifying information upon request;

8.29 (4) notwithstanding the filing of an affidavit, the adopted person may petition the court
8.30 according to sections 259.61 and 259.89, subdivision 5a, for release of the adopted person's
8.31 original birth record by the commissioner of health and the identifying information described
8.32 in section 259.83, subdivision 3, by the involved agency;

9.1 (5) if the adopted person petitions the court, the birth parent shall have the opportunity
9.2 to present evidence to the court that nondisclosure of identifying information is of greater
9.3 benefit to the birth parent than disclosure to the adopted person; and

9.4 (6) any affidavit of nondisclosure filed by the birth parent shall become invalid when
9.5 withdrawn by the birth parent or when the birth parent dies.

9.6 Sec. 14. Minnesota Statutes 2016, section 259.83, subdivision 4, is amended to read:

9.7 Subd. 4. **Confidentiality.** Agencies shall provide adoptive parents, birth parents and
9.8 adult siblings, and adopted persons aged ~~19~~ 18 years and over reasonable assistance in a
9.9 manner consistent with state and federal laws, rules, and regulations regarding the
9.10 confidentiality and privacy of child welfare and adoption records.

9.11 Sec. 15. Minnesota Statutes 2016, section 259.89, is amended to read:

9.12 **259.89 ACCESS TO ORIGINAL BIRTH RECORD INFORMATION SUBJECT**
9.13 **TO AN AFFIDAVIT OF NONDISCLOSURE.**

9.14 Subdivision 1. **Request.** (a) An adopted person who is ~~19~~ 18 years of age or over whose
9.15 original birth record is subject to an affidavit of nondisclosure on file with the Office of
9.16 Vital Records may request the commissioner of health to disclose the information on the
9.17 adopted person's original birth record initiate a search for the person or persons who filed
9.18 an affidavit, as provided for in this section for the purpose of obtaining consent to release
9.19 the original birth record. The commissioner of health shall, within five days of receipt of
9.20 the request, notify the commissioner of human services' agent or licensed child-placing
9.21 agency when known, or the commissioner of human services when the agency is not known
9.22 in writing of the request by the adopted person. When notice to a licensed child-placing
9.23 agency is required to be given by the commissioner of human services, the notice shall be
9.24 given within 45 days of receipt of notice from the commissioner of health.

9.25 (b) An adopted person whose original birth certificate is subject to an affidavit filed with
9.26 an adoption agency pursuant to this section or an affidavit of nondisclosure filed with the
9.27 Department of Health on or after January 1, 2019, is exempt from the requirements of
9.28 subdivisions 2, 3, and 4.

9.29 Subd. 2. **Search.** Within six months after receiving notice of the request of the adopted
9.30 person, the commissioner of human services' agent or a licensed child-placing agency shall
9.31 make and complete and reasonable efforts to notify each parent identified on the original
9.32 birth record of the adopted person person's request. The commissioner, the commissioner's

10.1 agents, and licensed child-placing agencies may charge a reasonable fee to the adopted
10.2 person for the cost of making a search pursuant to this subdivision. Every licensed
10.3 child-placing agency in the state shall cooperate with the commissioner of human services
10.4 in efforts to notify an identified parent. All communications under this subdivision are
10.5 confidential pursuant to section 13.02, subdivision 3.

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

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

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

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

10.19 (4) the right of the parent to file with the commissioner of health, within 30 days of
10.20 receipt of the notice, an affidavit stating that the information on the original birth record
10.21 should be disclosed;

10.22 (4)(5) the right of the parent to file a consent to disclosure with the commissioner of
10.23 health at any time; and

10.24 (5)(6) the effect of a failure of the parent to file either a consent to disclosure or an
10.25 affidavit stating that the information on the original birth record should not be disclosed,
10.26 including the adopted person's right to petition the court for an order permitting disclosure.

10.27 Subd. 3. **Failure to notify Notice to parent; consent obtained or refused.** If Within
10.28 six months of receipt of notice from the commissioner of health or the commissioner of
10.29 human services, where applicable, the commissioner of human services certifies or an agent
10.30 shall certify to the commissioner of health an inability to notify a parent identified on the
10.31 original birth record within six months, and if neither identified parent has at any time filed
10.32 an unrevoked consent to disclosure with the commissioner of health, the information may

11.1 ~~be disclosed as follows:~~ of the adopted person's request or that the parent has been notified
11.2 and has consented to or refused consent to release of the requested information.

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

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

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

11.15 Subd. 4. **Release of information Procedure after notice.** (a) If, within six months, the
11.16 commissioner of human services' agent or licensed child-placing agency documents to the
11.17 commissioner of health notification of each parent identified on the original birth record
11.18 has consented to the release of the requested information pursuant to subdivision 2, the
11.19 commissioner of health shall disclose the information requested by the adopted person not
11.20 later than 31 days after the date of the latest notice to either parent. This disclosure will
11.21 occur if, at any time during the 31 days both of the parents identified on the original birth
11.22 record have filed a consent to disclosure with the commissioner of health and neither consent
11.23 to disclosure has been revoked by the subsequent filing by a parent of an affidavit stating
11.24 that the information should not be disclosed receipt of such documentation. If only one
11.25 parent has filed a consent to disclosure and the consent has not been revoked,
11.26 the commissioner of health shall disclose, to the adopted person, original birth record
11.27 information on the consenting parent only.

11.28 (b) If, within six months, the commissioner of human services' agent or licensed
11.29 child-placing agency documents to the commissioner of health notification of each parent
11.30 identified on the original birth record has not consented to the release of the requested
11.31 information pursuant to subdivision 3, the commissioner of health shall notify the adopted
11.32 person. The adopted person may then petition the court for an order rescinding the affidavit
11.33 of nondisclosure and authorizing release of the original birth record.

12.1 **Subd. 5. Death of parent.** Notwithstanding the provisions of subdivisions 3 and 4, if a
12.2 parent named on the original birth record of an adopted person has died, and at any time
12.3 prior to the death the parent has filed an unrevoked affidavit with the commissioner of health
12.4 stating that the information on the original birth record should not be disclosed, the adopted
12.5 person may petition the court of original jurisdiction of the adoption proceeding for disclosure
12.6 of the original birth record pursuant to section 259.61. The court shall grant the petition if,
12.7 after consideration of the interests of all known persons involved, the court determines that
12.8 disclosure of the information would be of greater benefit than nondisclosure.

12.9 **Subd. 5a. Procedure for court petition.** (a) Within ten days of the date of filing a
12.10 petition in district court for an order rescinding an affidavit of nondisclosure, the adopted
12.11 person shall file a copy of the petition with the Office of Vital Records. Within 30 days of
12.12 receipt of the petition with the Office of Vital Records, the state registrar shall forward a
12.13 copy of that petition to the commissioner of human services' agent or the involved licensed
12.14 child-placing agency for personal and confidential service on the involved birth parent.
12.15 Service shall be made no later than 30 days after receipt of the petition by the commissioner's
12.16 agent or the child-placing agency. The commissioner's agent or the child-placing agency
12.17 shall include with the petition a notice describing the requirements of this subdivision.

12.18 (b) Within 30 days of service of the petition, the birth parent may file with the
12.19 commissioner's agent of the child-placing agency an affidavit either:

12.20 (1) rescinding the affidavit of nondisclosure; or

12.21 (2) setting forth the basis why the affidavit of nondisclosure should remain in effect.

12.22 (c) Within ten days of receipt of the birth parent's statement, the commissioner's agent
12.23 or the child-placing agency shall serve on the petitioner and file with the court of record
12.24 copies of the birth parent's affidavit, if any. The affidavit served on the petitioner shall be
12.25 redacted to remove the name and location of the birth parent. The original, unredacted
12.26 affidavit shall be filed with the court, which shall treat the affidavit as confidential
12.27 information.

12.28 (d) The court shall schedule a date for a hearing on the adopted person's petition, to be
12.29 conducted in accordance with section 259.61. The hearing shall provide for an appearance
12.30 by the birth parent by telephone.

12.31 (e) The court shall grant an uncontested petition. The court shall grant a contested petition
12.32 unless, after consideration of the interests of all known persons involved, the court determines
12.33 that nondisclosure of the original birth record would be of greater benefit than the disclosure.

13.1 **Subd. 6. Determination of eligibility for enrollment or membership in a federally**
13.2 **recognized American Indian tribe.** The state registrar shall provide a copy of an adopted
13.3 person's original birth record to an authorized representative of a federally recognized
13.4 American Indian tribe for the sole purpose of determining the adopted person's eligibility
13.5 for enrollment or membership in the tribe.

13.6 **Subd. 7. Adult adoptions.** Notwithstanding section 144.218, a person adopted as an
13.7 adult shall be permitted to access the person's birth records that existed prior to the adult
13.8 adoption. Access to the existing birth records shall be the same access that was permitted
13.9 prior to the adult adoption.

13.10 Sec. 16. Minnesota Statutes 2016, section 260C.317, subdivision 4, is amended to read:

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

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

13.17 (2) the right of the person to file at any time with the state registrar of vital records an
13.18 affidavit stating that the information on the original birth record shall not be disclosed as
13.19 provided in section 144.2252; and

13.20 (3) the effect of a failure to file either a consent to disclosure, as defined in section
13.21 144.212, subdivision 11, or an affidavit stating that the information on the original birth
13.22 record shall not be disclosed.

13.23 (b) A parent whose rights are terminated under this section shall retain the ability to
13.24 enter into a contact or communication agreement under section 260C.619 if an agreement
13.25 is determined by the court to be in the best interests of the child. The agreement shall be
13.26 filed with the court at or prior to the time the child is adopted. An order for termination of
13.27 parental rights shall not be conditioned on an agreement under section 260C.619.

13.28 Sec. 17. Minnesota Statutes 2016, section 260C.637, is amended to read:

13.29 **260C.637 ACCESS TO ORIGINAL BIRTH RECORD INFORMATION.**

13.30 An adopted person may ask the commissioner of health to disclose the information on
13.31 the adopted person's original birth record according to section 259.89 144.2253.

14.1 Sec. 18. **INFORMATION PROVIDED; APPROPRIATION.**

14.2 (a) The commissioner of health shall, in consultation with adoption agencies, provide
14.3 information and educational materials to adopted persons and birth parents about the changes
14.4 in the law affecting access to birth records.

14.5 (b) The commissioner of health shall provide notice on the Department of Health's Web
14.6 site about the change in the law. The commissioner of health or the commissioner's designee,
14.7 in consultation with adoption agencies and other interested parties, shall design and
14.8 implement a state and national public awareness campaign that the commissioner of health
14.9 considers sufficient to advise affected parties of the changes in law regarding access to
14.10 original birth records. \$..... is appropriated in fiscal year 2018 from the general fund to the
14.11 commissioner of health for this purpose. Other state agencies shall cooperate with the
14.12 commissioner of health in the distribution of any materials furnished by the commissioner.

14.13 **EFFECTIVE DATE.** This section is effective July 1, 2017.

14.14 Sec. 19. **REPEALER.**

14.15 Minnesota Statutes 2016, sections 144.212, subdivision 11; and 259.89, subdivisions 5
14.16 and 6, are repealed.

14.17 Sec. 20. **EFFECTIVE DATE.**

14.18 Except as otherwise provided, this act is effective January 1, 2019.

APPENDIX
Repealed Minnesota Statutes: 17-2253

144.212 DEFINITIONS.

Subd. 11. **Consent to disclosure.** "Consent to disclosure" means an affidavit filed with the state registrar which sets forth the following information:

- (1) the current name and address of the affiant;
- (2) any previous name by which the affiant was known;
- (3) the original and adopted names, if known, of the adopted child whose original birth record is to be disclosed;
- (4) the place and date of birth of the adopted child;
- (5) the biological relationship of the affiant to the adopted child; and
- (6) the affiant's consent to disclosure of information from the original birth record of the adopted child.

259.89 ACCESS TO ORIGINAL BIRTH RECORD INFORMATION.

Subd. 5. **Death of parent.** Notwithstanding the provisions of subdivisions 3 and 4, if a parent named on the original birth record of an adopted person has died, and at any time prior to the death the parent has filed an unrevoked affidavit with the commissioner of health stating that the information on the original birth record should not be disclosed, the adopted person may petition the court of original jurisdiction of the adoption proceeding 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 involved, the court determines that disclosure of the information would be of greater benefit than nondisclosure.

Subd. 6. **Determination of eligibility for enrollment or membership in a federally recognized American Indian tribe.** The state registrar shall provide a copy 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 in the tribe.