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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 848

02/21/2013 Authored by Hortman, Loon, Carlson, Abeler, Rosenthal and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to adoption; modifying provisions governing access to original
1.3 birth records and other adoption-related information; amending Minnesota
1.4 Statutes 2012, sections 13.10, subdivision 5; 13.465, subdivision 8; 144.218,
1.5 subdivision 1; 144.225, subdivision 2; 144.2252; 144.226, subdivision 1; 259.83,
1.6 subdivisions 1, 1a, 1b, 4; 260C.317, subdivision 4; proposing coding for new law
1.7 in Minnesota Statutes, chapter 144; repealing Minnesota Statutes 2012, sections
1.8 144.212, subdivision 11; 259.83, subdivision 3; 259.89, subdivisions 1, 2, 3, 4, 5.

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

1.10 Section 1. Minnesota Statutes 2012, section 13.10, subdivision 5, is amended to read:

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

1.14 Sec. 2. Minnesota Statutes 2012, section 13.465, subdivision 8, is amended to read:

1.15 Subd. 8. **Adoption records.** Various adoption records are classified under section
1.16 259.53, subdivision 1. Access to the original birth record of a person who has been
1.17 adopted is governed by section ~~259.89~~ 144.2253.

1.18 Sec. 3. Minnesota Statutes 2012, section 144.218, subdivision 1, is amended to read:

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

2.1 (b) The information contained on the original birth record, ~~except for the registration~~
 2.2 ~~number~~, shall be provided on request to: (1) a parent who is named on the original birth
 2.3 record; (2) the adopted person who is the subject of the record if the person is at least
 2.4 18 years of age; or (3) a person related to the adopted person, if the adopted person is
 2.5 deceased. Upon the receipt of a certified copy of a court order of annulment of adoption
 2.6 the state registrar shall restore the original vital record to its original place in the file.

2.7 (c) For purposes of this subdivision, "a person related to the adopted person" includes:
 2.8 (1) the surviving spouse of the adopted person;
 2.9 (2) a lineal descendant of the adopted person;
 2.10 (3) the adoptive parent of the adopted person; or
 2.11 (4) a brother, brother-in-law, sister, or sister-in-law of the adopted person.

2.12 Sec. 4. Minnesota Statutes 2012, section 144.225, subdivision 2, is amended to read:

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

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

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

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

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

2.35 (e) The commissioner of human services shall have access to birth records for:

- 3.1 (1) the purposes of administering medical assistance, general assistance medical
 3.2 care, and the MinnesotaCare program;
- 3.3 (2) child support enforcement purposes; and
- 3.4 (3) other public health purposes as determined by the commissioner of health.

3.5 Sec. 5. Minnesota Statutes 2012, section 144.2252, is amended to read:

3.6 **144.2252 ACCESS TO ORIGINAL BIRTH RECORD AFTER ADOPTION.**

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

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

3.16 Sec. 6. **[144.2253] ACCESS TO ORIGINAL BIRTH RECORDS OF ADOPTED**
 3.17 **PERSONS; DUTIES.**

3.18 (a) An adopted person who is aged 18 years and over, or a person related to the
 3.19 adopted person if the adopted person is deceased, may request the state registrar to provide
 3.20 the adopted person or a person related to the adopted person with a noncertified copy of
 3.21 the adopted person's original birth record. Upon this request, the state registrar shall
 3.22 provide the adopted person, or a person related to the adopted person if the adopted person
 3.23 is deceased, with a noncertified copy of the adopted person's original birth record.

3.24 (b) An original birth record of an adopted person shall become a public record on the
 3.25 100th anniversary of the adopted person's birth.

3.26 (c) For purposes of this section, "a person related to the adopted person" has the
 3.27 meaning given in section 144.218, subdivision 1, paragraph (c).

3.28 Sec. 7. Minnesota Statutes 2012, section 144.226, subdivision 1, is amended to read:

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

3.31 (a) The fee for the issuance of a certified vital record or a certification that the vital
 3.32 record cannot be found is \$9. No fee shall be charged for a certified birth, stillbirth, or
 3.33 death record that is reissued within one year of the original issue, if an amendment is

4.1 made to the vital record and if the previously issued vital record is surrendered. The
4.2 fee is nonrefundable.

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

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

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

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

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

4.24 (g) The commissioner shall charge a fee of \$40 for noncertified copies of birth
4.25 records provided to persons authorized by section 144.218, subdivision 1, paragraph (b),
4.26 to access the information contained on the original birth record in order to cover the
4.27 cost of providing the birth record.

4.28 Sec. 8. Minnesota Statutes 2012, section 259.83, subdivision 1, is amended to read:

4.29 Subdivision 1. **Services provided.** Agencies shall provide assistance and counseling
4.30 services upon receiving a request for current information from adoptive parents, birth
4.31 parents, or adopted persons aged ~~19~~ 18 years and over. The agency shall contact the
4.32 other adult persons or the adoptive parents of a minor child in a personal and confidential
4.33 manner to determine whether there is a desire to receive or share information or to have
4.34 contact. If there is such a desire, the agency shall provide the services requested. The

5.1 agency shall provide services to adult genetic siblings ~~if there is no known violation of the~~
5.2 ~~confidentiality of a birth parent or if the birth parent gives written consent.~~

5.3 Sec. 9. Minnesota Statutes 2012, section 259.83, subdivision 1a, is amended to read:

5.4 Subd. 1a. **Social and medical history.** (a) If a person aged ~~19~~ 18 years and over
5.5 who was adopted on or after August 1, 1994, or the adoptive parent requests the detailed
5.6 nonidentifying social and medical history of the adopted person's birth family that was
5.7 provided at the time of the adoption, agencies must provide the information to the adopted
5.8 person or adoptive parent on the form required under section 259.43.

5.9 (b) If an adopted person aged ~~19~~ 18 years and over or the adoptive parent requests
5.10 the agency to contact the adopted person's birth parents to request current nonidentifying
5.11 social and medical history of the adopted person's birth family, agencies must use the form
5.12 required under section 259.43 when obtaining the information for the adopted person
5.13 or adoptive parent.

5.14 Sec. 10. Minnesota Statutes 2012, section 259.83, subdivision 1b, is amended to read:

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

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

5.27 Sec. 11. Minnesota Statutes 2012, section 259.83, subdivision 4, is amended to read:

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

5.32 Sec. 12. Minnesota Statutes 2012, section 260C.317, subdivision 4, is amended to read:

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

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

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

6.10 ~~(3) the effect of a failure to file either a consent to disclosure, as defined in section~~
6.11 ~~144.212, subdivision 11, or an affidavit stating that the information on the original birth~~
6.12 ~~record shall not be disclosed.~~

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

6.18 Sec. 13. **REPEALER.**

6.19 Minnesota Statutes 2012, sections 144.212, subdivision 11; 259.83, subdivision 3;
6.20 and 259.89, subdivisions 1, 2, 3, 4, and 5, are repealed.

6.21 Sec. 14. **EFFECTIVE DATE.**

6.22 Sections 1 to 13 are effective January 1, 2014.

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.

259.83 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.

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

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;

APPENDIX

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(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.

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.

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.